



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

DAVID W. SUNDAY, JR.
ATTORNEY GENERAL

June 11, 2026

Office of the Attorney General
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Pittsburgh, PA 15222
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Michael T. Korns, Esq.
Babst Calland
Two Gateway Center
Pittsburgh, PA 15222

via regular mail and email to [redacted]

Re: ACRE Case – Penn Township-Trumbull Forest Products-Robert Lindsay

Dear Mr. Korns,

As you know, Mr. Lindsay filed an ACRE complaint challenging Penn Township's timber harvesting permit fee and restoration bond amounts. You responded to those claims in writing and I greatly appreciate getting the Township's view of things. I write now to ask a few questions as well as to express some thoughts on Penn Township's position.

You write on page 2 of your letter that "[t]he Township's site-restoration bonding requirement is the result of previous foresters' abandonment of sites in which the Township taxpayers had to expend significant expense to bring the site to safe conditions...." I know of what you speak. In my eleven years as the OAG's ACRE attorney, I have seen instances of loggers leaving harvest sites in a dreadful state. Basic fairness dictates that the burden to remediate those sites should fall on the logger not the taxpayer. But what is Penn Township's legal authority for that proposition? I agree that the proposition is fair but is it legal? There is an entire statutory and regulatory scheme governing road bonding for example. That is – heavy haulers post a bond before driving on a road. If the hauler damages the road the cost of any necessary repairs is covered by the bond. It makes perfect sense. But I know of no statutory and/or regulatory authority allowing a municipality to do the same type of thing when speaking of timber harvesting site restoration. I could be wrong and if so please correct me. But what is Penn Township's legal authority for requiring the site restoration bond?

You write on page 2 of your letter that Penn Township's ordinances do "not in any way prohibit or limit the timbering of a site...." I respectfully disagree. I respectfully submit that Penn Township's escalating permit fees and restoration bonds effectively regulate out of existence timber harvesting in the Township. If I am correct, that runs afoul of the Right to Farm Act (RTFA)

and the Municipalities Planning Code (MPC) which strongly encourage silviculture. *See e.g.* 53 P.S. § 10603(f). Timber harvesting “shall be a permitted use of right in all zoning districts in every municipality.” 3 P.S. §952(5), **Definitions**, *Agricultural commodity*, includes “[f]orestry and forestry products” and “Normal agricultural operation” includes “silvicultural...crops and commodities....”

There is no doubt that a municipality “may prescribe reasonable fees with respect to the administration of a zoning ordinance....” 53 P.S. §10617(c), and I would say that Penn’s basic \$300 permit fee falls within the “reasonable” category. And let us just assume for the sake of argument that the basic \$2,000 bond is a “reasonable fee.” The mandatory \$2,300 *may* be “reasonable” but the additional \$25 per acre permit fee and the additional \$500 bond per acre above five (5) acres cannot be considered “reasonable.”

Timber harvesting experts that I have consulted through the years tell me that many harvests fall within the ten (10) to sixty (60) acre range and larger harvests of more than 100 acres are not uncommon. In my earlier *Industry Borough, Beaver County* ACRE case, for example, the harvest was 160 acres. I did the math using those numbers – 10, 60, and 160 acres. I took into account the \$300 and \$2,000 basic amounts then added the \$25 and \$500 per acre above 5 acres escalator amounts. If I did the math right, the numbers are staggering:

- 10 acres with fees and bonds = \$5,225
- 60 acres with fees and bonds = \$31,175
- 160 acres with fees and bonds = \$83,675

██████████ did his own calculations on page 2 of his ACRE complaint for a possible 33 acre harvest in Penn Township. With fees and bonds he would have to come up with \$19,625 before he even started cutting. \$5,225. \$19,625. \$31,175. \$83, 675. I know of very few loggers who could come up with even the lowest \$5,225 in order to secure a permit. I know of no logger in my 11 years who could come up with a staggering \$83, 675. And even if a logger has tens of thousands of dollars available there is no way that person/company is going to run the risk of posting that extraordinary amount with no guarantee that any of it will be returned. The amount of up-front money, and the uncertainty surrounding the ultimate fate of the bond, will undoubtedly keep timber harvesters out of Penn Township.

True – Penn’s ordinances do not explicitly prohibit timber harvesting. If the ordinances did, that would clearly violate ACRE. But equally as true – the amounts of Penn’s fee and bond requirements effectively prohibit timber harvesting. Ordinances can violate ACRE in two ways: 1) the ordinance is facially invalid. One look and its obvious the ordinance is illegal (*e.g.* timber harvesting is prohibited in X Township); and 2) an “as applied” violation. The ordinance looks fine on its face but when it is applied it becomes clear that it runs afoul of the law (*e.g.* timber harvesting is allowed but a person must pay \$5,000/\$19,00/\$31,000/\$83,000 which under no interpretation can be considered “reasonable” under the MPC).

A question and a proposal:

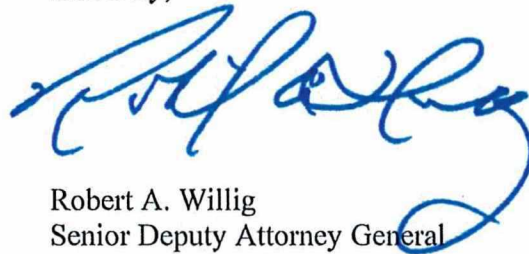
1) if Penn Township wants to continue charging a restoration bond what is the legal authority for doing so; and

2) would Penn Township be amendable to doing something like the OAG and *Williams Township, Northampton County*, did last year? Williams had the exact same concerns that Penn does – loggers

leaving the sites in awful condition. We agreed to a "sliding scale" similar to a per acre fee but not as draconian. Williams fee schedule is \$75.00 for up to 2 acres, maximum 10 trees; \$250.00 over 2 and up to 20 acres; over 20 to 50 acres is \$400.00, and over 50 acres is \$600. But we added a novel concept – these fees cover 2 inspections. If Williams had to go to the site a third or more time because the logger was not properly remediating the site then the logger would be charged further fees. These further fees serve a two-fold purpose: the fees cover the Township's costs in repeatedly trying to get the logger to properly remediate and they act as a deterrent to force bad loggers to do exactly that – properly remediate the first time around. It is a simple proposition – do what you need to do under the ordinance and you won't be charged any further money. Do not do what is required under the ordinance and you will be charged money until you make it right.

Give me your thoughts and we will go from there. Thank you.

Sincerely,



Robert A. Willig
Senior Deputy Attorney General

cc Trumbull Forest Products
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via regular mail and email to [REDACTED]