

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING A CONFLICT RESOLUTION FILING AGAINST BLOCK 419,
LOTS 3 & 11 IN MARLBORO TOWNSHIP**

Ms. Butch offered the following resolution and moved its adoption:

WHEREAS, on April 21, 2016, Vincent T. Morris (the "Complainant") filed a Right to Farm Complaint Form against Block 419, Lots 3 & 11 in Marlboro Township; and

WHEREAS, the farm subject to the initial complaint consists of two lots owned by Pasquale and Litizia Pace ("the Owner"); and

WHEREAS, the complaint asks the Monmouth County Agriculture Development Board ("MCADB" or "Board") to investigate the following:

- 1) If the delivery of food waste, mainly bananas, oranges, potatoes and other fruits and vegetables, for feed is an authorized activity at the site;
- 2) If health and public safety issues are being caused by uncovered food waste, which is attracting unwanted wildlife (i.e. rats and other vermin) and emitting an odor especially in the warmer weather; and

WHEREAS, the MCADB conducted two site visits to investigate the above issues; and

WHEREAS, a site visit was held on May 18, 2016 and was attended by the MCADB staff, a minority of Board members, representatives from the Monmouth County Department of Health, the Monmouth County Recycling and Solid Waste Department, the New Jersey Department of Agriculture, the Monmouth County SPCA, and the Owner. The focus of this site visit was to investigate the food waste deliveries; and

WHEREAS, another site visit was held on June 17, 2016 and was attended by MCADB staff and a representative for the New Jersey Department of Agriculture; and

WHEREAS, N.J.S.A. 4:1C-1 et seq. is known as the Right to Farm Act; and

WHEREAS, N.J.A.C. 2.76 et seq. details the State Agriculture Development Committee's rules; and

WHEREAS, a commercial farm eligibility hearing was conducted before the Board on June 7, 2016; and

WHEREAS, the following exhibits were entered into evidence during the June 7th hearing:

Complainant's Exhibits

- O-1 - March 28, 2016 Request for Right to Farm Conflict Resolution Complaint Form

Owner's Exhibits

- A-1 - April 21, 2016 Right to Farm Conflict Resolution Form Including:
 - o Most recently filed Farmland Assessment FA-1 forms
 - o Proof of agricultural income in the form of sales receipts

Board's Exhibits

- B-1 - Excerpt from Marlboro Right to Farm Ordinance Section 220-36
- B-2 - Compilation of receipts submitted by the Owner
- B-3 - Site Visit Pictures from May 18, 2016
- B-4 - Staff-prepared aerial map with tax lot boundaries; and

WHEREAS, the MCADB found, pursuant to Resolution No. 2016-6-1, that the Applicant's operation is a "commercial farm" as defined by the Right to Farm Act, set forth in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, N.J.A.C. 2:91 requires a farm with more than seven animal units to have an animal waste management plan; and

WHEREAS, the Owner has not filed an animal waste management plan; and

WHEREAS, under N.J.A.C. 4:1C-10, to receive protection under the Right to Farm Act, a commercial agricultural operation must be in compliance with all relevant federal or State statutes, rules and regulations; and

WHEREAS, at a hearing on August 2, 2016 no testimony was taken but the following additional exhibits were marked:

Complainant and Neighbors' Exhibits

- O-2 - June 28, 2016 Letter from Vincent Morris to the MCADB Including
 - o Monmouth County Health Department Incident Notification dated 2/21/2014
- O-3 - June 27, 2016 Letter from "A Diamond Hill Road Resident" with

no Signature or Return Address

- O-4 - July 7, 2016 Letter from Pauline French to the MCADB

Board Exhibits

- B-5 - Monmouth County Health Department Incident Notification Dated 3/15/16
- B-6 - Additional May 18, 2016 Site Visit Photos
- B-7 - Aerial Map Showing Lots Owned by Pace Along with Adjacent Lot
- B-8 - May 24, 2016 Email from Manoel Tamassia and Related Message Chain
- B-9 - Memo from Frank Wu to Harriet Honigfeld Regarding May 18, 2016 Field Visit
- B-10 - May 31, 2016 Memo from Jerzy Chojnacki
- B-11 - June 15, 2016 Email from Jill Ott to Eric Pierson
- B-12 - Nutrient Requirements for Beef Cattle
- B-13 - Pace Site Visit Pictures from June 17, 2016
- B-14 - Excerpt from N.J.A.C. 2:91.

THEREFORE BE IT RESOLVED, the MCADB makes the following determinations:

1. The MCADB defers jurisdiction of the state's animal waste management rules to the New Jersey Department of Agriculture.
2. The MCADB dismisses Victor Morris' complaint without prejudice until the violations of relevant state laws and regulations are addressed.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Owner, the Complainant, the State Agriculture Development Committee, Marlboro Township, and the New Jersey Department of Agriculture, the Monmouth County Board of Health, the Monmouth County Recycling and Solid Waste Planning Department, the USDA-NRCS, and the Monmouth County SPCA.

BE IT FURTHER RESOLVED that any person aggrieved by this resolution may

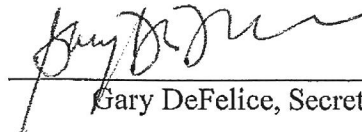
appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 10 days from the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 10 days, this resolution is binding.

Seconded by Ms. Grbelja and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Bullock				X
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton*	X			
Mr. DeFelice	X			
Mr. Dill*	X			
Mr. Foster	X			
Mr. Giambrone				X
Ms. Grbelja	X			
Mr. Holmes			X	
Mr. Potter	X			

* Alternate members in 2016

I do hereby certify that the foregoing is a true copy of a resolution adopted and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 2nd of August, 2016.


 Gary DeFelice, Secretary