

Hunterdon County Agriculture Development Board Meeting

April 8, 2021 @ 8:00 pm

314 Route 12 County Complex
Building #1 | Assembly Room
Flemington, New Jersey

Members in Attendance Electronically:

Dave Bond-Chair
Bob Hoffman-Vice Chair
Christian Bench
Susan Blew
Ted Harwick
David Kyle
John Perehinys
Liz Schmid

CADB Staff Present Electronically:

Shana Taylor, Esq. County Counsel
Aaron Culton, Esq., Asst County Counsel
Bob Hornby, CADB Administrator
Carrie Fellows, Director, Planning
Katherine Fullerton, Supervising Planner
Megan Muehlbauer (NJAES)

In consideration of COVID-19 public health guidelines, this meeting was held telephonically and via Zoom and hosted by County Counsel Paralegal Samantha Gravel. CADB members and the public called in to a prearranged number or Zoom login advertised on the agenda distributed and posted electronically.

Open Public Meeting Act:

Chairman Bond opened the meeting at 8:00 p.m. and read the Open Public Meeting Act:

"This meeting is being held in accordance with the provisions of the Open Public Meeting Act. Adequate notice has been provided by prominently posting and maintaining so posted throughout the year on the first floor of the County Administration Building, Main St., Flemington, New Jersey a public place reserved for such announcements, and by mailing on or before January 15, 2021, to The Hunterdon Democrat, Star Ledger, The Trenton Times, The Courier News and The Express Times newspapers, and TAP Into it newspaper and designated by the Hunterdon County Agriculture Development Board to receive such notices, and by filing with the Hunterdon County Clerk a schedule of the times and dates of such meetings."

Pledge of Allegiance:

Roll Call: Megan Muehlbauer (NJAES) arrived 8:05 pm, Ted Harwick arrived at 8:15 pm

Approval of Minutes:

- **Minutes of the March 11th CADB Meeting** Liz Schmid made a MOTION to approve, John Perehinys SECONDED. All in favor by Voice Vote.

Communications and Administrative Business:

- **CADB Staff Update** – 30 Active applications
 - **Kappus Farm** (Alexandria Twp.) – Close to closing under SADC review.
 - **Beam farm** (Bethlehem Twp.) – Green Light from SADC. Goes back some time ago. There was an issue with an affordable housing overlay, been moved by the township, can go forward on RFP for appraisals
 - **Curtis Farm** (Delaware Twp.) – Site inspection 3/10/21 with NJCF, Survey going through final review. County will take easement after closing.
 - **Thomas Farm** (East Amwell Twp.) – Survey in process by Bohren & Bohren,

- **Onuschak Farm** (Franklin Twp.) – Survey complete, under SADC review.
- **DuBrow Farm** (Franklin Twp.) – Letter sent to SADC, addressed it quickly, response is they understand our position but still request landowner sign the agreement that they are aware of future legislation or rulemaking that has to do with soil standards. Jeff Everett, from SADC, will address this later in the meeting. Letter included in the packet.
- **Magnolia Creek Farm** (Franklin Twp.) – Landowner accepted, approval next CADB meeting, applying for Federal funding. County will only contribute soft costs. New system under the 2018 farm bill, will be more complicated to get ALE funding.
- **Grochowicz Farm** (Hampton, Glen Gardner, Bethlehem) – Survey under review, SADC passed final cost share in March, survey was done a while ago, hopefully no issues.
- **Silva Farm** (Holland Twp.) – Bob did baseline inspection this morning, everything looks good going into closing.
- **DeSapio Farm** (Kingwood Twp.) – Survey under review. Did site visits, also Federal funding. Was there last month, going again with the town next month.
- **Kollmer Farm** (Kingwood Twp.) – Similar to DeSapio, they are located close together.
- **Saums Farm** (Readington Twp.) – County final approval 03/16/21 Commissioner's meeting. On SADC agenda for May 27th for final approval. Survey done, County Engineering reviewing.
- **Staff Activity**
 - **PSE&G Easement** - Still working with them on their easement where the lattice towers are being replaced by monopole structures. Keeping an eye on where they cross preserved farms.
 - **PSE&G Crop Reimbursement Policy** – Still working through the policy, if there are any crop losses as a result of work they or doing or the temporary road they are doing, has been working with Megan Muehlbauer and also SADC on the reimbursement.
- **Communications**
 - SADC released their Annual Monitoring Report. Attached to the CADB packets. Hunterdon did well, other counties didn't do some monitoring because of CoVid concerns. Kevin was able to keep going, some reporting issues with SADC so some of the work he did wasn't reflected in the SADC report. Bob is working with SADC Staff.
- **Monitoring Update**
 - Got to all but 1 farm this year for Fiscal 2020 (July 1 to June 30). About halfway through farms for Fiscal 2021.

