

Court Upholds Eminent Domain Protection For Farms

CAMP HILL (Cumberland Co.) — The Pennsylvania Farm Bureau applauded a ruling this week by the Commonwealth Court of Pennsylvania which upholds the protection provided to farms against unjust eminent domain condemnation for highway construction projects.

The Court, in a 2 - 1 decision, held that the Pennsylvania Department of Transportation (PennDOT) must submit its plans to condemn the farm of Lois and Lamar White of Greene Township, Franklin County, to the state Agricultural Land Condemnation Approval Board (ALCAB) for approval. ALCAB was established to prevent condemnations of farmland for highway construction projects if a reasonable alternative to the condemnation of farmland is available.

PennDOT wants to take the White farm in order to construct a new interchange on Interstate 81 near Chambersburg. Throughout the design of the highway project, PennDOT has insisted it is not required to submit the Exit 7 project to ALCAB, basing its contention on an exception provided in law for activities performed on an "existing highway."

Pennsylvania Farm Bureau had filed an amicus curiae brief in the case in support of a lawsuit filed by the Whites. "PennDOT's interpretation of the 'existing highway' exception would have allowed it to avoid responsibility for ALCAB review and approval on virtually every highway project that proposed to condemn farmland," said John Bell, Pennsylvania Farm Bureau's Governmental Affairs Counsel. "Almost every new highway project can be associated with an 'existing highway'."

In its amicus curiae brief, Farm Bureau argued that the General Assembly, in enacting the 1979 law which established ALCAB, intended the "existing highway" exemption to apply only to projects such as road widening, taking out curves or reconstructing an existing road. The Exit 7 project, on the other hand, would create a new road system in the local area with a new interchange with I-81, relocation of three existing roads near the proposed new interchange, and elimination of an overpass which presently links farmland on the east and west sides of the four-lane interstate highway.

Commonwealth Court, in its decision issued Aug. 30, agreed with Farm Bureau that the "existing highway" exemption is clearly limited by the law. President Judge James Colins wrote that, "ALCAB has jurisdiction over condemnation for highway purposes with the exception of activities relating to existing highways that do not go beyond the existing roadbed. Relocation of highways and the addition of an interchange involving new ramps and connector roads are clearly outside the scope of the exception (to ALCAB REVIEW), and PennDOT must seek ALCAB approval before it can file a declaration of taking."

The Court ruling is welcome news for Pennsylvania farmers everywhere. "For years, PennDOT has been trying to use a legal loophole to avoid ALCAB review on the Exit 7 project," said Bell. "Commonwealth Court applied

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Joint Milk Marketing Venture Created

SYRACUSE, N.Y. — Dairylea Cooperative Inc., of Syracuse, New York, and Dairy Farmers of America (DFA), of Kansas City, Missouri, have joined forces to create a milk-marketing venture in the Northeast that will enhance returns for their farmer-members, as well as provide superior service to their customers.

The new entity, Dairy Marketing Services, LLC, will serve as the marketer of close to 10 billion pounds of raw milk annually, provided by more than 6,000 dairy producers located throughout New England, New York, Pennsylvania, New Jersey, Maryland, Delaware and West Virginia. Dairy Marketing Services will be supplying the milk requirements of 90 processors and manufacturers in the region.

Dairylea and DFA are the two largest dairy cooperatives in the Northeast. This 50/50 venture relates solely to their milk marketing operations. Membership activities, other member services and lines of business will remain separate.

"We are excited about putting together this venture which will allow for increased savings for our farmers on hauling and supply distribution," said Clyde Rutherford, president of Dairylea. "At the same time, we will be managing

sound reasoning in concluding that the 'existing highway' exception is to be interpreted very narrowly. The Court's ruling will go far in preventing PennDOT or other highway agencies from using legal loopholes to avoid their responsibility to go before ALCAB and demonstrate that

their highway projects justify the taking of productive farms and will cause the least disruption of local agriculture."

Pennsylvania Farm Bureau is a voluntary, statewide farm organization representing over 27,000 farm and rural families.

about 35 percent of the Northeast's milk supply, which will enable us to provide superior service to our customers, particularly those large dairy companies with multiple plant operations."

"DFA is the largest dairy cooperative in the county, representing 25,000 farms and 37 billion pounds of milk," said Lew Gardner, chairman of DFA's Northeast Council. "We are pleased to be joining forces with Dairylea in the Northeast for the mutual benefit of farmer-members and customers. Together, we can have a much greater impact on milk-marketing activities in the region."

Dairylea and DFA currently have a common investment in Dietrich's Milk Products in Pennsylvania, and have milk exchange arrangements with several of their common customers. The creation of Dairy Marketing Services will improve the efficiency of serving the fluctuating needs of all their customers. Major customers of Dairy Marketing Services include Suiza Foods, Kraft Foods, Great Lakes Cheese, Leprino Foods, H.P. Hood and Sorrento Cheese.

"This venture makes sense from every angle," said Rutherford. "For many, many years, farmers have been concerned about the lack of cost-effectiveness with respect to several milk tankers going down the same roads and picking up milk at different farms depending on which cooperative the farmer belonged to. Additionally, milk supplies that were logical for a particular plant often went to a more distant facility, because the cooperative serving that customer did not market that local block of milk. With the creation of Dairy Marketing Services, we move a giant step closer to maximizing the efficiency of milk assembly and distribution in our region."

Dairy Marketing Services will maintain offices just outside of Syracuse, in Liverpool, N.H. Rick Smith, Dairylea's chief executive officer and John Collins, DFA's senior vice president, will serve as co-CEOs of Dairy Marketing Services, and John Siglow, vice president and chief operating officer for Northeast DFA, will assume the position of chief operating officer.

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