MONICA AND RICK LaRUE,

Petitioners,

vs.

MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD,

Respondent.

STATE OF NEW JERSEY
STATE AGRICULTURE DEVELOPMENT COMMITTEE
OAL DKT. NO.: ADC 10559-14
AGENCY REF. NO.: SADC #1375

FINAL DECISION

Background

Monica and Rick LaRue (Petitioners) own property known as Block 50, Lot 6.07 in Upper Freehold Township, Monmouth County (Property). The Property consists of 24.09 acres and is located in the "Rural Agricultural" zone. Petitioner Monica LaRue certified that she is the owner/operator of Silver Ridge Farm, a limited liability company engaged in certain agricultural operations on the Property. Specifically, the operations on the Property consist of the processing and selling of firewood, the raising of beef cattle and pigs, as well as an equestrian operation. The Monmouth County Agriculture Development Board (MCADB or board) noted that the Property has sloping terrain with elevations ranging from 110 to 200 feet and 25% slopes in some areas. The Property appears to be located in a densely forested area.

The Petitioners first applied to the MCADB for a Site

Specific Agricultural Management Practice (SSAMP) determination in January 2012 in order to receive protection for certain activities on the Property under the Right to Farm Act (RTFA), N.J.S.A. 4:1C-1, et seq. The MCADB denied the application in June 2012 on the basis that Petitioners could not demonstrate that their farm operation was a "commercial farm" under N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.3(b). This determination was appealed to the Office of Administrative Law (OAL) and was assigned OAL Dkt. No. ADC 14394-12.

During the pendency of the OAL proceeding in the summer of 2013, Petitioners provided additional information to the MCADB in support of commercial farm eligibility and, on August 7, 2013, the board found that the operation so qualified. Resolution 2013-08-01. On October 21, 2013, the OAL issued an Initial Decision dismissing ADC 14394-12 on the grounds that the MCADB's August 7, 2013 "commercial farm" finding mooted the issues in that appeal. The Petitioners filed exceptions to the Initial Decision claiming that proper RTFA hearing procedures were not followed by the board. The State Agriculture Development Committee (SADC) issued a Final Decision dated January 23, 2014 in which it adopted and modified the Initial Decision in ADC 14394-12 disagreeing with Petitioners' assertion that the CADB's analysis of "commercial farm" eligibility should have been limited to the written certification application form

and related documents. Instead, the SADC determined that it was not improper for the MCADB to obtain further information on the Petitioners' income and agricultural output from the Property.

On February 20, 2014, Petitioners submitted a revised application to the MCADB for eight Site Specific Agricultural Management Practice recommendations for the Property. Specifically, Petitioners sought Right to Farm protection for the following activities: 1. Terrain management practices, and alterations for pasture management for horses, cows, pigs; 2. Farm work areas to include trailer parking and equipment storage; 3. Horse trails and maintenance roads for farm operations; 4. Practices for raising beef cattle; 5. Guidelines for accepting mulch or landscape clippings for composting; 6. Sawmill operations and sale of rough lumber; 7. Use of farm milled lumber for out-building construction of future barn/arena; and 8. Lighting for parking, work area and outdoor arena.[1]

The MCADB considered the application for the above SSAMP practices at hearings held on May 6 and June 3, 2014. The MCADB found that the Petitioners' farm operation qualified as a "commercial farm" under N.J.S.A. 4:1C-3 based on Petitioners' 2013 IRS Form 1040 Schedule F and receipts for sales of

[1] The MCADB separated item 1. into two separate sub-items for its consideration: item 1.a. (Terrain management practices) and item 1.b. (alterations for pasture management for horses, cows, and pigs).

livestock products demonstrating values of agricultural commodities in excess of $2,500. See Resolution 2014-06-01. The MCADB adopted a resolution for each activity. Resolutions 2014-05-04 (item 1.a.); 2014-05-03 (item 1.b.); 2014-06-02 (item 2.); 2014-06-03 (item 3.); 2014-06-05 (item 4.); 2014-06-04 (item 5.); 2014-06-06 (item 6.); 2014-06-07 (item 7.); 2014-06-08 (item 8.) These resolutions were adopted at the MCADB'S May 6, 2014 and June 3, 2014 meetings.