State Agriculture Development Committee (SADC) Updates:

Stefanie Miller (SADC Regional Acquisition Coordinator) and Jeff Everett (SADC Deputy Executive Director) spoke on behalf of SADC.

- Stefanie Miller stated they are closing on a couple Hunterdon Farms. Oertle Farm in Kingwood is close to closing, working on the closing for the Strober Farm in Kingwood, the Braun Farm in Holland is still in the works, Mitchell Farm in Kingwood have accepted their offer.
- **Soil Protection Standards:** Jeff Everett shared a presentation. SADC wants define soil disturbance, once you have that it helps you govern better. Jeff referenced State of New Jersey vs. Quaker Valley Farms, LLC, SADC was admonished by the courts for not giving guidance. The Deed of Easement (DOE) is a complex document. If you don't establish guidance for how much soil disturbance there can be, there will continue to be challenges to enforcement. Must balance the right of the landowner to engage in production activities, at the same time balance the rights

that the public bought via the DOE. How to balance that is where he would like the Board's feedback.

- Conservation: the rights the public has in these properties for next generation via land that's managed properly and Development, not residential, commercial, or industrial, but Agricultural Development, those rights were retained by the landowner.
- Talked about provisions in the DOE for Ag Development and Conservation. Courts are saying they must harmonize these conflicting terms. Got to have some guidance for the landowner. Paragraphs 12 and 14 of the DOE talk about the rights retained by the landowner, they have the rights to build roads and buildings for ag purposes, have to balance that with paragraphs 7 and 15, where it says nothing detrimental to soil conservation and have to make sure the properties are available for a variety of uses. Current use that destroys the soil it makes it difficult for the next generation to farm.
- Referred to a preserved farm in Warren County. The slide shows a farm that is part of a large grain operation several thousands of acres in size. The SADC premise is that if you're going to set forth a soil disturbance limit it needs to be generous enough to take care of the current generations needs as well as the next generations. The SADC doesn't want to nickel and dime what people are doing on their farms. Most farmers are doing the right thing. Most things that occur on the farm, despite the broad term "soil disturbance", are allowed in the DOE and not a problem.
- Time to reset the nomenclature, replace "Soil Disturbance", it makes farmer think they are bad actors, with "Soil Protection" says farmers are good actors and are innocent until proven guilty. "Soil Protection Standards" reinforces farmer's good stewardship of the soil.
- A big part of the proposal is to incorporate Best Management Practices (BMP). In the Right to Farm (RTF) Act farmers operate in accordance with BMPs. If you follow good practices, you're not going to run afoul of limitations. SADC over the last 1 ½ years has released draft language for consideration. Would like the Board to comment on it when the package is released.
- Provide dispensation for NJ-centric agronomic practices, ex. equine tracks, agri-tourism parking, and nursery travel lanes. Trying to provide relief or safe harbor for some of these practices.
- Clarify that cuts and fills are permitted, BUT only within prescribed limits. When you get into the subsoil and bedrock it's very hard reverse and fix. It's very expensive to fix the soil when you get down to bedrock.
- Referred to a slide on the Degree of Reversibility to establish clear guidance/boundaries on land uses.
- Jeff fielded some questions from the Board. Jeff stated they wanted to release the proposal in writing and ask for comments. If people seem amenable to the concept, then SADC Staff will draft the rule. Hoping to get this out in the next couple weeks. SADC Soils Sub-committee had 2 farmers and 2 public members on it. Staff didn't draft this by themselves, they had input from the sub-committee. Contact him with questions and comments informally.
- In 2010, SADC commissioned Rutgers to analyze agricultural development of farms. 10 highly developed farms in Central NJ were studied and their constituent parts were ascribed to: Farm Homestead (the farm), Core Complex (the cluster of residential and farm buildings), and Modified Uses (actual disturbed area). On average:
 - 8% of the Farm Homestead is comprised of the Core Complex.
 - 40% of the Core Complex shows Modified Uses.
 - 3% of the Farm Homestead consists of Modified Uses
- Modified Uses is a more precise delineation of ag development compared with Core Complex. In 2013, SADC commissioned Rowan GeoLab for a more in-depth study. Rowan studied 2,736 preserved and unpreserved farms using same methodology as Rutgers (Farmstead, Core Complex, and Modified Uses). Land uses were measured individually by Disturbance Type as Permanent,

Temporary, and Natural. They found that the unpreserved farms had less disturbance than preserved farms. 1,500 farms had 1 acre of disturbance, 350 or so have 0. Most of the disturbance is between 0 and 6 acres.

