

Willig, Robert A.

From: [REDACTED]
Sent: Monday, May 1, 2023 10:17 PM
To: ACRE Shared Mailbox
Subject: [EXTERNAL] Foster Township, Schuylkill County Ordinance--ACRE law
Attachments: Foster Twp- zoning-portions pertaining to forestry--with highlights of unreasonable reqs.docx; Foster_Zoning_Ordinance_2021.1229_Ordinance_Only.pdf

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Robert,

I met you at DCNR's Consulting and Industrial Forester's meeting where you gave an excellent presentation on the ACRE law. I enjoyed meeting you that day.

I have attached an ordinance for Foster Twp, Schuylkill County. This ordinance needs reviewed for compliance w/ ACRE. I am sure it does not comply with the law. I also attached some of my notes on the Word Document.

I advised them that their ordinance was not in compliance with ACRE, but they shrugged it off. I was working for a logger who hired me to help acquire the permit and was coordinating with the landowner. I was working mostly with [REDACTED] (who represents/administers the ordinance) and it was implied that perhaps they could waive some of the language/requirements, and I had sent them a package (maps, description, application form, etc.).

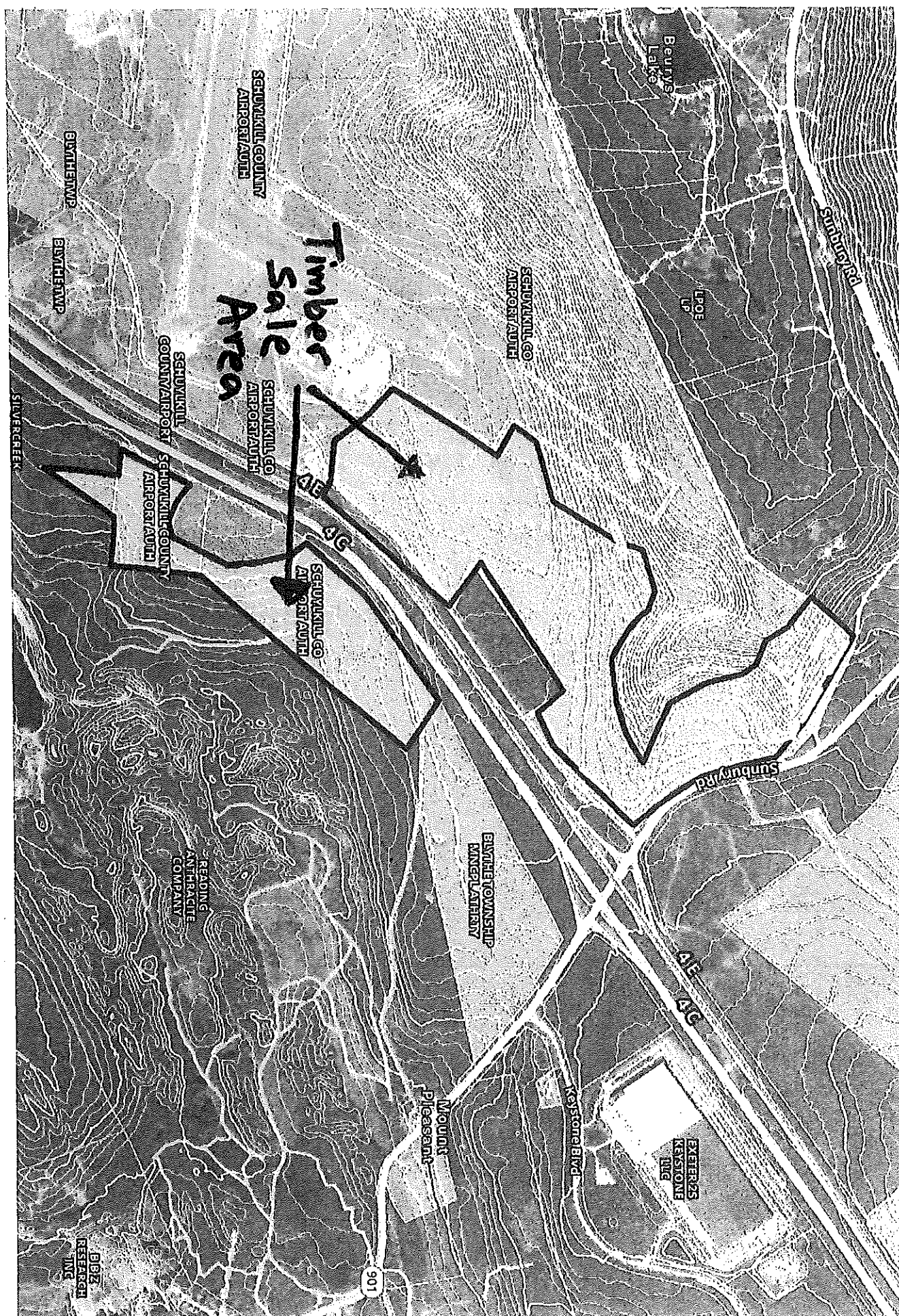
It seemed that they were satisfied with the info I had sent them (other than also wanting proof of road entrance permits), and that once I had submitted that last requirement, the permit would be issued; was how I understood what I was told. It was for approximately a 245-acre timber sale of very low-quality wood/timber. At this point they informed me that the application fee would be \$3200. That was the final straw, I had over 10 hours of work into the process by that point. Justifiably so, neither the landowner nor logger were willing to pay that unreasonable fee.