The Petitioners filed an appeal of some of these determinations, which was transferred to the OAL on August 19, 2014. Specifically, the Petitioners only appealed Resolutions 2014-05-04 (item 1.a.), 2014-06-02 (item 2.), 2014-06-03 (item 3.), and 2014-06-06 (item 6.). A hearing was held at the OAL on October 13, 2015. Sometime during the course of this proceeding, it appears that the appeal of Resolution 2014-06-03 (item 3.) was withdrawn, as it was not addressed in either party's closing brief nor in the Initial Decision. The record closed on November 23, 2015, and after obtaining several extensions, the ALJ issued an Initial Decision dated August 22, 2016 in which he affirmed the MCADB's determinations under Resolutions 2014-05-04, 2014-06-02, and 2014-06-06 and dismissed the Petitioners' appeal.

The OAL mailed the Initial Decision to the parties on August 30, 2016 and the Petitioners submitted exceptions that were

received by the SADC on September 15, 2016.[2]

"Commercial Farm" Eligibility

A farm must meet the definition of "commercial farm" in N.J.S.A. 4:1C-3 in order to be eligible for RTFA protection. A "commercial farm" is defined as "a farm management unit of no less than five acres producing agricultural or horticultural products worth $2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964." Id. In addition, the farm must be located in an area in which, as of December 31, 1997 or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or the commercial farm must have been in operation as of the effective date of the RTFA amendments (July 2, 1998).

The Property is a farm management unit in excess of five acres, has satisfied the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act and also meets the other threshold criterion, as Upper Freehold Township land use ordinances and tax records reflect that the

[2] In accordance with N.J.A.C. 1:1-18.4 and as set forth in the Initial Decision, any exceptions had to be filed with the SADC within 13 days from the date on which the Initial Decision was mailed to the parties, or no later than September 12, 2016. The SADC will deem the Petitioners' exceptions as timely filed, having been mailed to the agency on September 12, 2016. However, the SADC observes that while minor indulgences are customarily accorded *pro se* parties in contested cases, the right of self-representation carries with it the overall responsibility to comply with relevant rules of procedural and substantive law. See State v. Crisafi, 128 N.J. 499, 510-12 (1992).

Property is located in the "Rural Agricultural" zone in which agriculture is a permitted use.

As discussed above, the MCADB found that the Property met the income requirement based on Petitioners' 2013 Schedule F and certain receipts for the sale of livestock. Resolution 2014-06-01. The income referenced in the Petitioners' 2013 Schedule F was income generated from the sale of firewood and milled lumber. It is unclear how the MCADB was able to resolve the concern of distinguishing between wood products harvested on the Property from those products harvested on neighboring properties in determining that it could rely on the income generated from such products based on the Petitioners' 2013 Schedule F, as the Schedule F does not distinguish between production from on-farm and off-site products. However, the Petitioners did provide copies of checks they received for sales of livestock products in 2014 totaling more than $2,500 and, therefore, based on the livestock sales, we conclude that the Property is a "commercial farm".

Only a "commercial farm" may receive RTFA protection. See In re Tavalario, 386 N.J. Super. 435, 441-42 (App. Div. 2006). Therefore, a finding of "commercial farm" eligibility is a pre-requisite to a determination of whether a particular agricultural operation may receive RTFA protection. Although the ALJ discussed such eligibility requirement in his Initial

Decision, he did not make a finding that the Property is a "commercial farm". Therefore, the SADC **MODIFIES** the Initial Decision by concluding that the Property is a "commercial farm" in accordance with N.J.S.A. 4:1C-3.

SSAMP Requests

When determining whether a certain agricultural practice taking place on a "commercial farm" may receive RTFA protection, a CADB, or the SADC in counties that do not have a CADB, must determine whether the activity for which protection is sought falls under one of the categories of permissible activities set forth in N.J.S.A. 4:1C-9 (Section 9). Further, the activity must conform with an agricultural management practice that is generally accepted or formally adopted by the SADC, comply with all relevant federal or state statutes and regulations, and not pose a direct threat to public health and safety. Id.