- Farms beyond NJ, SADC studied the farms in the Mid-Atlantic states with the most infrastructure and the highest degree of farm viability such as Lancaster County, Upstate New York, and eastern North Carolina using Census of Agriculture data. Slide them down into Leading County in Each Mid-Atlantic State by Market Value of Ag. Products Sold, percentage of Farm Acres in Farmsteads, Buildings and Roads (Farmstead Complex), and Leading Commodities. Average Farmstead Complex had 6% soil disturbance. This is collective disturbance, not individual hard scape. The statistics were derived from surveys answered by farmers.
- The summary of existing Ag. development metrics, 1%- Rowan Study average (Includes all farms) 3% - Rutgers Study average (includes only highly development farms) 6% USDA Census Farmstead Complex average. (includes undeveloped land).
- Proposed Ag. Development Limitations.
 - Every farm should have at least 8% of the preserved acreage be available for ag development, or 6 acres, whichever is greater.
 - 5% of Premises should be allocated for gravel, i.e. equine tracks, nursery, and travel lanes.
 - 2% of Premises or 2 acres, whichever is greater, additional allowance for farms now at/over 8%/6 acres allowance and 5% additional allowance.
 - Topsoil must be retained on site and properly banked and seeded.
 - Moving forward, farms preserved after the rule is adopted, would only have the 8% and 5% because they would have knowledge of this rule.
 - Does not apply to exception areas.
- Only 2 farms out of more than 2,700 are non-compliant with proposed standards.
- This not an open space program, must have buildings to be viable, you have to be viable to operate in NJ. Some think this is too generous. There are almost 1.6 million acres of preserved land in NJ, less than 15% of that is farmland. Have to let the working man work, to do this you need to be more generous. The rest of the land is restricted, let the farmers have a more generous allocation.
- Jeff then fielded questions from the Board. If you have questions and comments please get them to him as soon as possible.

Chair Comments:

- Hopes the soil standards get done soon, is afraid farmers will decide to develop their land instead of preserving it. If anyone has any questions/comments for Jeff, send them to Bob and he will forward them.

Old Business:

NONE AT THIS TIME

New Business:

NONE AT THIS TIME

Right To Farm Matters:

- **SSAMP Hearing- Beneduce Vineyards (Alexandria Block 21 Lot 41.31) No testimony will be heard.**
 - Counsel called for a motion to open Public Hearing on Beneduce Vineyard, Liz Schmid made a MOTION to Open, Bob Hoffman SECONDED. All in favor Voice Vote

- Counsel called for a motion to close and carry the Public Hearing until CADB Meeting on June 10, 2021. Liz Schmid made a MOTION to close and carry until June 10, 2021, no action is anticipated at that meeting. Christian Bench SECONDED. All in Favor by voice vote.
- **SSAMP Hearing – Hoffman Farm (Tewksbury Block 5 Lots 12.01 and 12.02.)**
- **Resolution 2021-03: Memorialization.** Bob Hoffman recused himself.
 - Aaron reviewed; last month the Board heard the SSAMP application from Robert Hoffman Jr. on behalf of Hoffman Farm, for the construction of two 30 x 60 fabric structures for farm storage on 2 lots. This evening they are memorializing the determination it reached at last month's meeting. The resolution outlines the relief that Mr. Hoffman was seeking, along with the testimony that was provided, and with the exhibits, one of which was the opposition of the Township, although no appearance was made by the Township. Resolution approves this application, and finds that the Stormwater Management Rules do not apply to the proposed construction of the two structures which totaled 3,600 square feet and that the CADB is granting the request for relief from Tewksbury Townships ordinance which would have required submission of a Grading and Surface Water Management Plan to the Township Engineer before they would issue a permit. This Board is saying that this is not necessary as it is in excess of the State Stormwater Rules. Therefore, he is entitled to relief based on the testimony provided from Tewksbury's Stormwaters regulations in so far as they have exceeded the States requirement. Chairman Bond asked for a MOTION to Approve or Disapprove the Resolution. Liz Schmid made a MOTION to Approve, Dave Kyle SECONDED. Chairman Bond asked for a Roll Call vote.

