

STATE AGRICULTURE DEVELOPMENT COMMITTEE

**Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625**

REGULAR MEETING

July 27, 2017

Chairman Fisher called the meeting to order at 9:08 a.m.

The flag salute was conducted at the start of the meeting.

Ms. Payne read the notice indicating the meeting was held in compliance with the Open Public Meetings Act.

Roll call indicated the following:

Members Present

Chairman Fisher
Ralph Siegel (rep. State Treasurer Scudder)
Renee Jones (rep. NJDEP Commissioner Martin)
Jane Brodhecker
Alan Danser, Vice Chairman
Scott Ellis
Peter Johnson
Brian Schilling (rep. Executive Dean Goodman)
Thomas Stanuikynas (rep. DCA Commissioner Richman)
Denis C. Germano, Esq.

Members Absent

James Waltman

Susan E. Payne, SADC Executive Director
Jason Stypinski, Esq., Deputy Attorney General

Others present as recorded on the attendance sheet: Dan Pace, Mercer County Agriculture Development Board (CADB); Melanie Mason, Hunterdon CADB, Harriet Honigfeld, Monmouth CADB; and Liz Thompson, New Jersey Farm Bureau.

Minutes

A. SADC Regular Meeting of June 22, 2017 (Open and Closed Sessions)

It was moved by Mr. Siegel and seconded by Mr. Danser to approve the Open Session and Closed Session minutes of the SADC regular meeting of June 22, 2017. The motion was approved. Mr. Germano abstained from the vote.

REPORT OF THE CHAIRMAN

- Farmland Preservation Funding Bills

Chairman Fisher stated that the farmland preservation funding bills are awaiting the Governor's signature, which he expects shortly.

- Agriculture Update

Chairman Fisher stated that with the growing season in full swing, he took some farms tours the past few weeks. He noted that peaches are doing incredibly well this year and have great prices. Vegetable prices are good and there are great marketing conditions for New Jersey produce. He stated that he had visited the Hunterdon County Farmers Businessmen's Picnic on July 26th at Candlelight Farm. He noted that SADC staff members Stefanie Miller and Cindy Roberts were both at the event providing information to landowners interested in farmland preservation. He stated that the farm raises alpacas for their prized alpaca wool and it was incredible to see those extraordinary animals. Chairman Fisher also noted that the county fair season is under way, with Gloucester County's Fair scheduled for that evening. He encouraged everyone working on farmland preservation to attend county fairs if they have not done so in awhile to get a sense and flavor of the various aspects of agriculture in the state.

- Upper Pittsgrove Farmland Preservation Milestone

Chairman Fisher stated that 10,000 acres of farmland have been preserved in Upper Pittsgrove under New Jersey's Farmland Preservation Program. Upper Pittsgrove is the first municipality to reach the 10,000-acre mark, which is a huge accomplishment.

- Multi-Generational Farms

Chairman Fisher stated he was at the Marino Farm in Gloucester County where 3,000 acres are farmed and peppers are one of its biggest crops. He stated that the farm owner told him that farmland preservation played a major role in his farm operation, which is

now going into its fourth generation. Chairman Fisher stated there are many multi-generational farm families who are benefiting from the Farmland Preservation Program. He applauded the Committee members for their efforts in helping to preserve farmland.

- Former SADC Member Torrey Reade

Secretary Fisher stated that former SADC member Torrey Reade died on July 16, 2017. He noted her diverse background, including a notable career in finance on Wall Street and her later decision to buy a farm in Salem County where she raised goats, sheep and cattle. Her farm had a restored 18th century house where she had art festivals. He stated that Ms. Reade was a former board member of the Farm Service Agency, very involved in the agricultural community and a great friend of agriculture, and asked for a moment of silence in her memory.

REPORT OF THE EXECUTIVE DIRECTOR

- Outreach Meetings for Farmland Preservation

Ms. Payne stated that outreach meetings are being held this summer for landowners interested in farmland preservation – specifically under the State Acquisition Program – in anticipation of pending appropriation bills that will make new funding available. Meetings already have been held in Cumberland, Warren and Hunterdon counties. The Monmouth County meeting will be held on August 9th and Salem County's meeting will be held on August 23rd. Ms. Payne stated that the meetings are relatively well attended and there are lots of questions from landowners. She stated that while some of the landowners who attended may have farms that do not qualify for State Acquisition, they may qualify for another program, and CADB and SADC staffs are there at the meetings to assist them.

- Farmland Preservation FY2017 Statistics

Ms. Payne directed the Committee members' attention to their handouts. She stated that 74 farms totaling 4,274 acres were preserved in FY2017. Currently 2,500 farms have been preserved under the Farmland Preservation Program, making it the second state in the nation (behind Pennsylvania) in terms of number of easements held by any farmland preservation program. Ms. Payne noted that the SADC's performance indicators (targeted numbers) were 5,100 acres and 85 farms to be preserved so the FY2017 numbers are not too far off. She stated that once the appropriation bills are signed, there will be a slew of applications for final approval from Gloucester, Cumberland and Warren counties. Ms. Payne stated that the Committee may want to consider an August

meeting depending on everyone's schedule and if funding is available in order to start moving applications.

- Deer Fencing Program

Jeff Everett provided the Committee with a brief update on the SADC's Deer Fencing Program and the deer-fencing installation training session held this week at Snyder Farm. Mr. Everett thanked Dr. Schilling and John Grande, the director at Snyder Farm, for their help with hosting the training. He showed the Committee slides with statistics from the last deer fencing program offered by the department some years ago, which indicated that several of the fences were installed incorrectly. Mr. Everett stated that in order to prevent improper installation of deer fencing in the future, grant awardees are required to take the SADC-approved training. There were 25 farmer deer-fencing program participants out of a total of 32 at the deer fencing class. Mr. Everett noted that in addition to demonstrating deer-fencing installation techniques, the training session also discussed other ways to control the deer population. The Department of Environmental Protection provides depredation permits in order to control the deer population; there are community-based deer management programs, such as Princeton's that uses snipers to help control the deer population; contraceptive techniques can be used; and under the Deer Management Assistance Program, farmers can hunt deer professionally or voluntarily, free of charge, provided that the farmer donates the meat to a food bank. Mr. Everett noted that the training was videotaped for future reference. Mr. Schilling commended SADC staff on the course and stated that he believes it was a good learning experience for those who attended.