Item 1.a.: Terrain management practices - Resolution 2014-05-04

Although the Petitioners requested an SSAMP for "Terrain management practices, alterations for pasture management for horses, cows, pigs", the MCADB divided this single request into two SSAMP requests, effectively separating consideration of the Petitioners' tree removal activities in creating pastureland from consideration of the management of their pastureland. The MCADB did not explicitly find whether the conversion of

woodlands to pastureland fell under one of the Section 9 activities; however, as the underlying activity was the removal of trees in order to create pasture, we conclude that this activity falls under N.J.S.A. 4:1C-9f., which lists the clearing of woodlands as a protected activity. The MCADB determined that the Petitioners did not follow best management practices for terrain management in the conversion of woodlands to pasture and that they did not properly follow the Woodland Management Plan prepared by Taafe Forestry Services for the planning period 2002 - 2012 (Plan). The MCADB found that the rate of tree removal outlined in the Plan was accelerated by two years and stated that had the recommendations in the Plan been followed, fewer trees would have been removed over a longer period of time which would have allowed the cleared land to stabilize, thus mitigating the amount and intensity of the erosion that resulted. On that basis, we conclude that the MCADB denied the SSAMP request because the tree clearing activities did not conform with a generally accepted agricultural management practice.

In the Initial Decision, the ALJ affirmed the MCADB's determination. The ALJ noted that the MCADB relied on a letter from Bill Sciarappa, Ph.D., an Agriculture & Resource Management Agent with Rutgers University, which noted that the Petitioners started out on a very poor agricultural site and possibly made

matters worse "with significant tree removal". The ALJ also noted that the MCADB relied on a letter from Ken Taafe, a New Jersey State Certified Forester, in which Mr. Taafe stated that he worked on the Property for the previous owner and revised the Plan to meet the Petitioners' needs. Mr. Taafe also stated that during the two years that the Petitioners were his clients, ". . . I noticed that the conversion of woodlands to pasture was not being carried out in a sound environmental manner. I pointed out my concerns to the [Petitioners]. They were unwilling to change their methods, so I told them that I could no longer be their forester."

The ALJ was not persuaded by the Petitioners' argument that the MCADB was arbitrary and capricious in denying their SSAMP request, and concluded that the Petitioners did not meet their burden of proof, which he described as being "by a preponderance of credible evidence."

In their exceptions, the Petitioners state that they were in compliance with the Plan and disagreed with the MCADB finding that erosion was occurring as a result of their tree removal activities, claiming that the MCADB ignored evidence that they claim "disprove[ed] the erosion". Also, the Petitioners argued that the MCADB did not have jurisdiction to determine compliance with a New Jersey Department of Environmental Protection (NJDEP)-regulated woodland management plan.

Actions of administrative agencies are entitled to a presumption of reasonableness. E. Orange Bd. of Educ. V. N.J. Sch. Constr. Corp., 405 N.J. Super. 132, 143 (App. Div.), certif. denied 199 N.J. 540 (2009) (citation omitted). The presumption of reasonableness of agency action is even stronger where the agency has developed special expertise in scientific or technical areas. See Newark v. Natural Resource Council, Department of Environmental Protection, 82 N.J. 530, 540 (1980). This presumption of validity of an administrative agency decision is lost only when there is a "clear abuse or unreasonable or arbitrary exercise of discretion." Lyons Tavern, Inc. v. Mun. Bd. of Alcoholic Beverage Control of the City of Newark, 55 N.J. 292, 303 (1970). See also Casola v. Monmouth County Agriculture Development Board, OAL Dkt. No. ADC 06464-00 (2001).

Mr. Taffe prepared the Plan for the Petitioners in 2003. The Plan, in effect until 2012, was designed to convert parts of the woodlands on the Property to partially-shaded pastures. The Plan recognized one 18.09-acre stand of mixed hardwood forest on the northern half of the Property and created three management units located on the southern half of the Property to be converted to pasture. These three management units contained a total of 5 acres, in which four acres were wooded. The 18.09-acres of the forest stand was to be maintained as woodland while

allowing some selective tree harvesting.

In denying the SSAMP request for item 1.a., the MCADB relied in part on a statement in the Taafe letter dated April 26, 2012. In that letter, Mr. Taffe stated that the Petitioners were his clients for two years during which period he noticed that they did not carry out the woodland management activities "in a sound environmental manner". He further stated that he discontinued working for the Petitioners because they were unwilling to change their methods after he pointed out his concerns.

The MCADB also relied on a statement in Sciarappa's September 30, 2013 letter written after he conducted a site visit on the Property. In that letter Mr. Sciarappa, after noting that the Petitioners were making progress in their agricultural pursuits, stated they started out "on a very poor agricultural site and then possibly [made] matters worse with significant tree removal." The MCADB also conducted site visits and reviewed photos taken of the Property.