Their fee structure (which I could not find) is just one of many unreasonable requirements that are not in compliance with ACRE. Your help with this is much appreciated. I will try to forward to you the email(s) I sent them regarding ACRE. Feel free to contact me if I can be of any assistance,

Sincerely,

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

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Willig, Robert A.

From: [REDACTED]
Sent: Monday, May 1, 2023 10:27 PM
To: ACRE Shared Mailbox
Subject: [EXTERNAL] FW: Foster Twp- additional info
Attachments: Airport Timber Sale Map-for contract.pdf; ACRE_FACT_SHEET.pdf; PSU ordinance guide-model ordinance.pdf; Foster Twp- zoning-portions pertaining to forestry---with highlights of unreasonable reqs.docx

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

From: [REDACTED]
Sent: Monday, November 7, 2022 2:54 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Timber Harvest Permit for timber sale at Schuylkill County Municipal Airport

Dear [REDACTED] and [REDACTED]

I am forwarding this, hoping to get the ball rolling on a zoning variance in regard to a timber harvest @ the Schuylkill Co Municipal Airport in Foster Twp. All the info/along with my inquiry/request for a zoning variance is below.

Thanks,

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

From: [REDACTED]
Sent: Monday, November 7, 2022 2:05 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: Timber Harvest Permit for timber sale at Schuylkill County Municipal Airport

Gentlemen:

I am sending this email to start a discussion regarding obtaining a timber harvest zoning permit for a timber sale of approximately 245 acres on property owned by the Schuylkill County Municipal Airport (SCMA). I am a consulting forester who has been hired by the timber buyer to assist in obtaining the necessary permit, but as I understand the

situation, the logger [REDACTED] will be reimbursed by SCMA for the permit preparation/application costs. I spoke with [REDACTED] this morning and he said he would forward this email to Foster Township, as ultimately they are the authority in charge of the permitting process.

I have reviewed the Foster Twp ordinance affecting timber harvesting and can say with full confidence that portions of the ordinance are not in compliance with the PA "ACRE" law (Agriculture, Communities and Rural Environment). I am raising this point because it would be cost prohibitive and unreasonable to comply with all the ordinance provisions, especially in the case of this specific timber sale. This timber sale is for the most part a "seed-tree regeneration harvest", leaving at least 5 seed trees/acre. Also it is planned that there will be some "wildlife islands" scattered within the timber sale area, ranging from about 1-5 acres each.

There may be a small portion of the area (located in the NW corner, on steeper terrain) that would be considered more of a "selection" or "high-grade" harvest. While it is recognized that "high-grading" is not a forest mgt. BMP, in this case, that is about the only commercially feasible approach for this small/steep area. Also, there will be some improvement cutting/weeding of undesirable trees in the process, so it would not be considered a complete "high-grade". Regardless of one's views on "high-grading", it is not forbidden by state law.