Mr. Everett took the opportunity to introduce a couple of new staff in the SADC's Stewardship/Agricultural Development section. Kerstin Johnson has been with the SADC's Stewardship section since September as an intern. She just graduated with honors from the Rutgers School of Environmental and Biological Sciences with a bachelor's degree in environmental policy. She is now working part-time on some farm viability programs. Kelly Doyle has a bachelor's degree in civil engineering from Villanova University and a master's in environmental engineering from MIT. She was in the private sector for 10 years. She will be working on monitoring preserved farms and lending her expertise in engineering as needed, for example, with soil and water conservation grants. They are both TES (Temporary Employment Services) employees who are limited to a certain number of hours per fiscal year.

Chairman Fisher stated that the management of deer on all lands is a major problem. He hears from a lot of farmers about the problem of not being able to manage deer on public land – i.e., on the other side of the deer fencing. He stated that this is an issue because sometimes public lands are overrun with deer. He'd like to somehow holistically work on this from both sides of the fence. Mr. Johnson stated that some farms are not rentable due to deer overpopulation. Ms. Jones suggested a meeting in the future to talk about the deer overpopulation issue further. She noted that hunting is permitted in wildlife management areas and in certain areas of State parkland in accordance with certain policies. Mr. Siegel stated that national parks do not have a deer problem and he would be happy to facilitate a meeting involving the National Park Service to try to tackle this problem directly.

COMMUNICATIONS

- Conflict of Interest Memo

Ms. Payne directed the Committee to a memo sent to County Agriculture Development Board (CADB) and Municipal Planning Incentive Grant administrators regarding conflict of interest regulations with respect to CABB and Municipal Agriculture Advisory Committee members applying for farmland preservation. Ms. Payne stated SADC regulations prohibit such applications. Due to some recent applications the SADC received, she wanted to refresh partners' recollection of the rules. Ms. Payne stated that as part of the regulations and grant agreements with the counties, CADBs are required to adopt a code of ethics that incorporates that prohibition. Staff is reaching out to CADBs to see if they have a code of ethics and if so to get it on record, and if they do not to encourage them to adopt one. Ms. Payne stated that the memo also shares with all the CADBs the advice received from the Local Finance Board on this issue in order to alert counties and towns so that if they have a representative of local government apply for farmland preservation, they make sure that the proper recusals occur so that there is not a conflict at the end of the process.

- Academic Study Project in Delaware

Ms. Payne directed the Committee's attention to a letter she submitted in support of an academic study and asked Mr. Schilling to explain the study. Mr. Schilling stated that colleagues of his in Delaware are interested in doing work with the U.S. Department of Agriculture (USDA) through one of their funding programs. Mr. Schilling stated that

Delaware like New Jersey is probably in the top five nationally as it relates to preserved farmland acreage and they also face the same issues as New Jersey regarding finding ways for farmers to be more profitable. Delaware is trying to find ways to help owners of farms that might have been preserved years ago, where the easement monies are gone, and they are looking at whether there is anything else that can help those farms be more profitable. A pilot study was done in Delaware to see if consumers were interested in supporting preserved farms through the market by buying products that came directly from a preserved farm. The test study showed that people, much like with Jersey Fresh here in New Jersey, were willing to buy with premiums items that they see as local or higher quality. Mr. Schilling stated that the farmland preservation message was received very well and people were paying more money for higher-quality items. Mr. Schilling stated the people in Delaware want to work with New Jersey because New Jersey is further ahead in terms of the length of its program, the number of acres and farms that are preserved, and due to the fact that New Jersey is a big direct marketing state. Mr. Schilling stated that Chairman Fisher and Tom Beaver from the Department also are aware of the study and are very supportive. Mr. Schilling stated that the study will now undergo a lengthy review process and it might be six or nine months before it is learned if the study was selected for funding. If the study is selected, it will be funded by the U.S. Department of Agriculture.

Chairman Fisher questioned why the project applies only to small- and medium-sized farms. Mr. Schilling stated that it is due to federal government funding priorities. He noted that medium farms are those with under \$1 million in gross sales while small farms have under \$350,000 in sales.

- Press Clips

Ms. Payne directed the Committee's attention to a Star-Ledger article in the press clips that ranked counties in order by the number of farmland acres preserved in calendar year 2016. She thought it was great to see and worthy of pointing out.

PUBLIC COMMENT

Dan Pace from the Mercer CADB wanted the Committee to be aware that Mercer County has a deer management program in two of its large county parks, and Hopewell Township – probably the largest town in Mercer County – has a very active Deer Management Advisory Committee. Mr. Pace also noted that the Mercer County 4-H has its 99th fair this weekend at the Howell Living History Farm, which is free and great for kids.

OLD BUSINESS

A. ALE Guidance Document – Discussion Only

Ms. Payne noted that there was a new easement negotiated for the federal farmland preservation program, now known as the Agricultural Land Easement (ALE) program. Previously the Committee recommended that staff develop a guidance document specific to the ALE program so that landowners who are going into a farmland preservation transaction using federal money are well aware of the new and different provisions in the ALE deed. Ms. Payne stated that the revised guidance document was distributed to partners and there were no comments. Supportive comments were received from the Natural Resources Conservation Service. Ms. Payne stated that if the Committee is comfortable with the guidance document it will be posted to the SADC's website.

