



State of New Jersey

DEPARTMENT OF AGRICULTURE
HEALTH / AGRICULTURE BUILDING
PO BOX 330
TRENTON NJ 08625-0330

PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

DOUGLAS H. FISHER
Secretary

October 8, 2018

Mr. Kurt Alstede
Alstede Farms, LLC
P.O. Box 278
1 Alstede Farms Lane,
Chester, New Jersey 07930

Dear Mr. Alstede:

This is in response to your request for assistance from the New Jersey Department of Agriculture to examine the farm property in the immediate vicinity of the farm store and sundry attendant areas, in order to offer an opinion as to the applicability of the New Jersey Stormwater Management Rules ("Rules"), codified at N.J.A.C. 7:8., by the New Jersey Department of Environmental Protection. In particular you asked for assistance in determining whether or not the various site improvements have been conducted in such a way as to 'trigger' applicability of the Rules via the definition of "Major Development" and specifically, major development on agricultural lands.

The threshold which triggers applicability is either: ¼ acre of new impervious cover or, 1 acre of land disturbance. Any improvement activity at the farm that may exceed either of these thresholds would then invoke the entirety of the rules which would then require specific stormwater management techniques and controls to be incorporated into your development plans.

On October 4, 2018, I met with you at Alstede Farms to review the history of the improvements made to the farm. This included a review of a detailed chronology of the growth of the farm store and its surrounding areas, supplemented by aerial photographic evidence which is publicly available on the internet via Google Earth & Map images. I have also been provided with electronic copies of NJDEP permits issued for certain small culvert crossings of unnamed tributaries (ditches) which run through the general area of the store. You have also provided me with electronic copies of site plans and engineering designs for the most recent improvements to the farm store area which included paving of previously graveled parking lots and the installation of two large underground infiltration systems.

Based on the review of this information, it is clear that at each time growth occurred and the farm operation expanded, it was either (1) prior to 2004; the adoption of N.J.A.C. 7:8, or (2) was

less than ¼ acre impervious or less than 1 acre of new disturbance.

In most instances, improvements were made incrementally on areas that were already classified as ‘impervious’ in accordance with NJDEP rules. In these situations, new imperviousness was not created. Gravel was swapped for pavement. Old temporary structures with roofs were demolished to make way for new structures with roofs. None of these changes would create increased runoff.

It is worth noting that the most recent improvements for paving the areas in front of and behind the farm store incorporated two infiltration systems even though the stormwater rule did not require you to do so. According to the design engineer, these systems will offer a reduction in peak flow rates even without accounting for the effects of infiltration into the soil.

You also provided copies of NJDEP permits for the construction of small culverts to aid in crossing existing farm roads to help manage the flow of vehicular traffic in and out of the farm store area. I examined both of these locations on your property along with the ditches which lead to and drain away from the culverts. In all cases, the waterways were well vegetated and/or stone lined (usually a combination of both) and exhibited little or no evidence of erosion, suggesting that flow rates were commensurate with the size of the channels and the soils present within them. I found the farm in general to be in an excellent state of management with parking areas clean, and grassed areas well maintained.

Based on my examination of the site and the various items of documentation you provided to me, it is my opinion that none of the projects undertaken by Alstede Farms, over the course of many years, qualified for regulation by N.J.A.C. 7:8. The fact that these projects were regulated either by the county or the municipality, or both, gives further credence to my conclusion, since the stormwater management rules delegate authority for their implementation to the local municipal engineer or the soil conservation district (in the case of ag development) and at no time in your documentation did I see any notice from the municipality directing you to develop a stormwater management plan or direct you to the local conservation district to review same.

I hope this will be of assistance to you. If at any time you have further questions, please do not hesitate to contact our office.

Sincerely,



John E. Showler, P.E.
State Erosion Control Engineer

C: Monique Purcell, Assistant Secretary of Agriculture/ Division Director, Ag & Natural Resources