	<i>ROLL CALL</i>	<i>MOVED</i>	<i>SECONDED</i>	<i>AYES</i>	<i>NAYS</i>	<i>ABSTAIN</i>	<i>ABSENT</i>
David Bond, Chair			<i>X</i>				
Robert Hoffman, Jr., Vice Chair			<i>R</i>				
Susan Blew			<i>X</i>				
Marc Phillips							<i>X</i>
John Perehinys			<i>X</i>				
Gerry Lyness							<i>X</i>
Christian Bench			<i>X</i>				
Dave Kyle		<i>X</i>	<i>X</i>				
Liz Schmid	<i>X</i>		<i>X</i>				
Ted Harwick			<i>X</i>				
Forest Locandro							<i>X</i>

7 IN FAVOR – 3 ABSENT – 1 RECUSAL

Public Comment:
NONE AT THIS TIME.

Adjournment: MOTION for adjournment made by Liz Schmid, Bob Hoffman SECONDED. All in favor, Meeting Adjourned at 9:00PM.

RESOLUTION 2021-03

Hunterdon County Agriculture Development Board

Determination for the Site Specific Agricultural Management Practice Application

Robert Hoffman, Jr. (Hoffman Farm)

Block 5, Lots 12.01 & 12.02, Township of Tewksbury, County of Hunterdon

WHEREAS:

1. On December 1, 2020, a Site Specific Agricultural Management Practice application was submitted by Robert Hoffman, Jr. (hereinafter referred to as “Hoffman Farm” or the “Applicant”), the owner of Block 5, Lots 12.01 and 12.02, in Tewksbury Township, County of Hunterdon, to the Hunterdon County Agriculture Development Board (hereinafter referred to as the “CADB” or “Board”). The Applicant sought a determination to permit Applicant to undertake the following activity:
 - A. Construct two (2) new 30’x60’ fabric structures for farm storage (one (1) structure on each Lot) for agricultural use with an impervious area totaling 3,600 square feet. In connection with the plan for construction, the Applicant is seeking relief from Tewksbury Township’s stormwater management ordinance to the extent that it is more stringent than the State of New Jersey Stormwater Management (SWM) Rules, N.J.A.C. 7:8. Specifically, the Applicant is seeking waiver of the Township’s requirement of the submission of a Grading and Surface Water Treatment Plan to the Township Engineer for approval prior to the issuance of any Zoning and/or Construction permits for the proposed structures.
2. The Board determined that it has jurisdiction to review this application pursuant to the Right to Farm Act, N.J.S.A. 4:1C-9 and implementing rule N.J.A.C. 2:76-2.3.
3. On December 10, 2020 the Board certified the Hoffman Farm as a commercial farm prior to scheduling a public hearing on the application. Robert Hoffman, Jr. testified and furnished proofs that his operation met the required economic standard. The farm consists of approximately 7 acres, and produces hay, beef cattle and pork in excess of \$2,500 annually. Further, the Lots are within the Hunterdon Agriculture Development Area (ADA) and in the Highlands District, an area where agriculture is a permitted use. Documentation to demonstrate the farming income and proof of farmland tax assessment were produced.
4. On February 23, 2021, CADB staff conducted a site visit of the Hoffman Farm.
5. On March 11, 2021, the CADB conducted a public hearing to determine whether the Hoffman Farm is entitled to Site Specific Agricultural Management Practice approval and relief from the Tewksbury Township stormwater management ordinance in connection with the construction of two 30’ x 60’ agricultural structures.

6. The Board is satisfied that written notice of the hearing was published in the Hunterdon County Democrat and served via certified mail to all property owners within 200 feet of the Hoffman Farm, as well as the Township of Tewksbury and the State Agriculture Development Committee.

7. At the hearing, Robert Hoffman, Jr. appeared on behalf of Hoffman Farm. No representative for the Township of Tewksbury was present at the hearing, although written objection to the Application was submitted by letter dated March 5, 2021 from counsel for the Township, Justin A. Marchetta, Esq., and made a part of the record before the Board. No objection to the Application was raised by any neighboring landowners or other members of the public either before, during or after the hearing.