Mr. Siegel stated that the way the sentence is structured regarding adjusted gross income, it seems to imply that refers to an annual adjusted gross income. He asked whether this was a new requirement. Ms. Payne stated that it is not a new requirement and asked for Stefanie Miller to elaborate. Ms. Miller stated that there was always an annual adjusted gross income requirement but it has gone down over the years. She stated that it was an average of the past three years. Mr. Siegel questioned whether the requirement is \$900,000 per year or \$900,000 for three years. Ms. Miller replied that she would doublecheck and get back to the Committee with her findings.

NEW BUSINESS

A. Reorganization **1. Appointment of the Vice Chairman**

Ms. Payne stated that this is the Committee's reorganization meeting, which is held annually at the beginning of the fiscal year. The Secretary, by statute, is the Chairman of the Committee, but the Committee elects its Vice Chairman. Mr. Germano nominated Mr. Danser to serve as Vice Chairman. Chairman Fisher asked if there were any other nominations. There were no other nominations so he requested that the nominations be closed.

It was moved by Mr. Ellis, seconded by Mr. Germano and unanimously approved to close the nominations.

Chairman Fisher asked for a motion to approve Mr. Danser as Vice Chairman.

It was moved by Mr. Germano, seconded by Ms. Jones and unanimously approved to elect Mr. Danser as Vice Chairman of the Committee.

2. August 2017 to July 2018 Meeting Dates

Mrs. Payne stated that at the last meeting there was a request to adjust the Committee's meeting date schedule to avoid hunting season. She noted that if needed, there will be a meeting in August, and staff will get back to the Committee on that. Ms. Payne stated the next meeting is scheduled in September. She stated that what is different is that there will be a meeting in October. Committee member Jim Waltman has offered to host the meeting at the Stony Brook Millstone Watershed Association.

3. Program Deadline Dates – 2017/18 (Informational Only)

Ms. Payne asked Heidi Winzinger to address County Planning Incentive Grant (PIG) program deadlines for submission of documents to be considered for final approval. Ms. Winzinger stated that the SADC sets a deadline every year that applies to just the County PIG program. In the past, individual applications had to be received by the SADC by the first working day of the month in order to make it on the next month's meeting agenda. The new deadline is now the 15th of the month before. She noted that several counties have CADB and Freeholder meetings where they have to get approvals early in the month so this change will help them make the deadline and get on the agenda for the next SADC meeting. Also, the SADC will move to an eFarm system next year and have more live information, with all finances located in one spot. Ms. Winzinger stated that this will be an improvement and hopefully help expedite things.

B. Resolution of Final Approval – County Planning Incentive Grant Program

1. Verbeke, Chester Twp., Morris County

Dan Knox referred the Committee to one request for final approval under the County Planning Incentive Grant Program. He reviewed the specifics of the application with the Committee and stated that staff's recommendation is to grant final approval.

It was moved by Mr. Germano and seconded by Mr. Danser to approve Resolution FY2018R7(1) granting final approval to the following application under the County Planning Incentive Grant Program, as presented and discussed, subject to any conditions of said resolution:

COUNTY PLANNING INCENTIVE GRANT PROGRAM

1. Simonne Verbeke, SADC #14-0125-PG (Resolution FY2018R7(1)
Block 42, Lot 33, Chester Township, Morris County, 18.96 gross acres

The motion was unanimously approved. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. This approval is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f. (A copy of Resolution FY2018R7(1) is attached to and is part of these minutes.)

C. Minimum Standards for Acquisitions

1. County PIG program

Ms. Winzinger reviewed with the Committee the minimum standards for determining an eligible farm under the County PIG program. She explained how average quality scores are calculated for each county and stated that if the quality score for an individual farm is equal to or greater than 70 percent of the county's average quality score, staff can grant Green Light approval without bringing the application to the Committee. If the quality score is less than that 70 percent figure, the Committee may grant a waiver if it so chooses. She stated that the standards will take effect next year.

2. State Acquisition Program

Ms. Winzinger reviewed the minimum standards for the State Acquisition Program, including the requirements for farms to be identified as either priority, alternate or other farms based on the farm size and quality score as compared to the county averages. Ms. Payne pointed out that this program been designed to target the largest and highest quality farms in each county. Ms. Winzinger stated that if an applicant farm does not meet these criteria, SADC staff will work with the counties, municipalities and nonprofits to determine if it can be preserved through another program. The new standards take effect immediately.

It was moved by Mr. Siegel and seconded by Mr. Germano to approve Resolution FY2018R7(2) adopting the average quality scores for each county and the 70 percent average quality score values for determining an "eligible farm" pursuant to N.J.A.C. 2:76-17.2 for the County Planning Incentive Grant Program, and Resolution FY2018R7(3) adopting the average quality scores for each county for State acquisitions, the average acres for each county and the individual scores for determining priority and

alternate farms under the State Acquisition Program, as identified in said Resolutions and as presented and discussed. The motion was unanimously approved.

PUBLIC COMMENT

There was no public comment.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, September 28, 2017, beginning at 9 a.m.
N.J. Department of Agriculture Building, First Floor Auditorium

CLOSED SESSION

At 10:08 a.m., Ms. Payne read the following resolution to go into Closed Session:

In accordance with the provisions of the Open Public Meetings Act, N.J.S.A. 10:4-13, it is hereby resolved that the SADC shall now go into Executive Session to discuss matters falling within the attorney client privilege: the certification of values for property acquisitions under the Farmland Preservation Program; legal advice in the matter of Hollywood v. Walker pending litigation; personnel matters; and, any other pending or anticipated litigation, pursuant to N.J.S.A. 10:4-12b.(7). The minutes of such meeting shall remain confidential until the Committee determines that the need for confidentiality no longer exists.

