



COMMONWEALTH OF PENNSYLVANIA
ENVIRONMENTAL HEARING BOARD

EAST COVENTRY ADVOCACY and :
DORENE PASEKOFF :

v. :

EHB Docket No. 2023-008-C

COMMONWEALTH OF :
PENNSYLVANIA DEPARTMENT OF :
ENVIRONMENTAL PROTECTION and :
SPRING CITY ACRES, LLC and :
LLOYD Z. NOLT TRUCKING, INC. :
Permittees :

PETITION TO INTERVENE OF EAST COVENTRY TOWNSHIP

Petitioner, East Coventry Township Board of Supervisors (“Intervenor”) by and through the undersigned counsel hereby petitions to intervene in this matter and, in support thereof, avers as follows:

1. East Coventry Township is a Second-Class Township organized and existing under the laws of the Commonwealth of Pennsylvania and governed by a 5-member, duly elected Board of Supervisors (“East Coventry”).

2. Intervenor hereby joins in the Appeal of Appellants East Coventry Advocacy and Dorene Pasekoff (individually and collectively “Appellants”) and incorporates herein Exhibit “B” of Appellant’s Appeal, including all exhibits attached thereto, as though fully set forth herein.

3. Any interested party may intervene in any matter pending before the Environmental Hearing Board (“Board”). See, 35 P.S. §7514(e).

4. Pursuant to Board Rule 1021.81, any interested party may petition the Board to intervene in any pending matter prior to the initial presentation of evidence.

5. On information and belief, Intervenor respectfully submits that the initial presentation of evidence has not occurred in above-caption matter.

6. A party is “interested” if the party has a “substantial, direct and immediate” interest in the matter. *Glendon v. Department of Environmental Resources*, 603 A.2d 226 (Pa. Cmwlth.) *petition for allowance of appeal denied*, 608 A.2d 32 (Pa. 1992).

7. That certain farm, having an address of 851 Bethel Church Road, Spring City, PA 19475, identified in the Appeal as “Spring City Acres #1 Farm” is situate within the municipal boundaries of East Coventry Township.

8. The underlying Appeal relates, at least in part, to a determination by the Pennsylvania Department of Environmental Protection (“Department”) that a proposed food processing residual storage tank may be located on Spring City Acres #1 Farm and land application of food processing residual can occur on Spring City Acres #1 Farm under the permit exemption found at 25 PA Code 287.101(b)(2) subject to compliance with the Food Processing Residual Management Manual (“FPR Manual”) published by the Department and also the parameters set forth in the Food Processing Residual Plan dated April 17, 2022 (“FPR Plan”) and the Manure Management Plan dated April 24, 2021 (MM Plan”). Copies of the FPR Manual, FPR Plan and MM Plan are attached to Appeal Exhibit “B” as Exhibit B-1, Exhibit B-2 and B-3, respectively, and are incorporated by reference as if fully set forth herein.

9. Intervenor has a “substantial, direct and immediate” interest which is greater than that of the general public in the underlying Appeal because Spring City Acres #1 Farm is located within its municipal boundaries, and activities thereon have direct impact on the public health, safety and welfare of its residents.

10. The specific issues upon which Intervenor will offer evidence or legal argument are discrepancies between the MM Plan, FPR Plan, FPR Manual and a local ordinance pending adoption.

11. Included with the MM Plan are two “maps” which depict Spring City Acres #1 Farm and Spring City Acres #2 Farm (“Maps”).

12. Appellants set for a basis for appeal in Appeal Exhibit B, Paragraphs 21 through 32; *to wit*: an isolation distance of only 100 feet from an individual or public water supply under the Maps instead of the 300 feet which is required under the FPR Manual.

13. Intervenor requested its engineer to provide a written review of the Maps.

14. Intervenor’s engineer provided a written review of the Maps by way of a letter dated January 23, 2023, addressed to the East Coventry Township Board of Supervisors (“Letter”), a copy of which is attached hereto as Exhibit “A”.

15. The Letter references a draft ordinance, authorized to be advertised for adoption by the East Coventry Township Board of Supervisors (“Proposed Ordinance”). A copy of the Proposed Ordinance is attached hereto and incorporated herein as Exhibit “B”.¹

16. The isolation distances for land application of FPR set forth in the Proposed Ordinance are the same as those set forth in the FPR Manual.

17. In addition to basis for appeal outline in Appeal Exhibit “B”, the Letter identifies other discrepancies, errors and missing information in the Maps including:

a. The Maps (by scale) providing an approximately 250-foot isolation distance between homes and areas for land application of food processing residual on Spring City Acres #1 Farm when 300 feet is identified in the legend of the Map and required under the FPR Manual.

b. Failure to identify private wells of adjoining property owners (public water services is not available to these homes)

¹ To be clear, the Proposed Ordinance has been advertised but has not been acted upon by the East Coventry Township Board of Supervisors. Based on the requisite public notice, the undersigned anticipates that the East Coventry Township Board of Supervisors will take action on the Proposed Ordinance at its public meeting on February 13, 2023.

c. Failure to address isolation distances/setback requirements for: upgradient surface water sources; exceptional value wetland; sinkhole(s); sink hole drainage area(s); perimeters of pond(s) or undrained depression(s); and bedrock outcrop(s)

d. Failure to address or identify isolation distances from slopes; ground water table; seasonal high-water table; or bedrock.

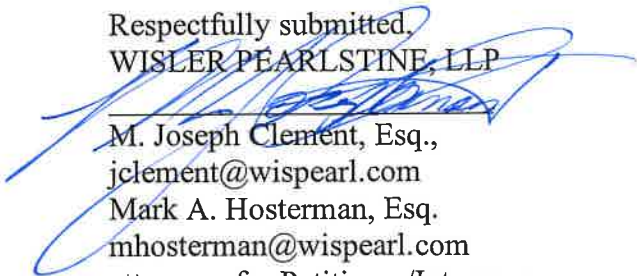
18. In addition, a “Desktop Analysis” of the Spring City Acres #1 Farm by Intervenor’s engineer indicates a high likelihood of the presence of wetlands thereon which should be further investigated prior to land application of food processing residual.² A copy of the Desktop Analysis is attached hereto and incorporated herein as Exhibit “C”.

19. Counsel for Appellants verbally confirmed to the undersigned that Appellants do not object to Intervenor’s request to intervene.

20. Counsel for the Department verbally confirmed to the undersigned that the Department does not object to Intervenor’s request to intervene.

WHEREFORE, for at least the reasons set forth herein above, Petitioner, East Coventry Township Board of Supervisors respectfully requests intervenor status to participate in the above-captioned Appeal.

Respectfully submitted,
WISLER PEARLSTINE, LLP

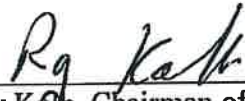


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² Intervenor’s request for access to the Spring City Acres #1 Farm site for purposes of a wetlands evaluation was denied.

VERIFICATION

I, Ray Kolb, Chairman of the Board of Supervisors of East Coventry Township, verify that the statements made in the foregoing instrument are true and correct to the best of my knowledge, information, and belief. I understand that false statements made herein are subject to the penalties of 18 PA. C.S. Subsection 4904, relating to unsworn falsification to authorities.



Ray Kolb, Chairman of the Board of
Supervisors, East Coventry Township