After considering the testimony and exhibits presented at its May 6, 2014 meeting, the MCADB found that the Petitioners did not properly follow the Plan and that they accelerated the rate of trees removed per the Plan by two years. The MCADB recognized that members of the public expressed concerns about erosion on the Property that resulted from the conversion of the

land from woodlands to pasture and noted that the soil types and steeply sloping terrain created a challenging environment with which to establish pasture and control stormwater run-off in the absence of woodlands. The MCADB further found that, had the rate of tree removal been implemented in accordance with the Plan, fewer trees would have been removed over a longer period of time, allowing the land to stabilize between clearings, thus mitigating the amount and intensity of the erosion that resulted. Based on these findings, the MCADB concluded that the Petitioners did not follow best management practices for these terrain management/tree removal activities and denied the Petitioners' SSAMP request.

The MCADB did not provide a basis for the finding that the tree removal provided for under the Plan was accelerated by two years. However, based on the record, it appears that the Petitioners were not following best management standards in the conversion of the Property from woodlands to pasture. As stated above, the Plan prepared by Mr. Taafe provided standards for the conversion of a total of four acres into pasture. Mr. Taafe stated that he found that the Petitioners were not converting the woodlands to pasture in "a sound environmental matter" and, as they were unwilling to change their methods, Mr. Taafe discontinued being their forester in 2005 two years after he began providing services to them.

Not only is it questionable whether the Petitioners followed best management practices in the conversion of the four wooded acres to pasture set forth in their Plan, but they converted a much greater swath of woodlands into pasture than that provided for in the Plan. According to the Natural Resources Conservation Service's Conservation Plan for the Property that was executed in March 2014, 16 acres of pasture was available on the Property as of October 2013. Therefore, as 18.09 acres of the 24.09-acre Property was to remain wooded under the WMP, at least 10, and possibly up to 12 acres was converted from woodlands to pasture not in accordance with any sort of management or conservation plan for such activities. We **FIND** that the Petitioners did not establish that they followed generally accepted agricultural management practices in the conversion of the woodland to pasture on the Property and, therefore, this activity does not qualify for RTFA protection.

Petitioners' argument regarding NJDEP's jurisdiction over the Plan is unpersuasive. The MCADB did not assess Plan compliance for the purpose of regulating woodland management activities on the Property. Rather, the board considered the Plan in determining whether the Petitioners' woodland management activities constituted a generally accepted agricultural management practice that may receive protection under the RTFA. Therefore, there is no jurisdictional conflict between the NJDEP

as to forest management and the MCDAB as regards the RTFA.

Based on the above, the SADC **ADOPTS** the ALJ's affirmance of the MCADB's findings and conclusion in Resolution 2014-05-04, but **MODIFIES** the Initial Decision by including the reasons for affirmance as set forth above.[3]

Item 2.: Farm work areas to include trailer parking, and equipment storage - Resolution 2014-06-02

The subject of this SSAMP request is Petitioners' location of an equipment storage and trailer parking area, which Upper Freehold Township found to be in violation of its 10' side yard setback requirement. According to a map of the Property the Petitioners provided to the MCADB, this farm work area is located on the eastern boundary of the Property, and according to the map included with the NRCS conservation plan, the farm work area is surrounded by pastureland.

The Petitioners testified that their equipment storage area must be located at that current location due to the lack of sufficient flat terrain on the Property and a need for a significant turning radius without having to move any farming equipment around the Property. The resolution also mentions

[3] It should be noted the SADC did not receive copies of the exhibits marked O-1 through O-4 that were referred to in the MCADB's resolution denying the Petitioners' SSAMP request for item 1.a. However, based on the foregoing, the SADC is still able to affirm the MCADB's decision notwithstanding the absence of those materials.

that the MCADB discussed the decisions in Curzi v. Raub, 415 N.J. Super. 1 (App. Div. 2010) and Township of Franklin v. Den Hollander, 338 N.J. Super. 373 (App. Div. 2001), affirmed 172 N.J. 147 (2002) for the legal standards set forth in those cases regarding balancing the agricultural interest at issue against the applicable municipal ordinance.

The MCADB found that the establishment and use of farm work areas for equipment storage is a generally accepted agricultural activity. However, the MCADB also found that an agricultural hardship must be shown in order for the MCADB to provide relief from municipal zoning ordinances. Ultimately, the MCADB found that the Petitioners did not demonstrate a significant agricultural hardship to require relief from the 10' side yard setback requirement and denied the SSAMP application.

