

Farming and Food Tyranny In The Land Of No Posted on April 26, 2012 by Michael Patrick McCarty Farmers in Southern New Jersey Can Find Their Farming Options To Be Severely Limited Because of Wetlands Designation Under The Pinelands Protection Act. My younger brother owns a thirty acre blueberry farm in southern New Jersey, and recently, we have discussed the possibilities of combining forces. He, with his blueberries, and my wife and I with our expertise in poultry, egg, and squab production, together with the addition of any other farm crops that would surely find a ready market in the local area. It is the “garden state”, after all, and if you have never had the pleasure of the legendary “Jersey Tomato”, then you have missed one of the world’s great culinary treats. It sounded like a grand idea, at least on the hypothetical and hopeful face of it. However, just under the surface of it all lurked the state of New Jersey’s well deserved reputation for over regulation, government over reach, bureaucratic red tape, and corruption. Pack a large population in a small area of solid ground, squarely on top of that troubling paradigm and you may have an idea why I moved to Colorado more than 35 years ago. Still, the idea of new adventures color our days, and it would be nice to be surrounded by family once again. A small farm in the relative quiet of the Pine Barrens of rural South Jersey, not far from the tidal bays and the salt water fisheries of the Atlantic Ocean, could be a fine place to be. Or so we thought. Knowing what I do about zoning and regulation, and the ongoing and escalating war waged upon the small farmer, I began to research the land use and planning issues related to such a venture. It has been a farm for many decades, after all, so what kind of potential issues or problems could there be? Well, quite a few, as it turns out, and the entire, sorry mess is so complicated that my head spins as I write this. I will do my best to explain to you as I race to comprehend it myself. It is no surprise to discover that a great deal has changed since I moved away in 1976. The area in which we grew up is known as the Pine Barrens, and it was our backyard, and our playground. We hunted for bobwhite quail and whitetailed deer in the hardwoods behind our house, or fished for slashing grass pickerel or plump yellow bullheads in the tea colored lakes. Mostly, we wandered and roamed as we chose, or road our dirt bikes on the endless sand roads. We were too young and preoccupied to be aware of the tremendous development interests and numerous conflicting desires overwhelmingly focused on the Pine Barrens. The area had always been recognized for its unique cultural and natural resources. So unique, in fact, that in a partnership agreement Congress and the State of New Jersey created the Pinelands National Reserve under the National Parks and Recreation Act of 1978, and the 1979 New Jersey Pinelands Protection Act. It became the first National Reserve in the nation, encompassing 1.1 million acres and making up the largest tract of open space on the mid-atlantic coast. It makes up over 20% of New Jersey’s land area, and is underlain by some of the highest quality and voluminous aquifers on planet earth. The importance of these aquifers cannot be overstated. It is the presence of these waters that define the Pinelands. The Pinelands Protection Act established the Pinelands Commission, which functions as the planning authority for the reserve. Preservation, protection, and development guidelines are contained in The Pinelands Comprehensive Management Plan. The plan is administered by the Commission in cooperation with local, state and federal agencies. So what does this all mean for a small farmer in the Pinelands of southern New Jersey? Well, it means everything, as you might guess. Under the Act, county and municipal master plans and zoning ordinances must comply with the Management Plan. The Plan is a regulatory instrument, which provides for the exercise of police powers to enforce the allowable uses of land and waters. While one of the main objectives of the plan is to promote the continuation and expansion of agricultural uses, it also protects the quality of surface and ground water. Other objectives aim to preserve and maintain the essential character of the environment, including indigenous animal and plant species and their habitats. It does all of this while discouraging scattered and “incompatible” development, and provides incentives in an effort to steer development towards less ecologically sensitive areas of the The Reserve. I did not know any of this when I began to investigate the idea of farming with my brother. The farm sits at the outer edge, but within, the Pinelands National Reserve. He purchased it in the early 1990’s, with the knowledge that the previous owner had sold away the building development rights for the property. I discovered that under the Management Plan those rights had become Pinelands Development Credits, and were “severed” when they were sold to the Pinelands Development Credit Bank. But it was an existing blueberry farm, albeit “deed restricted”, and for him that was all that mattered. As I continued to research, I was led to believe that there were no issues or potential problems with the idea of raising and marketing poultry from this land, or any problems with expanding into other agricultural uses. I had already looked into what I knew to be applicable federal and state laws regarding on-farm poultry processing, so I next spoke with the appropriate people at the County and Township levels. New Jersey is a “Home Rule” state, which means a great deal of the business there is

