

Andrew Borisuk, Chairperson
Sussex CADB

Re: SADC Right to Farm Public Hearing
Rickey & Son Farm
Vernon Township, Sussex County

Dear Mr. Borisuk:

On November 22, 1999, the State Agriculture Development Committee, ("SADC"), considered the testimony provided at a public hearing held on October 28, 1999 and supporting correspondence for the conflict resolution matter concerning the agricultural management practices of Rickey & Son Farm, Vernon Township, Sussex County. Enclosed is a copy of the SADC's final report addressing the issues of Rickey & Son Farm's current practice of hosting concerts and providing for camping associated with the concerts, and summarizing its findings and recommendations.

According to the Right to Farm Act, the Sussex CADB must hold a public hearing and issue its findings and recommendations regarding the complaint within 60 days of the receipt of the SADC's decision. In the event that any person is aggrieved by the decision of the Sussex CADB, he or she shall appeal the decision to the SADC within 10 days. The SADC shall schedule a hearing and make a determination within 90 days of receipt of the petition for review. The decision of the SADC shall be binding, subject to the right of appeal to the Appellate Division of the Superior Court. Any decision of a CADB that is not appealed shall be binding.

If you have any questions or need any assistance, please do not hesitate to contact me.

Sincerely,

Gregory Romano

c: Donna Traylor, Administrator, Sussex CADB
Stuart Koenig, Planning Board Attorney, Township of Vernon
Don Teolis, Zoning Officer, Township of Vernon
Jamie Rickey

**Final Report
November 22, 1999**

**State Agriculture Development Committee
Right to Farm Public Hearing**

**Re: Rickey & Son Farm
Vernon Township, Sussex County
Acreage: approximately 155 acres**

Legal Authority: Pursuant to the Right to Farm Act, any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable County Agriculture Development Committee (“CADB”) or the State Agriculture Development Committee (“SADC”) in counties where no county board exists prior to filing an action in court. In the event the dispute concerns activities that are not addressed by an agricultural management practice recommended by the committee and adopted pursuant to the provisions of the Administrative Procedure Act (APA), the county board shall forward the complaint to the SADC for a determination of whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice. Upon receipt of the complaint, the SADC shall hold a public hearing and issue its findings and recommendations within 60 days of its decision.

Issue: Whether Rickey and Son Farm’s camping activities and concerts are “agriculture-related educational and farm-based recreational activities” that are “related to marketing the agricultural or horticultural output of the commercial farm” pursuant to the Right to Farm Act.

Background: On June 24, 1999, the SADC received a formal complaint submitted by the Township of Vernon, Sussex County, to the Sussex CADB against Rickey and Son Farm. As there exists no agricultural management practice that addresses agri-tourism, the Sussex CADB forwarded the complaint to the SADC. In August, the SADC, pursuant to N.J.A.C. 2:76-2.10, contacted Jamie Rickey, a partner along with his mother in Rickey and Son Farm, to provide evidence that the agricultural operation is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-9. In October, Mr. Rickey provided statements verifying sales of hay produced on the farm. On October 26, 1999, Sherry Dudas, Andy Borisuk and Donna Traylor met with Jamie Rickey at Rickey and Son Farm.

Summary of Testimony/Submission: At the SADC’s meeting of October 28, 1999, Stuart Koenig, Planning Board attorney for the Township of Vernon and Don Teolis, Zoning Officer for the Township of Vernon provided testimony.

The following is a general summary of the comments provided at the hearing:

Ms. Sherry Dudas, Right to Farm Program Specialist, summarized the conflict resolution with regard to the Rickey & Son Farm, in Vernon Township, Sussex County consisting of approximately 155 acres.

She stated that pursuant to the Right to Farm Act (Act), any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable CADB or the SADC in counties where no county board exists prior to filing an action in court. In the event the dispute concerns activities that are not addressed by an agricultural management practice recommended by the SADC and adopted pursuant to the provisions of the Administrative Procedure Act (APA), the CADB shall forward the complaint to the SADC for a determination of whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice. Upon receipt of the complaint, the SADC shall hold a public hearing and issue its findings and recommendations within 60 days of its decision.

She stated that the issue before the SADC is whether Rickey and Son Farm's camping activities and concerts, conducted in a former dairy barn, are "agriculture-related educational and farm-based recreational activities" that are "related to marketing the agricultural or horticultural output of the commercial farm" pursuant to the Right to Farm Act. She restated the background of the conflict as it appears above.

Ms. Dudas stated that on October 26, 1999, she, Andy Borisuk and Donna Traylor met with Jamie Rickey at Rickey and Son Farm. Jamie Rickey represented that the following activities take place at the farm: hay production, musical concerts with associated camping, Community Supported Agriculture, agricultural and other retail market sales, and an agricultural museum. His future plans include a tourist welcome center, demonstration plots for the local home gardeners school, food processing and café sales. He also is under contract to sell in fee simple approximately 100 acres (2/3rds of the farm) to the DEP through the Green Acres program for open space purposes. This represents approximately 66 percent of the farm.

