

Willig, Robert A.

From: [REDACTED]
Sent: Tuesday, August 1, 2023 4:05 PM
To: ACRE Shared Mailbox
Subject: [EXTERNAL] ACRE Law complaint
Attachments: 2018 Act 15 - PA General Assembly.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.

Good afternoon. I represent [REDACTED] owners of a farm located at [REDACTED] in East Donegal Township. [REDACTED] have asked me to, on their behalf, submit an ACRE Law complaint. The violation alleged is of the attached PA Stormwater Management Act as amended in 2018. Specifically, the zoning officer has told me that the township's zoning ordinance "interprets" the SWM Act of 2018 to implicitly limit the number of high tunnels which can be constructed on a farm before stormwater management facilities can be required by the township to construct additional high tunnels over and above what the township "interprets" the SWM Act of 2018 to allow. However, the SWM Act of 2018 does not contain any such limitation, despite clearly having contemplated other limitations by its reference to non-exemption from other applicable municipal laws. I have contacted the township solicitor a total of four times over the past three months to ask him to explain this interpretation to me, but he has not responded to my emails. I am accordingly not able to tell you what section of the zoning ordinance the township relies on.

The names and contact information for the property owner are:

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

Please feel free to ask for any additional information you might need, and I will do my best to get it for you. Thank you.

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

The information contained in this transmission contains confidential and/or legally privileged information. The information is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this information is strictly prohibited and that the transmission should be returned to this firm immediately. In this regard, if you have received this transmission in error, please notify us by telephone immediately (610-998-1000 ext. 3) and delete any copies of this transmission.

Click [here](#) to report this email as spam.

**STORM WATER MANAGEMENT ACT - EFFECT OF WATERSHED STORM WATER
PLANS**

Act of Apr. 18, 2018, P.L. 91, No. 15

Cl. 32

Session of 2018

No. 2018-15

HB 1486

AN ACT

Amending the act of October 4, 1978 (P.L.864, No.167), entitled "An act providing for the regulation of land and water use for flood control and storm water management purposes, imposing duties and conferring powers on the Department of Environmental Resources, municipalities and counties, providing for enforcement, and making appropriations," further providing for definitions and for effect of watershed storm water plans.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4 introductory paragraph of the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act, is amended and the section is amended by adding a definition to read:

Section 4. Definitions.

The following words and phrases when used in this act shall have[, unless the context clearly indicates otherwise,] the meanings given to them in this section **unless the context clearly indicates otherwise:**

* * *

"High tunnel." A structure which meets the following:

(1) Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," or for the storage of agricultural equipment or supplies.

(2) Is constructed consistent with all of the following:

(i) Has a metal, wood or plastic frame.

(ii) When covered, has a plastic, woven textile or other flexible covering.

(iii) Has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

* * *

Section 2. Section 11 of the act is amended by adding a subsection to read:

Section 11. Effect of watershed storm water plans.

* * *

(c) The following shall apply:

(1) A high tunnel shall be exempted from the provisions of this act if:

(i) the high tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area; and

(ii) the high tunnel meets one of the following:

(A) The high tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line.

(B) The high tunnel is located at least 35 feet from any perennial stream or watercourse, public road or neighboring property line and located on land with a slope not greater than 7%.

(C) The high tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing storm water runoff in a manner consistent with requirements of this act.

(2) A municipality that has adopted a local ordinance or regulation that regulates high tunnels pursuant to a watershed storm water plan under this section prior to the effective date of this subsection shall amend the ordinance or regulation to comply with this subsection.

(3) Nothing in this subsection shall be construed to exempt high tunnels from other requirements applicable under Federal, State or municipal laws.

Section 3. This act shall take effect in 60 days.

APPROVED--The 18th day of April, A.D. 2018.

TOM WOLF