It was moved by Mr. Germano and seconded by Mr. Danser to approve the resolution to go into Closed Session. The motion was unanimously approved.

ACTION AS A RESULT OF CLOSED SESSION

A. Real Estate Matters – Certification of Values

It was moved by Mr. Germano and seconded by Mr. Ellis to approve the Certifications of Value for the following applicants as discussed in Closed Session:

County Planning Incentive Grant Program

1. Ronald Taft, SADC #13-0459-PG
Block 27, Lots 24, 25, 26, and 38.01, Upper Freehold Twp., Monmouth County.
234 Net Acres (Appraisal Order Checklist [AOC])

2. Janssen Ortho Pharm (Peaceful Mgmt-A), SADC# 10-0391-PG
Block 15, p/o Lot 10 (hypothetical subdivision)
Alexandria Twp., Hunterdon County, 71.80 Net Acres (AOC), 75.80 Gross Acres (AOC)
3. Janssen Ortho Pharm (Peaceful Mgmt-B), SADC #10-0393-PG
Block 15, Lot 10, p/o Lot 10 (hypothetical subdivision), Alexandria Twp.,
Hunterdon County, 72.11 Net Acres (AOC), 81.35 Gross Acres (AOC)
4. Janssen Ortho Pharm (Peaceful Mgmt-C), SADC #10-0394-PG
Block 15, p/o Lot 10 (hypothetical subdivision), Alexandria Twp., Hunterdon
County, 71.67 Net Acres (AOC), 75.80 Gross Acres
5. Janssen Ortho Pharm (Peaceful Mgmt-D), SADC #10-0395-PG
Block 15, p/o Lot 10 (hypothetical subdivision), Alexandria Twp., Hunterdon
County, 77.45 Net Acres (AOC), 81.45 Gross Acres (AOC)
6. Anthony Sparacio III (Sparacio #1 Farm) SADC #06-0186-PG
Block 78, Lots 1.01 & 2, Deerfield Twp., Cumberland County, 16 Net Acres
(AOC), 17 Acres Gross (AOC)
7. Anthony Sparacio III & Anthony Sparacio Jr. (Sparacio #2), SADC #06-0185-
PG
Block 4, Lot 40, Deerfield Twp., Cumberland County, 12 Gross Acres (AOC)
8. Kenneth A. Olsen and Dorothy O. Ludwig, SADC #14-0128-PG
Block 7, Lot 27, Chester, Morris County, 32.1 Net Acres, 34.32 Gross Acres

Non-Profit Grant Program

1. The Land Conservancy of New Jersey/K-J Farm, **AMENDED VALUE**,
SADC #21-0028-NP, Block 7, p/o Lot 1, Harmony Township, Warren
County, 59.665 Net Easement Acres

The motion was unanimously approved. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. This action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f. (Copies of the Certification of Value Reports are attached to and are a part of the Closed Session minutes.)

B. Attorney/Client Matters

1. Any item(s) discussed in Open Session
2. Personnel (if any)

3. Litigation

a. Right to Farm, Resolution: Hollywood v. Walker Brothers, Inc.

Brian Smith Esq. stated that as a result of the Salem CADB's referral of a complaint filed by Hollywood against Walker, the SADC held a hearing to determine whether the disputed agricultural activities are generally accepted agricultural activities or practices. This was in accordance with the Right to Farm Act law and regulations. Mr. Smith was the hearing officer at a hearing held in February and prepared a report based on the evidence presented to him. Mr. Smith stated that Walker has implemented a farm conservation plan that addresses specifically the issues of flooding, soil erosion and runoff from the Walker vegetable farm. As a result of that finding, the hearing report concludes that the disputed agricultural activities are generally accepted agricultural activities due to the implementation of the farm conservation plan. Mr. Smith stated that as a result and pursuant to the SADC's regulations, the matter will now be referred back to the Salem CADB to determine the actual merits of the case, including whether Walker poses a direct threat to public health and safety. The burden will be on Hollywood to show that, notwithstanding Walker's compliance with an agricultural management practice, Walker poses a direct threat to public health and safety or is not in compliance with relevant federal or State laws.

It was moved by Mr. Ellis and seconded by Mr. Germano to approve Resolution FY2018R7(4) adopting the staff's hearing report as discussed in Closed Session. The motion was unanimously approved.

ADJOURNMENT

There being no further business, it was moved by Mr. Danser, seconded by Mr. Siegel and unanimously approved to adjourn the meeting at 11:13 a.m.

Respectfully Submitted,



Susan E. Payne, Executive Director
State Agriculture Development Committee

Attachments

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2018R7(1)

FINAL REVIEW AND APPROVAL OF A PLANNING INCENTIVE GRANT TO

**MORRIS COUNTY
for the
PURCHASE OF A DEVELOPMENT EASEMENT**

**On the Property of
Verbeke, Simonne ("Owner")
Chester Township, Morris County**

**N.J.A.C. 2:76-17 et seq.
SADC ID# 14-0125-PG**

July 27, 2017

WHEREAS, on December 15, 2008 the State Agriculture Development Committee ("SADC") received a Planning Incentive Grant ("PIG") plan application from Morris County, hereinafter "County" pursuant to N.J.A.C. 2:76-17.6; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.7, Morris County received SADC approval of its FY2017 PIG Plan application annual update on May 26, 2016; and

WHEREAS, on May 17, 2016 the SADC received an application for the sale of a development easement from Morris County for the subject farm identified as Block 42, Lot 33, Chester Township, Morris County, totaling approximately 18.96 gross acres hereinafter referred to as "the Property" (Schedule A); and

WHEREAS, the targeted Property is located in Morris County's West Project Area in the Highlands Preservation Area; and

WHEREAS, the Property includes zero (0) exception areas; and

WHEREAS, the Property includes one (1) single family residential housing unit; zero (0) agricultural labor units and zero (0) pre-existing non-agricultural uses; and