During the site visit, Mr. Rickey stated that he began coordinating commercial concert events at the farm in 1995. The concerts attract a varying number of spectators, the most popular events accommodating less than 600 people. In July of 1996 the Township issued a stop work order which Mr. Rickey complied with until the Fall of 1998, when Mr. Rickey felt these types of activities were protected under the Right to Farm Act from municipal zoning regulation enforcement and therefore would not require municipal site plan approval.

When asked how the concerts and camping relate to the marketing of the agricultural or horticultural output of the commercial farm, he stated that the events promote awareness of his Community Supported Agriculture (CSA) business and hay sales. There appeared to be no former or current agricultural output associated with the CSA.

Ms. Dudas stated that the municipality contends that Mr. Rickey's concerts and camping activities are a conditional use under the municipal zoning ordinance. Site plan approval is a condition of the activities. If the camping and concert activities are protected under the Right to

Farm Act, Rickey and Son Farm would still need a site-specific agricultural management practice as recommended by the Sussex County Agriculture Development Board to be eligible for the protections of the Act. If these activities are not protected under the Right to Farm Act, Rickey and Son Farm would have to comply with the municipality's zoning ordinance requirements as they pertain to concert activities and camping.

Mr. Gregory Romano, Executive Director of the SADC, stated that Mr. Rickey had contacted the SADC office on Wednesday, October 27th and requested that the hearing be postponed. He stated that since this is a continuing municipal violation it would be inappropriate to postpone this hearing. He stated that the record will be held open for a period of two weeks from today's meeting for any additional input. He stated that a recommendation on the case will be made at the SADC's meeting on November 22, 1999 SADC meeting.

Ms. Marci Green, Deputy Attorney General for the SADC, again reiterated the legal authority by which the SADC must hold a hearing on this matter. She stated that the hearing is quasi-legislative and the SADC will hold the hearing to gather information, make a determination and forward a determination to the County Agriculture Development Board.

Mr. Stuart Koenig, Planning Board Attorney for Vernon Township addressed the SADC and expressed the Township's concern with the impact on the traffic and safety in the area of the Rickey & Son Farm. He stated that the owner of the property, Mr. Rickey, advertised that 5 rock bands would be appearing in concert and related the events to those of a possible "Woodstock" situation. His primary concern was the policing of the area and who would bare the costs of safety and traffic regulations.

Mr. Don Teolis, Vernon Township Zoning Officer, addressed the Committee and stated that the activities being conducted on the property required a conditional use variance which would require site-plan approvals. He stated that Mr. Rickey appeared before the Zoning Board for one event but has not appeared before the Board again to request approval for future events. He also expressed the Township's traffic and safety concerns. Mr. Teolis stated that he was not aware of any agricultural activities being conducted on the farm.

Ms. Dudas stated that Mr. Rickey operates a retail market on the farm, from which was displayed landscape plants, pears and bric-a-brac the day of the site visit. She stated that Mr. Rickey advised that his main crop for the past several years has been organic hay. He also has an organic CSA membership program, although he is not certified by any organic certification agency. Ms. Dudas stated that in a classic CSA membership program, the farm operator provides produce in exchange for a membership fee. In Mr. Rickey's program, the members are not receiving produce, but may receive a reduced rate for admission to concert events. Mr. Rickey also stated during the site visit that some CSA members, who may or may not pay for membership, also help perform chores around the farm. He represented that his members are paying/volunteering for his research into the feasibility of establishing an organic CSA venture at his farm.

Ms. Carol Shipp, Acting Chairperson, again stated that the record will remain open for two weeks from this meeting for receipt of additional information. The SADC will make a determination on this issue at its November 22, 1999 meeting.

In addition, Mr. Rickey submitted the attached letter to the SADC during its October 28, 1999 meeting (See attached Exhibit "A") as well as other previous correspondence attached in Exhibit "B" and "B2".

Recommendation/Conclusion: Based on the investigation of facts as well as testimony and Mr. Rickey's submission as presented at the SADC meeting of October 28, 1999, the SADC finds that:

Rickey and Son Farm's concerts and associated camping are not "agriculture-related educational and farm-based recreational activities". In addition, the camping is not a separate commercial or agricultural activity. Furthermore, the concerts and camping at Rickey & Son Farm are not "related to marketing the agricultural or horticultural output" of Rickey & Son Farm and are not generally accepted agricultural management practices pursuant to the Right to Farm Act.

The State Agriculture Development Committee's review and determination of the agricultural operation or practice occurred at its meeting on November 22, 1999.

Gregory Romano, Executive Director
State Agriculture Development Committee

Attachments: Exhibit "A"
Exhibit "B"
Exhibit "B2"

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