In his Initial Decision, the ALJ stated that the record reflected that the Petitioners did not present any expert opinion or other evidence to support an agriculturally-based reason for pre-empting the 10' side yard setback requirement nor to support an argument that enforcing the ordinance against them would cause hardship. However, the ALJ stated that the record did reflect that the MCADB considered the agricultural use, as well as the impact on neighboring properties. He also stated that under den Hollander, a CADB and the SADC "are required to give consideration to the limits imposed by local ordinance".

Therefore, he affirmed the MCADB's denial of this SSAMP request.

In their exceptions, the Petitioners argue that the zoning ordinance was misapplied to the Property. They also argue that the RTFA does not require that they demonstrate hardship in order to preempt local laws, and that this aspect of their SSAMP application impacted no public health and safety issues.

First, we agree that proper storage of vehicles and equipment for farming operations is a generally accepted agricultural management practice. See, e.g., Frank Ciufo v. Somerset County Agriculture Development Board, OAL Dkt. No. 15171-12 (2016). Further, the MCADB and the ALJ properly recognized that the den Hollander decision applies to this aspect of the Petitioners' SSAMP application. The consideration of preemption of a local ordinance involves a balancing of the commercial farmer's interest in conducting agricultural activities against the public interest expressed in municipal ordinances, and preemption can occur upon a showing of a legitimate, farm-based reason for not complying with the local law. See den Hollander, supra, at 392.

However, both the MCADB and the ALJ applied the wrong standard for determining when an accepted agricultural management practice may preempt a local ordinance. As stated above, a commercial farmer must demonstrate a legitimate, farm-based reason for not complying with the local law, but neither

den Hollander nor Curzi, supra, require a showing of hardship in order to receive RTFA protection.

Here, the Petitioners' reasons for not complying with the local law were that the Property lacks sufficient flat terrain outside of the 10' setback area and that the farm equipment storage and trailer parking area needs to remain at the current location in order to have what is referred to in the resolution as a "significant turning radius" without having to move farm equipment. The public interest in the setback requirement discussed by the MCADB, according to its resolution, was the importance of providing a buffer between neighboring properties and farms.

In balancing these competing interests, consideration of the public policies behind the RTFA is important. When enacting the RTFA, the Legislature recognized that the "principle purpose" of the law was "to promote, to the greatest extent practicable and feasible, the continuation of agriculture in the State of New Jersey while recognizing the potential conflicts among all lawful activities in the State." Senate Natural Resources and Agriculture Committee, Statement to S. 854 (P.L. 1983, c. 31). The Petitioners seek to continue to utilize the farm work area for trailer and equipment storage at its current location due to topographic constraints on the Property. The ALJ observed that the Petitioners did not provide any expert

opinion in support of their agriculturally-based reason for not complying with the ten foot setback requirement. However, we conclude that an expert opinion was not required for this purpose.

Next, the legitimate, farm-based reasons must be weighed against the public interest in the local law. The public interest in setback requirements set forth by the MCADB is to provide a sufficient buffer between neighboring properties. However, in denying Petitioners' SSAMP request for the conversion of woodlands to pastureland, the MCADB's Resolution 2014-05-04 stated that, "the property has sloping terrain with elevations ranging from 110 to 200 ft as verified by GIS contour mapping data provided by the State of New Jersey and 25% slopes in some areas". Although such contour mapping was not in the record, the agency takes administrative notice of U.S. Geological Survey (USGS) topographic mapping available as a public record. N.J.S.A. 52:14B-10(b); N.J.A.C. 1:1-15.2; Re New Jersey Bell Telephone Company, 1992 WL 526766 (N.J.Bd.Reg.Com.).

As stated above, the farm work area is located on the eastern boundary of the Property. According to the USGS mapping, directly to the west of that area, the land rather steeply slopes uphill to the top of the hill where the Petitioners' home is located in the western part of the Property. This provides some evidence of the topographic

constraints that could inhibit the Petitioners from moving such parking and storage further away from the eastern boundary line. Further, the farm work area is surrounded by pastureland. Although there appears to be flatter areas on other portions of the Property, those areas are in agricultural production as pastureland.