WHEREAS, the Owner has read and signed SADC Guidance Documents regarding Exceptions, Division of the Premises and Non-agricultural uses; and

WHEREAS, the Property has a quality score of 65.15 which exceeds 47, which is 70% of the County's average quality score as determined by the SADC on July 23, 2015; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(b) on July 15, 2016 it was determined that the application for the sale of a development easement was complete and accurate and satisfied the criteria contained in N.J.A.C. 2:76-17.9(a); and

WHEREAS, pursuant to N.J.A.C. 2:76-17.11, on January 26, 2017 the SADC certified a development easement value of \$16,000 per acre based on zoning and environmental

regulations in place as of 1/1/04 and \$1,500 per acre based on zoning and environmental regulations in place as of the current valuation date August 31, 2016; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.12, the Owner accepted the County's offer of \$16,000 per acre for the development easement for the Property; and

WHEREAS, on June 9, 2017 the County submitted its application to the SADC to conduct a final review of the application for the sale of a development easement pursuant to N.J.A.C. 2:76-17.14; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13, on April 5, 2016 the Chester Township Committee approved the Owner's application for the sale of development easement, but is not participating financially in the easement purchase; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13 on June 8, 2017 the Morris CADB passed a resolution granting final approval for funding the Property; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13 on May 8, 2017, the Board of Chosen Freeholders of the County of Morris passed a resolution granting final approval to the Verbeke farm; and

WHEREAS, the County has requested to encumber an additional 3% buffer for possible final surveyed acreage increases, therefore, 19.53 of payable acres will be utilized to calculate the grant need; and

WHEREAS, the estimated cost share breakdown is as follows (based on 19.53 acres); and

SADC	\$187,488	(\$ 9,600/acre)
<u>Morris County</u>	<u>\$124,992</u>	<u>(\$ 6,400/acre)</u>
Total Easement Purchase	\$312,480	(\$16,000/acre)

WHEREAS, pursuant to N.J.A.C. 2:76-17.14, the Morris County Agriculture Development Board is requesting \$187,488 in competitive grant funding which is available at this time (Schedule B); and

WHEREAS, pursuant to N.J.A.C. 2:76-17.14, the SADC shall approve a cost share grant for the purchase of the development easement on an individual farm consistent with the provisions of N.J.A.C. 2:76-6.11;

NOW THEREFORE BE IT RESOLVED, that the SADC grants final approval to provide a cost share grant to Morris County for the purchase of a development easement on the Property, comprising approximately 19.53 net easement acres, at a State cost share of \$9,600 per acre (payment based on 19.53 acres), (60% of certified easement value and purchase price), for a total grant need of approximately \$187,488 pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in (Schedule C); and

BE IT FURTHER RESOLVED, the Property includes zero (0) exception areas; one (1) single family residential housing unit; zero (0) agricultural labor units and zero (0) pre-existing non-agricultural uses; and

BE IT FURTHER RESOLVED, any unused funds encumbered from either the base or competitive grants at the time of final approval shall be returned to their respective sources (competitive or base grant fund); and

BE IT FURTHER RESOLVED, that if unencumbered base grant funds become available subsequent to this final approval and prior to executing the grant agreement, the SADC shall utilize those funds before utilizing competitive funding; and

BE IT FURTHER RESOLVED, should additional funds be needed due to an increase in acreage and if base grant funding becomes available the grant may be adjusted to utilize unencumbered base grant funds; and

BE IT FURTHER RESOLVED, that the SADC's cost share grant to the County for the purchase of a development easement on the approved application shall be based on the final surveyed acreage of the area of the Property to be preserved outside of any exception areas, adjusted for proposed road rights-of-way, other rights-of-way or easements as determined by the SADC, streams or water bodies on the boundaries as identified in Policy P-3-C; and

BE IT FURTHER RESOLVED, the SADC shall enter into a Grant Agreement with the County pursuant to N.J.A.C. 2:76-6.18, 6.18(a) and 6.18(b); and

BE IT FURTHER RESOLVED, that all survey, title and all additional documents required for closing shall be subject to review and approval by the SADC; and

BE IT FURTHER RESOLVED, that this approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey; and

BE IT FURTHER RESOLVED, that the SADC's final approval is conditioned upon the Governor's review pursuant to N.J.S.A. 4:1C-4.