As a representative of the timber buyer, I am respectfully asking for them (and SCMA) be granted a variance to the timber harvest ordinance requirements. I would propose that the required permit application requirements would only include an Erosion and Sedimentation Plan, conforming to PA DEP requirements, and that if the township wanted to have it reviewed, it would be done so at their expense. (most of the logging plan requirements are also covered under a standard E+S plan)

I would ask that you please familiarize yourselves with the "ACRE" law. I have attached an ACRE fact sheet and here is a link to resources pertaining to ACRE at the PA state attorney general site:
<https://www.attorneygeneral.gov/resources/acre/>. No one involved in this process wants to cause any hardship; we are just trying to perform this timber harvest in a cost-efficient manner while still protecting the environment and doing a good job.

I would also suggest that you re-vamp the ordinance so that it is in compliance with state law. I have attached info from PSU extension which has more info, including a "model" ordinance that may prove useful. I have also attached a Word document, which were my initial notes/thoughts on the ordinance, please forgive the format, it was just a rough sketch of notes/thoughts.

I would appreciate it if you could get back to me on this. A "reply-all" would keep everyone in the loop.

Sincerely,

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

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FOSTER TOWNSHIP

EST. 1855

Zoning Ordinance

Schuylkill County, Pennsylvania

Originally Adopted June 2000

Revised May 2014

Revised December 2021

PREPARED BY:

[REDACTED]

PA "ACRE" Law (Agriculture, Communities and Rural Environment)

ACRE defines an "unauthorized local ordinance" as an ordinance enacted or enforced by a local government which does either of the following: a. Prohibits or limits a normal agricultural operation unless the local government unit has authority under state law to adopt the ordinance and it is not prohibited or preempted under state law.

<https://www.attorneygeneral.gov/resources/acre/>

SRC notes:

Forestry starts on pg 267

1303.1.1- unreasonable (prior precedents under ACRE) to force enrollment in Stew Plan and very questionable re: the option to submit a harvest plan that must be reviewed by cons district (additional review fees) by submitting a harvest plan that has unreasonable req's (plan must conform to sec 1305- which requires review by Cons Dist or DEP w/ is unreasonable)---basically their logging plan is asking for the same info that w/b on an E+S plan?

1305.3.11: The timber harvesting plan shall include a listing and description of the selected forest best management practices to be employed during and after the timber harvesting operation. (See Best Management Practices for Pennsylvania Forests, Penn State College of Agriculture).----not reasonable?too broad?questionable

Requirements Sec 1306:

Exceeds state law-questionable/unreasonable: **Section 1306.3.** A timber harvesting plan proposing to engage in timber harvesting

activities within a floodplain, riparian forest buffer, wetlands, seasonally wet area, or within 100 feet of any watercourse shall include a description of the best management practices required for the activity under both an erosion and sediment control plan and Foster Township 272 Chapter 13

Zoning Ordinance Forestry/Timber Harvesting

pursuant to Title 25, Pennsylvania Code, Chapter 105, Dam Safety and Waterway Management Regulations.

1306-5-3 In addition to those forest best management practices selected by a landowner or timber harvest operator, the following minimum

acceptable standards shall apply to all timber harvesting:

1306.4: Boundaries of the property proposed for timber harvesting, the area proposed for timber harvesting, and the trees to be harvested shall be clearly demarcated in the field no more than seven (7) days after the timber harvesting plan

has been filed with the Township for approval—grossly unreasonable to require trees to be marked, it is common practice in many regions for the operator to follow verbal or written cutting instructions, that do not include “demarcated in the field”,,,,ditto for boundaries.

1306-5-4 Diameter-limit cutting and selective cutting shall be prohibited

1306-5-6 No timber harvesting shall be permitted within the first fifty (50) feet of any riparian forest buffer as provided for in Section

1306.3. Timber harvesting within riparian forest buffers shall retain fifty (50) percent of the deciduous tree canopy as a Best Management Practice, preventing and increase in water and ground surface temperatures and continuing to supply sufficient organic matter to the adjoining watercourse, waterbody or wetland.

1307-3: Township, may, at its sole discretion, require posting of a bond or other surety to guarantee restoration of Township roads. “Restoration” shall mean the repair, regrading, resurfacing, etc., of areas in the vicinity of haul or access roads, and excess damage to other portions of roads used to transport timber or equipment to and from site. If, as a condition of such surety, operator shall agree to use specified Township roads for such transportation, any documented use of roads other than those agreed may be cause for partial or complete forfeiture of surety.---need posted road signs and engineering study