

**AMENDED RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING COMMERCIAL FARM ELIGIBILITY FOR A RIGHT TO
FARM COMPLAINT FOR BLOCK 97, LOTS 80 AND 80.01
IN THE TOWNSHIP OF FREEHOLD**

Mr. Matthews offered the following resolution and moved its adoption:

WHEREAS, on April 20, 2022, [REDACTED] (the "Complainants") filed for a Right to Farm Complaint Form ("Complaint") alleging [REDACTED] the "Landowner") owner of property located at Block 97, Lots 80 and 80.01 in the Township of Freehold (the "Property") improperly drained (and continues to improperly drain) sprinkler water, failed to maintain a chain link fence, and failed to maintain the buffer strip between the properties; and

WHEREAS, the purpose of this Resolution is to AMEND and REPLACE Resolution 2022-9-1, which deemed the Property a Commercial Farm; and

WHEREAS, the findings in Resolution 2022-9-1 are expanded to incorporate the Monmouth County Agriculture Board's determination on whether the activities within the Complaint that are conducted on the Property fall within the permissible activities found in N.J.S.A. 4:1C-9; and

WHEREAS, on April 20, 2022, [REDACTED] (the "Complainants") filed for a Right to Farm Complaint Form ("Complaint") alleging [REDACTED] the "Landowner") owner of property located at Block 97, Lots 80 and 80.01 in the Township of Freehold (the "Property") improperly drained (and continues to improperly drain) sprinkler water, failed to maintain a chain link fence, and failed to maintain the buffer strip between the properties; 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. 2:76-2.1 et seq. details the State Agriculture Development Committee's rules; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b) the Board advised the Committee and the Landowner of the Complaint; and

WHEREAS, pursuant to 4:1C-10.1 any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable county agriculture development board or the State Agriculture Development Committee in counties where no county board exists prior to filing an action in court; and

WHEREAS, in the event the dispute concerns activities that are addressed by an agricultural management practice recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the county board shall hold a public hearing and issue findings and recommendations within 60 days of the receipt of the complaint; and

WHEREAS, initially the Board must determine whether the Landowner's agricultural operation is a commercial farm as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the Board must also determine if the activities found in the Complaint meet the criteria of one of the enumerated permissible activities within N.J.S.A. 4:1C-9; and

WHEREAS, the MCADB requested proof of agricultural production income in order to make a determination regarding "commercial farm" eligibility related to the income threshold requirement for 2021; and

WHEREAS, the agricultural products sold included container nursery stock and balled and burlap nursery stock; and

WHEREAS, the following documents comprise a list of exhibits and materials submitted for the Board's consideration for the September 6, 2022 hearing and the December 6, 2022 hearing;

Exhibits from Objector:

- O-1 Request for Right to Farm Conflict Resolution – Complaint Form Initial Submission of April 20, 2022
- O-2a-n Photographs
- O-3a-e Videos, Video Screenshots
- O-4 Mosquito Control Division Inspection
- O-5 Email Correcting Staff Report

Exhibits from the Respondent:

- R-1 Request for Right to Farm Conflict Resolution – Part 1 Commercial Farm Designation Questionnaire, Initial Submission of May 4, 2022

- R-2 [REDACTED] Receipts from March and April 2021
- R-3 Application for Farmland Assessment June 28, 2021
- R-4 [REDACTED] Certificate of Formation Filed July 23, 1999
- R-5 Aerial Photographs of Crawford Farm
- R-6a Tract Cropland USDA Map of [REDACTED]
- R-6b [REDACTED] Underground Outlet Plan View, Profile and Quantities

Exhibits from the Monmouth CADB:

- B-1 Email Communications Between Freehold Township and Objector
- B-2 Aerial Google Map of [REDACTED]
- B-3 Freehold Township Zoning Map Published March 9, 2018
- B-4 Freehold Township Zoning Regulations R-40, R-R Zones, Schedule C
- B-5 Aerial GIS Map
- B-6 Contour Map
- B-7 Staff Notes from Site Visits
- B-8 Staff Photos from Site Visits
- B-9 NJSA 4:1C-9 Commercial Farm Owners, Operators; Permissible Activities
- B-10 NAICS Codes for Agricultural, Forestry, Fishing and Trapping
- B-11 Fencing Installation AMP for Wildlife Control
- B-12 High-tensile Woven Wire Fences for Reducing Wildlife Damage
- B-13 Vertical 7-Wire Deer Control Fence Construction Specifications; and

WHEREAS, the MCADB conducted a site visit to view the subject property and the proposed operation prior to scheduling a public hearing on the matter. Two site visits were held, one on July 14, 2022 attended by MCADB staff and the landowners, and one July 18, 2022 attended by a minority of board members, MCADB staff, the owners of

the property, and the Freehold Township Engineer; and

WHEREAS, the MCADB finds that notice of the request and public hearing was provided pursuant to N.J.A.C. 2:76-2.3(b) and 2:76-2.8(c); and