7/27/17

Date



Susan E. Payne, Executive Director
State Agriculture Development Committee

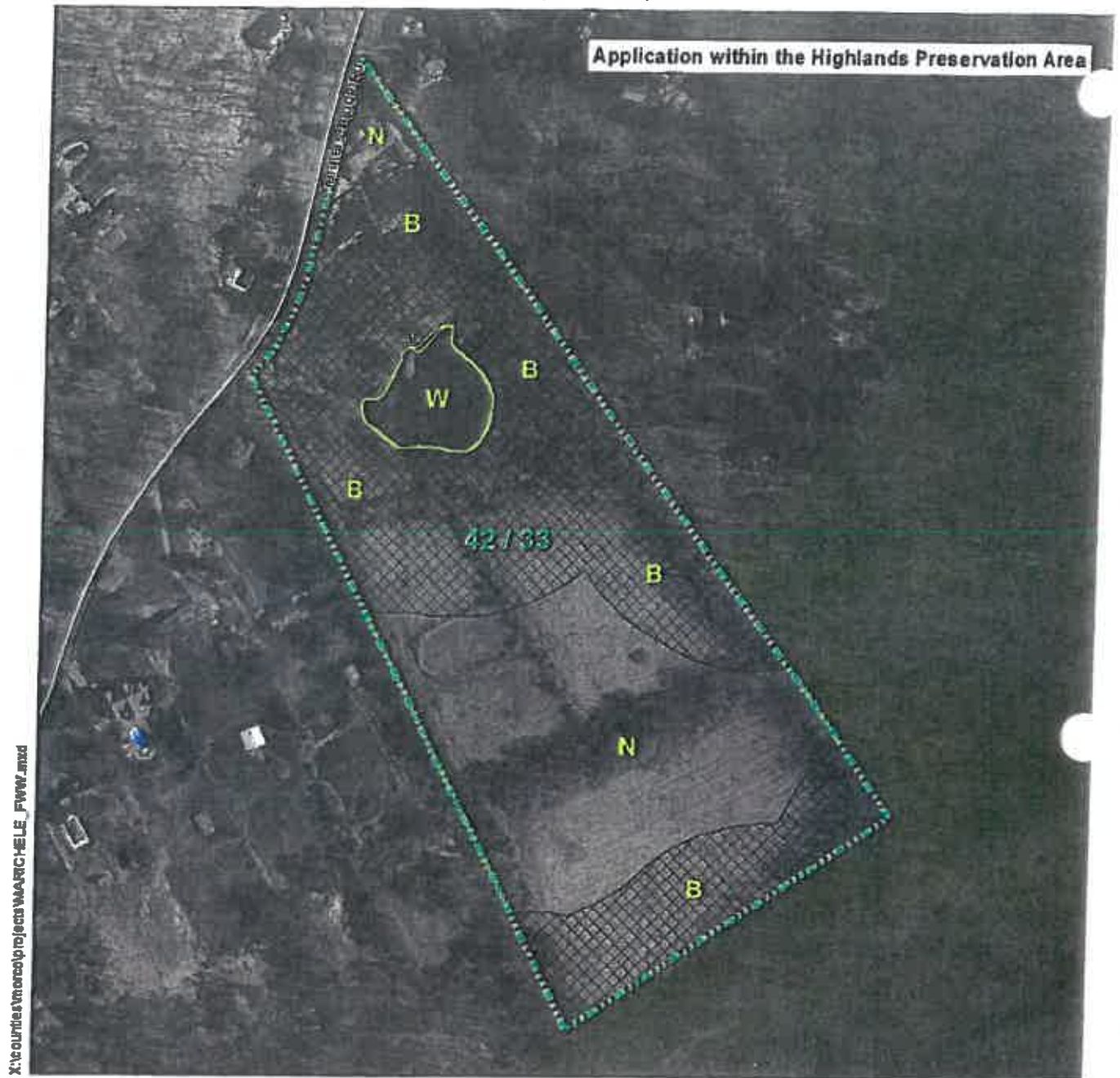
VOTE WAS RECORDED AS FOLLOWS:

Douglas H. Fisher, Chairperson	YES
Renee Jones (rep. DEP Commissioner Martin)	YES
Thomas Stanuikynas (rep. DCA Commissioner Richman)	YES
Ralph Siegel (rep. Acting State Treasurer Scudder)	YES
Jane Brodhecker	YES
Alan Danser, Vice Chairman	YES
W. Scott Ellis	YES
Denis C. Germano, Esq.	YES
Peter Johnson	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
James Waltman	ABSENT

S:\Planning Incentive Grant -2007 rules County\Morris\Verbeke\final approval resolution.doc

Schedule A

Wetlands



X:\courtesy\morce\projects\WARRICH-HELE_FWWF.mxd

FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee
 Verbeke, Simonne (Marichele)
 Block 42 Lot 33 (19.86 Ac)
 Gross Total - 19.86 Ac.
 Chester Twp. Morris County

500 250 0 500 Feet



Wetlands Legend:
 F - Freshwater Wetlands
 T - Tidal Wetlands
 M - Wetlands Modified for Agriculture
 W - Wetlands
 B - 200' Buffer
 W - Water

DISCLAIMER: Any use of this product with respect to accuracy and position shall be the user's responsibility. The user, the boundaries and geographical location of parcels shown in this data layer are approximate and were developed primarily for planning purposes. The geographic accuracy and precision of the data contained in this file and may not be, nor are intended to be, relied upon in matters requiring definition and location of true ground horizontal and/or vertical controls as would be obtained by an actual ground survey conducted by a licensed Professional Land Surveyor.

Source:
 NJ Farmland Preservation Program
 Open Areas Conservation Easement Data
 NJDEP Wetlands Data
 NJ Highlands Conservation POC Data
 NJ Highlands Council Data
 NJCH 170000 2012 Digital Aerial Image

Date: 5/27/2016

Application within the Highlands Preservation Area

Data: 5/27/2016

SADC County Pig Financial Status Schedule B

Morris County

SADC ID#	Farm	Municipality	Acres	Pay Acres	SADC Certified or Reapportioned Per Acre	SADC Grant Per Acre	Grant% Per Acre	SADC		Federal Grant Total Federal Grant	Competitive Funds			
								Cost Basis	Cost Share		Encumbered	Expended	FY11 Balance	FY12 Balance
14-009C-PG	Smith, Robert W.	Washington	103.0240	103.0240	14,350.00	6,230.00	43.41%	1,489,574.40	646,523.52		646,523.52			
14-0110-PG	Aspen LLC	Mount Olive	23.0410	23.0410	64,000.00	37,700.00	58.91%	1,623,264.00	887,287.70		887,287.70			
14-0109-PG	Nichol I	Chester	106.0918	106.0918	26,500.00	27,700.00	60.00%	1,833,258.85	2,145,430.04		2,145,430.04			
14-0108-PG	Nichol I	Chester	86.2075	86.2075	21,000.00	11,800.00	56.19%	1,555,250.00	1,431,430.04		1,431,430.04			
14-0115-PG	Estates of Schell	Washington	90.0007	90.0007	34,000.00	11,200.00	32.94%	2,164,782.00	1,149,205.40		1,149,205.40			
14-0112-PG	Trusty Estate	Chester	13.1880	13.1880	23,000.00	13,800.00	60.00%	1,662,784.00	1,148,205.40		1,148,205.40			
14-0111-PG	Travis	Wk. Olive	23.0531	11.7184	23,000.00	13,800.00	60.00%	1,662,784.00	1,148,205.40		1,148,205.40			
14-0116-PG	Karlus	Chester	16.5300	16.5300	23,000.00	13,800.00	60.00%	1,662,784.00	1,148,205.40		1,148,205.40			
14-0125-PG	Verbaas, Steno M. (Marichalo)	Chester	16.5300	16.5300	23,000.00	13,800.00	60.00%	1,662,784.00	1,148,205.40		1,148,205.40			
Totals Closed	7		354.8869	351.0614				10,786,128.76	6,317,263.76					
Totals Encumbered	2		123.2540	123.2540				1,489,623.52	646,523.52					
											Encumbered/Expended FY08	Encumbered/Expended FY11	Encumbered/Expended FY12	Encumbered/Expended FY13
											0.00	1,896,347.19	1,221,078.52	2,091,493.38
											1,103,832.67	1,103,832.67	2,881,493.38	3,000,000.00

