

August 20, 2021

Robert A. Willig
Senior Deputy Attorney General
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222
[REDACTED]

Dear Attorney Willig:

I am administering a timber sale for Export Borough whose property is located in the Municipality of Murrysville. Attached is a copy of Murrysville timber harvest zoning ordinance and my response letter to Murrysville citing the hardships with the ordinance.

I am asking for your assistance in this matter and that you please review this ordinance for relief under the ACRE LAW. If you have any questions I can be reached at [REDACTED]

Sincerely,

[REDACTED]
[REDACTED]
Consulting Forester

July 7, 2021

Dave Jobe Code Officer
Municipality of Murrysville
4100 Sardis Road
Murrysville, PA 15668

Re: EXPORT BORO. [REDACTED] D FARM TIMBER HARVEST

Dear Mr. Jobe:

With respect to the Municipality of Murrysville Zoning Ordinance 220-13 regarding forestry, logging or timber harvesting and having filed an earth disturbance application for the Export Boro [REDACTED] timber harvest being conducted by Accurate Logging I submit the following for consideration:

- You've indicated in your email that this land use is zoned R-R Zoning Section 220-13N Forestry, major and is classified as "C" = Conditional Use. According to "Pennsylvania's Sustainable Forestry Initiative Fact Sheet: PA ACRE Law and the position of the Attorney General of Pennsylvania"; "The imposition of a special exemption process or conditional use for tree harvesting conflicts with and is preempted by the MPC, which provides that "timber harvesting, shall be a permitted use by right in all zoning districts in every municipality." 53 P.S.10603(f)." The MPC further prohibits review requirements by Engineers, Planning Commission, Councils, and or Code Enforcement for issuance of a permit.
- **Zoning 220-31N. (1): Forestry uses shall not adversely impact jurisdictional wetlands, flood plains, streams and or designated aquifer protection areas."** Timber harvesting is not precluded in these types of sensitive areas. Furthermore, this project does not impact any of these types of areas and is specifically addressed in the timber harvest E&S plan and all timber harvesting activities are subject to State law 25 PA, Code chapter 102 & 105 and timber harvest best management practices.
- **Zoning 220-31N. (2): Applicants for a zoning permit for forestry uses shall be required to provide documentation that such operations will not adversely impact plants or animals listed as rare, threatened or endangered in the Pennsylvania Natural Diversity Index.** This requirement states that a permit is contingent upon the condition of receiving documentation and is in direct conflict of "Pennsylvania's Sustainable Forestry Initiative Fact Sheet: PA ACRE Law and the position of the Attorney General of Pennsylvania"; "The imposition of a special exemption process or conditional use for tree harvesting conflicts with and is preempted by the MPC, which provides that "timber harvesting, shall be a permitted use by right in all zoning districts in every municipality." 53 P.S.10603(f)." The MPC further prohibits review

requirements by Engineers, Planning Commission, Councils, and or Code Enforcement for issuance of a permit. Furthermore, PNDI searches are solely voluntary and not required in timber harvesting unless a DEP General Permit is required. This project does not qualify.

- **Zoning 220-31N. (3): Applicants for a zoning permit for forestry uses shall be required to provide documentation that such operations will not adversely impact plants or animals deemed worthy of protection listed in the Natural Areas Inventory for Westmoreland County.** This requirement states that a permit is contingent upon the condition of receiving documentation and is in direct conflict of “Pennsylvania's Sustainable Forestry Initiative Fact Sheet: PA ACRE Law and the position of the Attorney General of Pennsylvania”; “The imposition of a special exemption process or conditional use for tree harvesting conflicts with and is preempted by the MPC, which provides that “timber harvesting, shall be a permitted use by right in all zoning districts in every municipality.” 53 P.S.10603(f).” The MPC further prohibits review requirements by Engineers, Planning Commission, Councils, and or Code Enforcement for issuance of a permit. Furthermore, NAI searches are solely voluntary and not required in timber harvesting unless a DEP General Permit is required. This project does not qualify.
- **Zoning 220-31N. (4) indicates “Applicants for a zoning permit for forestry uses shall provide copies of a forestry plan prepared by a professional forester and reviewed and approved by the Westmoreland County Conservation District.”** According to “Pennsylvania's Sustainable Forestry Initiative Fact Sheet: PA ACRE Law and the position of the Attorney General of Pennsylvania”; “The County Conservation District has no authority to review and approve forest management plans; thus this requirement can never be met by an applicant. For this reason, the requirement is an unreasonable restriction on forestry activities in violation of the MPC and AASL. [Salem Township, Luzerne County, December 14, 2015]. Furthermore, the DEP's erosion and sedimentation control regulations do not require an E&S Plan be submitted for review and approval to the Conservation District and the Conservation District has no role in DEP's approving of such plans, thus the Township cannot impose this requirement because it is stricter than State law 25 Pa, Code section 102.4(b)(8).

Based on the above criteria and in lieu of filing a formal complaint with the PA Attorney General Office for a review of Murrysville's "Forestry Zoning section 220-31N" I trust we can work out an amicable solution in a timely manner, pay the appropriate fee and commence operations.

- Attached is the Export Boro. [REDACTED] timber harvest Erosion and Sedimentation Control Plan for the Municipality of Murrysville to submit to the Westmoreland County Conservation District at its own expense.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

sent via: US Mail