WHEREAS, the MCADB heard testimony from the Landowner, reviewed submissions and exhibits, and considered statements presented by the public during the Board's public meeting on September 6, 2022 and on December 6, 2022 when the matter was re-opened; and

WHEREAS, at the September 6, 2022 hearing, the [REDACTED] one of the Complainants, appeared pro se and only commented during the public comment period; and

WHEREAS, at the same meeting, the Landowner also appeared pro se, and [REDACTED] offered his own testimony as well as the supporting exhibits identified above in support of the proving Commercial Farm Eligibility; and

WHEREAS, it should be noted that based on the exhibits provided, [REDACTED] was authorized to speak on behalf of the Landowner as a Managing Member of [REDACTED] as per the Operating Agreement; and

WHEREAS, at the September 6, 2022 hearing, the Board carefully considered the testimony of the Landowner, the Complainant and the Public, in making their determination; and

WHEREAS, after considering the commercial farm eligibility information provided, the Board makes the following findings of fact:

1. The property is part of a Farm Management Unit.
2. The Farm Management Unit is comprised of Block 97, Lot 80.01; Block 97, Lot 80; Block 108, Lot 11; and Block 108, Lot 6; in the Township of Freehold, and is greater than five acres.
3. The Farm Management Unit satisfies the eligibility criteria for, and receives, differential property taxation pursuant to the Farm Land Assessment Act, N.J.S.A. 54:4-23.1 et seq. from the Township of Freehold.
4. The property is located within the R-40 zone that permits agriculture as verified by the Freehold Township Master Plan and township land use ordinance.
5. The Farm Management Unit does produce agricultural or horticultural products worth more than \$2,500.00 and as such does meet the requirements of a Commercial Farm pursuant to the Right to Farm Act.

WHEREAS, as indicated above in this Resolution, following the September 6, 2022 hearing, the Board re-opened the matter to determine if the activities found in the Complaint meet the criteria of one of the enumerated permissible activities within N.J.S.A. 4:1C-9; and

WHEREAS, the Board considered prior testimony and evidence submitted related to the activities subject to the Complaint, which fit the categories of irrigation and fencing;

WHEREAS, the Board amended the prior Resolution and made the following additional findings of fact; and

1. The Farm Management Unit fits within the permissible activities of N.J.S.A. 4:1C-9, specifically meeting the standards of the following enumerated provisions of the Statute:
 - a. Section a - Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agricultural, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of PL 2003 (157 (C.4:1C-9.1), including under the corresponding classification under the North American Industry Classification System. Further, per this provision of the Statute, the Board found the activities fall within the parameters of NAICS Code 1114 which states, "This industry group comprises establishments primarily engaged in growing crops of any kind under cover and/or growing nursery stock and flowers. 'Under cover' is generally defined as greenhouses, cold frames, cloth houses, and lath houses. The crops grown are removed at various stages of maturity and have annual and perennial life cycles. The nursery stock includes short rotation woody crops that have growth cycles of 10 years or less."
 - b. Section b – Process and package the agricultural output of the commercial farm.
 - c. Section e – Control pests, predators, and diseases of plants and animals.
 - d. Section f – Clear woodlands using open burning and other techniques, install and maintain vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas.

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given and the aforesaid findings of fact, the Monmouth County Agriculture Development Board concludes that the property subject to the Right to Farm Complaint is a Farm Management Unit, and does satisfy the eligibility criteria thus meeting the statutory requirements of N.J.A.C. 2:76-2.1, N.J.S.A. 4:1C-3 and N.J.S.A. 4:1C-9 and is a "Commercial Farm" as defined by the Right to Farm Act; and

BE IT FURTHER RESOLVED the operation does qualify as a "commercial farm" under the Right to Farm Act. The Complainant voluntarily dismissed her Complaint related to the fencing as that aspect of the matter has been resolved between the Parties. The portion of the Complaint related to water flow will now be sent to the State Agriculture Development Committee to review the activities currently in operation on the subject property to determine if they are permissible as there is no Agricultural Management Practice that covers the specific activity outlined in the Complaint; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the State Agriculture Development Committee, the Township of Freehold, the Complainant, and the Landowner.

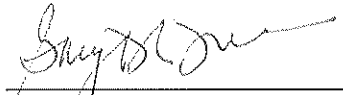
BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 10 days from the receipt of this resolution. 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 Mr. Holmes and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Bullock	X			
Ms. Burry				X
Mr. Buscaglia	X			
Mr. Clayton	X			
Mr. DeFelice	X			
Mr. Giambrone				X
Mr. Holmes	X			
Mr. Mathews	X			
Mr. Pettyjohn*	X			

* Alternate member in 2022

I do hereby certify that the foregoing is a true copy of a resolution adopted on December 6, 2022 and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 1st of February, 2023.



Gary DeFelice, Secretary