

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL ACTION LAW

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**EAST ROCKHILL TOWNSHIP**  
**Plaintiff/Counterclaim Defendant**

v.

**RICHARD E. PIERSON MATERIALS CORP.**  
**d/b/a RICHARD E. PIERSON MATERIALS,**  
**INC. and HANSON AGGREGATES**  
**PENNSYLVANIA, LLC**  
**JJGD HOLDINGS GP, LLC**  
**Defendants/Counterclaim Plaintiffs**

v.

No. 2018-02730

**EAST ROCKHILL TOWNSHIP BOARD OF**  
**SUPERVISORS, GARY VOLOVNIK,**  
**DAVID NYMAN, JIM NIETUPSKI and**  
**MARIANNE MORANO**  
**Additional Counterclaim Defendants**

v.

**RICHARD E. PIERSON CONSTRUCTION**  
**CO., INC.**  
**Additional Counterclaim Plaintiff**

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**VERDICT**

AND NOW, this 11<sup>th</sup> day of March, 2020, after a non-jury trial in the above captioned matter, a **VERDICT** is entered as follows:

- A. The Court rejects Defendants' preemption claim because the Noncoal Surface Mining Act does not apply to asphalt manufacturing. Asphalt manufacturing is not encompassed in the definition of "surface mining" in the Noncoal Act, and therefore is not preempted by the Department of Environmental Protection.

B. The Court finds that an asphalt plant is not an accessory use to the quarry and that asphalt manufacturing is an H-1 Manufacturing Use permitted only in the I-1 and I-2 Industrial Districts of East Rockhill Township. An asphalt plant is not subordinate or incidental to a quarry. In making this determination, the Court considered the relevant factors from binding Pennsylvania Supreme Court precedent in Mignatti Appeal:

- a. The asphalt plant would require the installation of additional equipment, including but not limited to: thirty foot tall storage silos, oil tanks, and other structures requiring \$5 million dollars in expenditures;
- b. The one acre footprint of the asphalt plant;
- c. The increased workforce required to operate the asphalt plant;
- d. The increased volume of traffic on the narrow residential roads surrounding the quarry, and;
- e. An asphalt plant is a severable and independent process from the extraction of stone.

C. A Permanent Injunction is **GRANTED** preventing any asphalt plant from being erected on the quarry in the E-Extraction District. East Rockhill Township has established the required elements for a Permanent Injunction:

- a. The Township has established a clear right to relief because the asphalt plant is not permitted in the E-Extraction District;
- b. The impact of the asphalt plant on the surrounding community cannot be adequately compensated by damages;
- c. The plans to construct the asphalt plant represent an actual and substantial harm threatened in the future, and;

d. Permanently enjoining the construction and operation of the asphalt plant is appropriate to prevent a legal wrong for which there is no adequate redress at law.

D. Findings of Fact and Conclusions of Law will follow this Verdict.

**BY THE COURT:**



**ROBERT J. MELLON, J.**

It is your responsibility  
to notify all interested parties  
of the above action.