handled by the municipalities. I found out that my brother's farm meets the standards for, and is considered a "qualified farm" under The New Jersey Farmland Assessment Act. In simple terms, this means that he has the required amount of land under agricultural production, and therefore enjoys the benefit of reduced property taxes. I also discovered that the property had the proper zoning for agricultural use. Neither the county, or the local township, could point out any reason why we could not put our business plan into action. It was then that I received a call back from the offices of the Pineland Commission. The wheels of progress grounded to a halt and ended our simple entrepreneurial dreams, bashed to pulp once again under the heel of a bureaucrat's boot. It was explained to me that the property does fall within the Agricultural Production Area, one of the nine land use management zones established by the Management Plan Land Capability Map of The Pinelands Comprehensive Management Plan. These are areas of active agricultural use, generally used for upland field agriculture and row crops. The "uplands", so named for obvious reasons, are the opposite of "wetlands". Depending on which report you read, about 25% of the Pinelands Reserve are made up of various wetland types. About 50% of the Reserve consists of private inholdings. As luck, or in his case, bad luck, would have it, my brother's farm includes very little uplands and is comprised almost entirely of a major wetland type. The Comprehensive Management Plan establishes special rules regarding wetlands within the Reserve. All development is prohibited, including any development within 300' of a wetland. The planning and zoning specialists at the county and township offices could have explained this to me at the time and saved me a great deal of time and effort. Apparently, they were not aware of the existence of wetlands either, even though they were looking at the recorded deeds, land surveys, and advanced GIS maps. As far as I can tell, the farm is considered an inland wetland bog, precisely because the vegetation is dominated by "blueberries". No there's a surprise! Wetlands include lands with poorly drained or very poorly drained soils. These areas have very high water tables (at least seasonally), where the water table is often less than 18" from the surface. The Management Plan goes further. It contains special provisions with regard to agricultural and horticultural uses in wetlands. It permits horticulture activities related to native Pineland species, and blueberry and cranberry agriculture. It also allows beekeeping. And that's it! No other agricultural uses are permitted. Our farming plans and business hopes hinge almost entirely on a few sentences in an diabolically complicated 269 page document, created by an army of lawyers, land planners, and politicians. The document attempts to cover every last detail of the management of a one million acre reserve. But in the end it adds up to one clear result. The Pinelands Commission has final authority in what you may do or not do on your own farm. Incredulous, I asked for further clarification on allowable uses of this land. I explained that with the exception of a small pond, there was no standing water or boggy areas on the property. Could we free range some turkeys or other poultry amongst the blueberries, to clean up bugs or weeds? The answer was a resounding "No"! Could one build a small chicken coop, perhaps even a temporary structure, in an effort to provide a few farm fresh eggs. Again, the answer was no. Could we turn loose a goat, or a cow, or any other livestock animal? You guessed it, the answer was no. Could we plant any type of vegetable anywhere on the property, or start a small home garden, or tend a tomato plant or two? No!, came the response. There is no debate on these matters. There is also no appeal process. One may apply for a Waiver of Strict Compliance, but any waiver must comply with the issues of wetlands management under the Management Plan. So, in other words, no! Any other questions? So there you have it. My brother may own one of the few farms in the United States where almost all normal farming practices are disallowed, under penalty of the law. You could say that the responsibility for his lack of understanding falls only on him, and that he should have researched the laws and regulations before purchasing the land. After all, the creation of the Pinelands Reserve is old news to millions of people. But obviously, not to us. We always assumed that it was a farm, and a farmer could farm like farmers do, and have done for centuries. It's embarrassing even, to realize that we may be the last men standing in the land of Jersey that never realized how our property rights had been affected. That being said, my brother assures me that no