Schedule C

State Agriculture Development Committee
SADC Final Review: Development Easement Purchase

Verbeke, Simonne M. (Marichele)
14- 0125-PG
County PIG Program
20 Acres

Block 42	Lot 33	Chester Twp.	Morris County
SOILS:		Other	8% * 0 = .00
		Prime	71% * .15 = 10.65
		Statewide	21% * .1 = 2.10
			SOIL SCORE: 12.75
TILLABLE SOILS:		Cropland Harvested	63% * .15 = 9.45
		Other	37% * 0 = .00
			TILLABLE SOILS SCORE: 9.45
FARM USE:		Hay	13 acres

In no instance shall the Committee's percent cost share for the purchase of the development easement exceed 80% of the purchase price of the easement. This final approval is subject to the following:

1. Available funding.
2. The allocation, not to exceed 0 Residual Dwelling Site Opportunities on the Premises subject to confirmation of acreage by survey.
3. Compliance with all applicable statutes, rules and policies.
5. Other:
 - a. Pre-existing Nonagricultural Use:
 - b. Exceptions: No Exceptions Requested
 - c. Additional Restrictions: No Additional Restrictions
 - d. Additional Conditions: No Additional Conditions
 - e. Dwelling Units on Premises:
Standard Single Family
 - f. Agricultural Labor Housing Units on Premises: No Ag Labor Housing
6. The SADC's grant for the acquisition of the development easement is subject to the terms of the Agriculture Retention and Development Act, N.J.S.A. 4:10-11 et seq., P.L. 1983, c.32, and N.J.A.C. 2:76-7.14.
7. Review and approval by the SADC legal counsel for compliance with legal requirements.

State of New Jersey
State Agriculture Development Committee
Farmland Preservation Program
Quality Ranking Score

GENERAL INFORMATION

COUNTY OF Morris Chester Twp. 1407
APPLICANT Verbeke, Simonne M. (Marichele)

PRIORITIZATION SCORE

SOILS:	Other	8% * 0 = .00
	Prime	71% * .15 = 10.65
	Statewide	21% * .1 = 2.10

SOIL SCORE: 12.75

TILLABLE SOILS:	Cropland Harvested	63% * .15 = 9.45
	Other	37% * 0 = .00

TILLABLE SOILS SCORE: 9.45

BOUNDARIES AND BUFFERS:	Deed Restricted Wildlife Area	29% * .18 = 5.22
	Woodlands	22% * .06 = 1.32
	Residential Development	49% * 0 = .00

BOUNDARIES AND BUFFERS SCORE: 6.54

CONTIGUOUS PROPERTIES / DENSITY:	Verbeke, Simonne M. (Mari	Restricted Farm or Current Application	2
	Desiderio	Restricted Farm or Current Application	2
	Schmitz	Restricted Farm or Current Application	2
	Day	Restricted Farm or Current Application	2

DENSITY SCORE: 8.00

LOCAL COMMITMENT:	100% * 20 = 20.00
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LOCAL COMMITMENT SCORE: 20.00

SIZE:	SIZE SCORE: 2.50
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IMMIMENCE OF CHANGE: SADC Impact factor = 2.91
Involved In Estate = 3

IMMINENCE OF CHANGE SCORE: 5.91

COUNTY RANKING:

EXCEPTIONS:	EXCEPTION SCORE: .00
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TOTAL SCORE: 65.15

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2018R7(2)

Memorializing Standards for determining Eligible Farms Pursuant
to the County Planning Incentive Grant (PIG) Program

July 27, 2017

WHEREAS, pursuant to N.J.A.C. 2:76-1 et seq. (County Planning Incentive Grant Program) the SADC is responsible for establishing the standards for what constitutes an "eligible farm" by annually determining minimum score requirements, of the County Planning Incentive Grant program; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.2 an "eligible farm" means a targeted farm that qualifies for grant funding under subchapter (17) by achieving an individual rank score pursuant to N.J.A.C. 2:76-6.16 that is equal to or greater than 70 percent of the county's average quality score of all farms granted preliminary approval by the SADC through the county easement purchase program and/or the county planning incentive grant program within the previous three fiscal years, as determined by the SADC ; and

WHEREAS, since there were no applications during the past three fiscal years to establish average quality scores in Atlantic, Bergen and Camden Counties, the SADC will consider a waiver of the minimum score criterion pursuant to N.J.A.C. 2:76-17.9(a)7 for applications submitted under the county planning incentive grant program in those counties; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(a)7, if a farm fails to meet the minimum score requirements and the County wishes to preserve the farm using Committee funds, the County may request a waiver of the minimum score criterion;

