RESOLUTION OF THE CUMBERLAND COUNTY AGRICULTURE DEVELOPMENT BOARD
2016-14
Determination of Site-Specific Agricultural Management Practice for Fralinger Farms

WHEREAS Robert E. Fralinger, III, doing business as Fralinger Farms, submitted a request for a Site-Specific Agricultural Management Practice (hereinafter "SSAMP") via letter dated September 12, 2016, and;

WHEREAS the request asked for clarification of the existing Poultry Manure Agricultural Management Practice, *N.J.A.C. 2:76-2A.*3, specifically, for a determination on whether the sod "middles," or strips of grass between the trees in the orchards operated by Fralinger Farms are considered by definition pasture pursuant to *N.J.A.C. 2:76-2A.3(d)3(ii)*, and whether under certain circumstances poultry manure may be spread on frozen or snow-covered ground, and;

WHEREAS Robert Fralinger, III presented his SSAMP request at a regular Cumberland CADB meeting on September 14, 2016, which in addition to his SSAMP request letter included correspondence from Rutgers Professor Emeritus Jerome L. Frecon, a New Jersey and Bridgeton weather averages data sheet, a document from Michigan State University Agricultural Extension pertaining to runoff potential from frozen and snow-covered soils, and a Clemson University Agricultural Extension document pertaining to land application of animal manure, and;

WHEREAS the Township of Hopewell was notified of the SSAMP request by letter dated September 26, 2016, and;

WHEREAS this SSAMP request was precipitated by complaints submitted to the Cumberland CADB from a neighboring property owner regarding the method by which Fralinger Farms was spreading its poultry manure, specifically said method did not involve any attempt to incorporate the manure into the soil, and;

WHEREAS in response to this complaint a site inspection was conducted on June 20, 2016 by Matthew E. Pisarski, AICP, PP, Cumberland County Assistant Planning Director and Administrator of the Cumberland CADB as a Deed of Easement enforcement procedure, and;

WHEREAS the results of the site inspection were memorialized in correspondence to Fralinger Farms dated June 20, 2016 in which it was agreed that Fralinger Farms would remediate any unincorporated poultry manure and maintain full compliance with the Poultry Manure Management Practice moving forward, and;

WHEREAS verbally and in its correspondence of September 12, 2016, Fralinger Farms indicated its intent to spread poultry manure utilizing a custom built injection spreader, and;

WHEREAS the Cumberland CADB requested clarification from the State Agriculture Development Committee via correspondence dated September 26, 2016 regarding the definition of pasture as it relates to the Poultry Manure Agricultural Management Practice and whether under any circumstances it was the intent of the Poultry Manure Agricultural Management Practice to permit the spreading of manure on frozen or snow-covered soil, and;

WHEREAS via correspondence dated October 19, 2016 the State Agriculture Development Committee responded indicating that it was their legal opinion that the Poultry Manure Agricultural Management Practice intended to prohibit under any circumstances the spreading of poultry manure on frozen, snow-covered or wet ground and that under the "commonly-understood" definition of "pasture" sod middles would not be identified as pasture;

NOW THEREFORE BE IT RESOLVED that the Cumberland County Agriculture Development Board makes the following findings:

1. The Property in question includes multiple lots in lower Hopewell Township either owned or leased by Fralinger Farms, of which Hopewell Township block 78, lot 3.01, block 79, lot 6, block 80, lot 17, and block 89, lots 4, 5 and 6 are permanently preserved by Deed of Easement under the Agriculture Retention and Development Program;
2. Fralinger Farms is the operator of the Property;
3. The Property meets the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:23.1 *et seq.*);
4. The operations conducted at the Property meet the definition of a commercial farm in N.J.S.A. 4:1C-3;
5. The Property is located in an area in which agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan;
6. Fralinger Farms is engaged in the business of producing and packaging eggs for the fresh shell egg market through a 40,000 layer hen poultry house and producing peaches and nectarines on a 500-acre +/- orchard;
7. Fralinger Farms is engaged with the on-site disposal of organic agricultural wastes, which is an eligible activity under the Right to Farm Act;
8. Site Specific Agricultural Management Practices shall not conflict with existing adopted Agricultural Management Practices;
9. Spreading of poultry manure on the grass strips, or "middles", between fruit trees is not an accepted Poultry Manure Agricultural Management Practice pursuant to interpretation by the State Agricultural Development Committee;
10. The spreading of poultry manure on preserved farmland must be in compliance with existing Agricultural Management Practices and generally requires incorporation into the soil with the intent to minimize runoff and to maintain and transfer poultry manure's nutrient value to the crop on which the manure is spread;
11. The Cumberland CADB accepted information and evidence from the applicant and a neighboring complainant and made inquiries of the State Agricultural Development Committee with regard to the findings in 9 and 10 above and determined that there was no factual disputes which required hearing further evidence as to these factual conclusions.

IT IS FURTHER RESOLVED that upon consideration of all the documentation presented and the findings of fact the Cumberland CADB determines the following:

1. The current and historic practice of poultry manure spreading by Fralinger Farms without any incorporation into the soil does not comply with the existing Poultry Manure Agricultural Management Practice;
2. Sod "middles" do not constitute "pasture" as identified in the Poultry Manure Agriculture Management Practice;
3. It is the intent of the Poultry Manure Agricultural Management Practice to prohibit under any circumstances the application of poultry manure on frozen, snow-covered or too wet to be plowed ground;
4. The Site Specific Agricultural Management Practice request by Fralinger Farms is denied;
5. Fralinger Farms must immediately come into compliance with the Poultry Manure Agricultural Management Practice on any lands owned or leased which are permanently preserved under the Agriculture Retention and Development Program;
6. The practice of spreading poultry manure on sod strips, or "middles," between orchard trees without soil incorporation is not a protected practice under the Right to Farm Act.

Motion made by: Blake Maloney Motion seconded by: Maury Sheets

11/10/16 Blake Maloney

DATE **Blake Maloney, Vice-Chairman**

This resolution was duly heard and approved at a publicly advertised meeting of the Cumberland County Agriculture Development Board held on November 9, 2016 at 7:00 PM.