8. The Hunterdon County Agriculture Development Board Request for Site Specific Agricultural Management Practice Application for Hearing submitted by Hoffman Farm is part of the record presented to the Board. At the March 11, 2021 hearing, the following documents and materials were introduced and marked as Exhibits during the course of the hearing:

- A-1 Completed SSAMP Application Form
- A-2 Notice of Public Hearing
- A-3 January 11, 2021 Email from John E. Showler, P.E., NJ State Erosion Control Engineer
- A-4 Excerpts from the NJDEP Stormwater Management Regulations (N.J.A.C. 7:8)
- A-5 Tewksbury Ordinance #11-2012 to Amend the Code of the Township of Tewksbury by Revising Chapter 13.12, Entitled "Grading and Surface Water Management"
- A-6 Survey Map with sketched locations of the proposed 30' x 60' fabric structures on Block 5, Lots 12.01 and 12.02
- A-7 Satellite Map with locations of the proposed 30' x 60' fabric structures on Block 5, Lots 12.01 and 12.02
- T-1 March 5, 2021 Letter from Justin A. Marchetta, Esq., Tewksbury Township attorney, setting forth the Township's objection to the Application

9. The Board carefully considered the testimony of the Applicant and the written opposition of the Township in making its determination.

10. The Applicant's position, which was presented to the Board at the hearing by Robert Hoffman, Jr. is as follows:

- The Applicant proposes to construct two (2) fabric structures on his property for the storage of agricultural crops and machinery.
- The proposed agricultural structure dimensions for each structure is 30' wide x 60' long, with a total impervious area of 3,600 Square Feet. They will be anchored to the ground.
- With the exception of minimal site preparation, there is no plan for any grading or soil disturbance in connection with the proposed structures.