one with the Pinelands Commission, a congressional delegation, or other group ever dropped by to discuss life under the microscope of a national reserve. No one ever asked him how he felt about it, or how it may have changed his opportunities or plans. After all, who in their wildest imaginations could ever believe it would become illegal to grow a garden in the garden state? Who could anticipate that it would be considered an illegal act to harvest a tomato from your own property, in an area known worldwide for the quality of it's essence? How could it be a crime to free range a chicken, and gather it's eggs on a glorious spring morning in the beauty of the pines? How can it be? As a wildlife biologist, I could be one of the first people to sing the praises and the joys of wetland ecosystems. I can easily tout the many worthwhile and incredibly important reasons to

protect and preserve them. In fact, I have done just that many, many times. Yet, in this case, I simply disagree. To dictate what a private property holder can accomplish on his hard-won land, after already announcing to the world that it is indeed a “qualified” farm, completely destroys the concept of good and common sense. It may not be the kind of farm of which you approve, but it is a farm none the less. To deny a reasonable use is a destruction of private property rights. It’s the worst kind of theft, because it patronizes and destroys while purporting to protect. It makes a mockery of one’s civil liberties, the Constitution, and the Bill of Rights. It rips and strips the permissions of a local government, and places the authority in the arms of a totalitarian and god like national power. My brother’s options were already gone when he purchased his farm, and he never even knew it. It can’t be right! What good is owning property after all, if in the end it is not even legal to feed yourself from it? The mere mention of the word “wetlands” can inflict paralyzing terror upon the soul of any land developer, as perhaps it should in many circumstances. However, a wetlands designation is more often used as a life extinguishing dagger strike, straight to the center of the heart of all private property holders. The law and the regulators allow no distinction between the ruthless profiteer and the considerate land steward, unless they want it to. It does not recognize the concepts of sustainable agriculture or holistic management, or any other low impact and whole farm management methods. In that regard, it is the not so secret and ultimate weapon of all land use planners, and the heavy hammer of all controlling agencies and fascist slave masters of the world. A small, lonely farmer or insignificant land owner rarely survives the encounter. The Pinelands National Reserve may be the most restrictive and intensively managed regional land use regime in the United States. But it gets worse. Did I mention that in 1983 the Pinelands Reserve was designated a U.S. Biosphere Reserve by the United Nations Educational, Scientific and Cultural Organization, otherwise known as Unesco? Or that in 1988, it was further designated as an International Biosphere Reserve? What mechanism was applied to grant authority to an international body in the land use decisions of an independent and free nation? Am I the only person that feels uncomfortable with the involvement of the United Nations in the management of the Pinelands Reserve? Something tells me that there is more to this story, and that it does not bode well for the future of people of the Pine Barrens. For example, there has already been an effort to make hunting and fishing illegal in a Biosphere Reserve, unless done so under very specific conditions. I write this mostly to share with you my utter and complete disbelief, and to warn not to let this happen to you. I am left with only more disturbing questions. Why do we continue to allow ourselves to be directed by scientists and so-called experts, who always seem to know what is best for us as they collect their payments from those who tell them what to say and how to say it? Why do we continue to tolerate the perverse and prying attacks of an all-powerful but openly corrupt government, which seems hell bent in it’s determination to dictate all aspects of our lives including what and how we may eat? How can we continue to be dictated to through laws and regulations created to control our land, by people that we have never met, while standing on the very ground we walked upon and called our home long before the legislation was even conceived? What devious plans lay before us, just out of reach of our understanding? Can you tell me, – does it, can it, will it, ever end? In the final analysis, it is up to you, and me, and us. Left unchecked, the hidden masters will continue to classify and designate and legislate our private property rights into oblivion. Our personal and regional identity, in fact our national sovereignty, will disappear completely into the morning mist of a cranberry bog or blueberry field. If this concerns or disturbs, you may wish to become acquainted with, and in fact very familiar with, the term “Agenda 21”! This many-headed monster grows larger, and more powerful, every day.

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