Furthermore, the portion of the abutting property immediately adjacent to the farm work area consists mostly of woodland and pasture. In fact, according to the USGS map, the only structures on this abutting property are approximately 1,000 feet southeast of the Petitioners' farm work area. Therefore, it appears that the activities occurring in the farm work area would have minimal, if any, impact on the neighboring property. Moreover, as the MCADB acknowledged in its June 24, 2015 letter brief filed during the OAL proceeding, "In the present matter, there are no complaints against the Petitioners. The Township did not pursue the [zoning violation] and the neighbors are not complaining about the trailer placement."[4] The lack of complaints from the Township and the neighbors regarding the farm work area further evidences that farm work area activities have had no or insubstantial adverse impacts on public and private interests. Therefore, after balancing the

[4] Neighbors within 200' of the Property were notified of the SSAMP application by certified mail.

legitimate, farm-based interest against the public interest in the side yard setback requirement here, we conclude that the trailer parking and farm equipment storage in the farm work area may receive RTFA protection, and that the Petitioners SSAMP request for farm equipment storage and trailer parking on the farm work area should be granted.

Based on the foregoing, the SADC **REJECTS** the ALJ's affirmance of Resolution 2014-06-02 in the Initial Decision and determines that the Petitioners' SSAMP request for farm equipment storage and trailer parking on the farm work area is granted.

Item. 6.: Sawmill operations and sale of rough lumber – Resolution 2014-06-06

Pursuant to resolution 2014-06-06, the MCADB concluded that the processing and packaging of the agricultural output of a commercial farm is a protected activity under the RTFA, but that the processing and sale of lumber harvested from off-site sources is not a protected activity. The MCADB made the following finding: "The processing, sale, and us [sic] of rough lumber that has been harvested from the site is an accepted general management practice and protected agricultural activity." Therefore, the MCADB granted the Petitioners' SSAMP request for item 6. for the processing and sale of lumber that

has been harvested from the Property; however, the resolution further provided that RTFA protection did not extend to the processing and sale of lumber harvested off-site.

The ALJ affirmed this finding. The ALJ was persuaded by the MCADB's argument that RTFA protection does not extend to the processing and sale of materials harvested off-site. The ALJ also cited N.J.S.A. 4:1C-9c., which includes the operation of farm markets as a permissible activity under the RTFA, stating that the RTFA does not explicitly offer protection to the sale of items not produced by the commercial farm. For these reasons, the ALJ concluded that the MCADB's decision denying protection to the sale of lumber milled from wood not grown on the Property "is appropriate" and affirmed the resolution.

In their exceptions, the Petitioners argued that RTFA protection should be extended to the processing and sale of lumber harvested off-site, so long as the off-site lumber constitutes no more than 49% of the total lumber the Petitioners produce/sell. Petitioners appear to be relying on the RTFA's protection for markets, N.J.S.A. 4:1C-3, but the record contains insufficient evidence the statutory requirements for a farm market were satisfied.

This SSAMP request implicates N.J.S.A. 4:1C-9b., or the processing and packaging of the agricultural output of the commercial farm. N.J.S.A. 4:1C-9b. only identifies the

processing and packing of "the output of the commercial farm" as a permissible activity and makes no mention of output produced from off-site sources. In determining the legislative intent of a statute, one must first look to its plain language, which is typically the best indicator of intent. In re Plan for Abolition of Council on Affordable Housing, 214 N.J. 444, 467 (2013). If the language is clear, nothing remains but to enforce the law as written. Hubbard v. Reed, 168 N.J. 387, 392 (2001). Therefore, based on a plain reading of N.J.S.A. 4:1C-9b., only the processing of "the output of the commercial farm" may receive RTFA protection, and such protection does not extend to the processing of output produced offsite.

Based on the above, the SADC **ADOPTS** the ALJ's affirmance of the MCADB's findings and conclusion in Resolution 2014-06-06, but **MODIFIES** the Initial Decision by including the reasons for adoption as set forth above.

In conclusion, the SADC **ADOPTS** the ALJ's affirmance of the MCADB's findings and conclusion in Resolution 2014-05-04, but **MODIFIES** the Initial Decision by including the reasons for adoption set forth in this Final Decision; **REJECTS** the ALJ's affirmance of Resolution 2014-06-02; and **ADOPTS** the ALJ's affirmance of the MCADB's findings and conclusion in Resolution 2014-06-06, but **MODIFIES** the Initial Decision by including the reasons for adoption set forth in this Final Decision.

IT IS SO ORDERED.

Dated: December 1, 2016

Douglas H. Fisher, Chairman
State Agriculture Development Committee

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