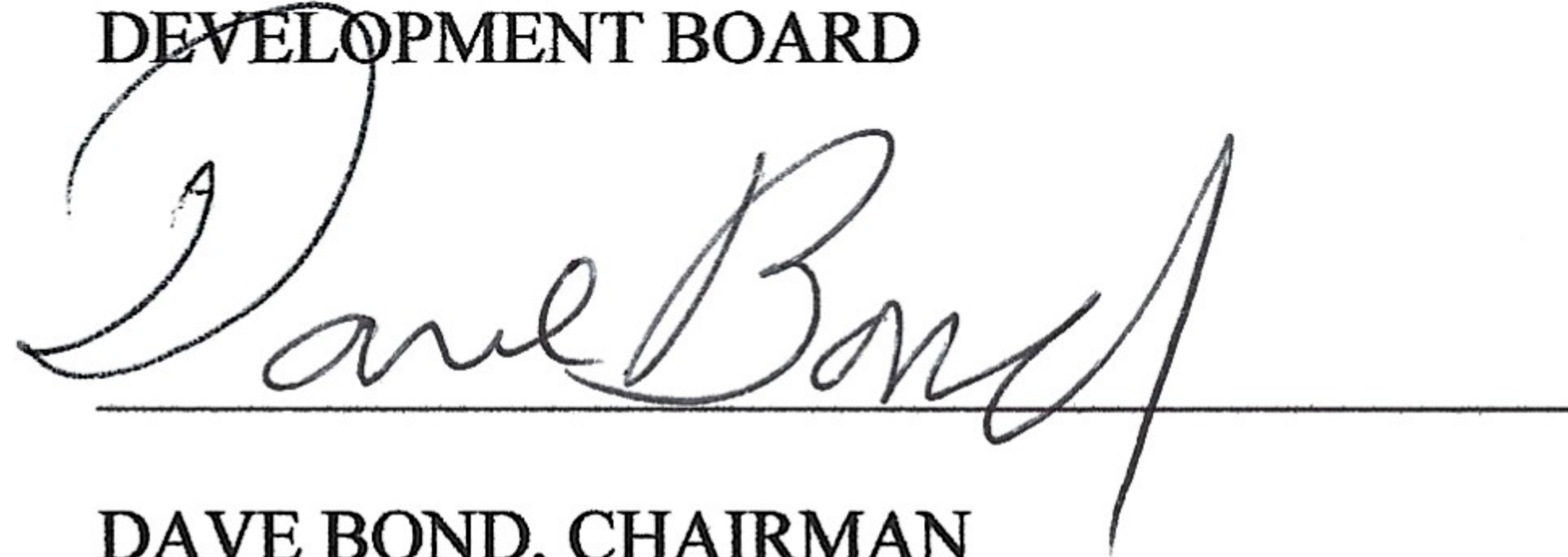
- Prior to seeking SSAMP approval, the Applicant made an application to Tewksbury Township on November 11, 2020, to obtain a municipal permit for one 30' x 60' (1,800 Square Foot) structure for farm storage on Block 5, Lot 12.01. That application was denied by the Office of the Zoning Enforcement Officer of Tewksbury Township. The denial was due to the size of the proposed structure, which exceeded 1,000 Square Feet. In accordance with the Tewksbury Township Ordinance (Section 13.12), a structure in excess of 1,000 Square Feet requires the submission of a Grading and Surface Water Management Plan ("GSWMP") to confirm compliance with specified site disturbance limits, as well as Township mandated stormwater control rules. The March 5, 2021 letter from Tewksbury Township counsel, Justin A. Marchetta, Esq. (Exhibit T-1), outlines the Township's position concerning the applicability of the Township stormwater ordinance on farm properties and opposition to the Applicant's relief from the GSWMP.
- The Applicant maintains that the Township's requirement of submission of a GSWMP for structures larger than 1,000 Square Feet exceeds the State Stormwater Management Rules. As identified in the email correspondence from John E. Showler, P.E., NJ State Erosion Control Engineer (Exhibit A-3), NJDEP Rules designated the local soil conservation district as the review and approval agency for State Stormwater Management Rule implementation. However, in order to trigger those rules, the proposed activity must meet the definition of "major development."
- The New Jersey Stormwater Management (SWM) Rules, N.J.A.C. 7:8, define "Major Development" as an individual "development" as well as multiple developments that individually or collectively result in (1) the disturbance of one or more acres of land or (2) the creation of One Quarter (1/4) acre or more of impervious surface area.
- One acre of land comprises approximately 43,000 Square Feet. One Quarter (1/4) acres of impervious surface area would equal approximately 10,750 Square Feet.
- The Hoffman Farm project consists of two 30' x 60' structures which total 3,600 square feet. The proposed structures do not trigger the New Jersey State Stormwater Management Rules, as their size does not meet the definition of a "Major Development" which would require imposition of the Rules and oversight by the soil conservation district.
- The New Jersey State Stormwater Management Rules do not apply to the Hoffman Farm project based on the size of the proposed structures. The Township's requirement of the submission of a GSWMP by the Hoffman Farm because the size of the structure(s) exceed 1,000 Square Feet imposes a more restrictive requirement on the Hoffman Farm permit application than is required under the New Jersey State Stormwater Management Rules.
- The Hoffman Farm is a commercial farming operation performing generally accepted agricultural management practices. The proposed plan for the construction of two 30' x 60' fabric structures for farmland crop and machinery storage is a sound farming practice which does not trigger the New Jersey State Stormwater Management Rules, and the

Applicant should be afforded Right to Farm protection and relief from Tewksbury Township's imposition of stormwater management ordinance.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD, AFTER HEARING THE TESTIMONY OF THE APPLICANT, AND NO OBJECTION TO THE APPLICATION HAVING BEEN MADE BY THE TOWNSHIP OR ANY OTHER PARTIES, MAKES THE FOLLOWING FINDINGS:

1. The CADB approves the Hoffman Farm's Site Specific Agricultural Management Practice Application and finds that the New Jersey State Stormwater Management Rules, N.J.A.C. 7:8 do not apply to the Applicant's proposed construction of two proposed 30' x 60' fabric structures, totaling 3,600 Square Feet, for the storage of agricultural crops and machinery and crops as set forth in his SSAMP Application. The CADB grants the Applicant's specific request for relief from Tewksbury Township's ordinance which requires the submission of a Grading and Surface Water Treatment Plan to the Township Engineer for approval prior to the issuance of any zoning and/or construction permits for the proposed structures because they exceed 1,000 Square Feet, as such requirement exceeds, and is more restrictive than, the New Jersey State Stormwater Management Rules.
2. This determination shall be forwarded to the State Agriculture Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).
3. Any person aggrieved by this decision, may appeal to the State Agriculture Development Committee, pursuant to N.J.A.C. 2:76-2-3(f).

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD

A handwritten signature in cursive script, reading "Dave Bond", is written over a horizontal line.

DAVE BOND, CHAIRMAN

Dated: April 8, 2021