NOW THEREFORE BE IT RESOLVED, that the SADC adopts the Average Quality Scores for each county and the 70 percent average quality score values for determining an "eligible farm" pursuant to N.J.A.C. 2:76-17.2 for the County Planning Incentive Grant Program, as identified on the attached (Schedule A); and

BE IT FURTHER RESOLVED, that the 70 percent of average quality scores for determining an "eligible farm" pursuant to N.J.A.C. 2:76-17.2 shall be effective as of January 1, 2018, and shall apply to an application for the sale of a development easement that is received by the SADC pursuant to N.J.A.C. 2:76-17.9 prior to December 31, 2018; and

BE IT FURTHER RESOLVED, that this approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey; and

BE IT FURTHER RESOLVED, this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

7/27/17
Date


Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS

Douglas H. Fisher, Chairperson	YES
Renee Jones (rep. DEP Commissioner Martin)	YES
Thomas Stanuikynas (rep. DCA Commissioner Richman)	YES
Ralph Siegel (rep. Acting State Treasurer Scudder)	YES
Jane Brodhecker	YES
Alan Danser, Vice Chairman	YES
W. Scott Ellis	YES
Denis C. Germano, Esq.	YES
Peter Johnson	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
James Waltman	ABSENT

SADC County PIG "Eligible" Farm Standard
Effective 1.01.18 - 12.31.18

SADC Minimum Standards for "Eligible" Farm																					
	2009		FY 2010		FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		FY 2016		FY 2017		*FY2018		70% of Average Quality Score ****
	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	Average Quality Score	
Atlantic	47.61	47.94	52.61	52.61	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	59.9	****
Bergen	35.91	20.57	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	43.4	****
Burlington	64.12	63.49	65.06	64.91	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	64.54	****
Camden	51.6	51.32	54.69	45.77	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	49.35	****
Cape May	60.56	60.83	61.55	59.53	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	58.97	****
Cumberland	53.22	58.11	59.69	62.14	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	62.65	****
Gloucester	57.6	61.26	62.64	65.52	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	64.97	****
Hunterdon	70.66	72.05	77.19	72.42	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	68.52	****
Mercer	53.25	58.02	59.49	63.03	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	57.98	****
Middlesex	69.01	69.56	71.75	68.95	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	70	****
Monmouth	63.55	61.45	60.01	60.42	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	60.65	****
Morris	46.85	48.58	56.69	61.39	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	71.17	****
Ocean	68.61	71.13	69.77	69.77	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	65.86	****
Passaic	67.31	66.98	66.93	67.09	67	67	67	67	67	67	67	67	67	67	67	67	67	67	67	67	****
Salem	50.39	48.2	51.24	57.02	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	54.9	****
Somerset	55.52	56.66	57.51	61.57	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	60.99	****
Sussex																					****
Warren																					****

* Based on preliminary approval or Green Light quality scores for County Planning Incentive Grant Fiscal Years '15, '16, and '17

N.J.A.C. 2:76-17.9 (a) and 17.2 (County Planning Incentive Grant Program)

These standards are effective January 1, 2018 through December 31, 2018

** all numbers are rounded down to the nearest whole number

N.J.A.C. 2:76-17.9 -7: any farm not meeting this standard may seek a waiver

**** independent review and approval by SADC required to receive Green Light.

* Based on preliminary approval or Green Light quality scores for County Planning Incentive Grant Fiscal Years '15, '16, and '17
N.J.A.C. 2:76-17.9 (a) and 17.2 (County Planning Incentive Grant Program)
These standards are effective January 1, 2018 through December 31, 2018
** all numbers are rounded down to the nearest whole number
N.J.A.C. 2:76-17.9 -7: any farm not meeting this standard may seek a waiver
**** Independent review and approval by SADC required to receive Green Light.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2018R7(3)

**Memorializing Standards for determining Priority and Alternate Farms
Pursuant to the State Acquisition Programs**

July 27, 2017

WHEREAS, pursuant to N.J.A.C. 2:76-8.5(c) and N.J.A.C. 2:76-11.5 (c) the SADC is responsible for prioritizing farms for purposes of acquiring lands in fee simple title or acquiring development easements on eligible farms as a "Priority farm", "Alternate farm" and "Other farm"; and

WHEREAS, a "priority farm" means a farm that meets or exceeds both 75 percent of the average farm size in the county in which it is located and its quality score is at least 90 percent of the average quality score in the county in which it is located; and

WHEREAS, an "alternate farm" means a farm that does not meet the criteria for "priority farm", but meets or exceeds both 55 percent of the average farm size in the county in which it is located and its quality score is at least 70 percent of the average quality score in the county in which it is located; and

WHEREAS an "other farm" means a farm that does not meet the criteria for "priority" or "alternate" farms; and

WHEREAS, the average quality score in a county shall be based on the average quality score determined pursuant to N.J.A.C. 2:76-6.16 for all farms granted preliminary approval by the SADC through the county easement purchase program and/or county planning incentive grant program within the previous three fiscal years, as determined by the SADC; and

WHEREAS, since there were no applications during the past three fiscal years to establish average quality scores in Atlantic, Bergen and Camden Counties, the SADC reserves the right to specifically review and approve any applications submitted under the State Acquisitions program in those counties; and

WHEREAS, the average farm size in a county shall be based on the average farm size of farms using the 2012 US Census data;

NOW THEREFORE BE IT RESOLVED, that the SADC adopts the Average Quality Scores for each county as identified on the attached (Schedule A) for State acquisitions; and

BE IT FURTHER RESOLVED, that the SADC adopts the Average Acres for each county as identified on the attached (Schedule A); and

BE IT FURTHER RESOLVED, that the SADC adopts the individual scores for determining a "priority farm" and an "alternate farm" as identified on the attached (Schedule A) for State acquisition programs pursuant to N.J.A.C. 2:76-8 and 11; and

BE IT FURTHER RESOLVED, the individual scores pursuant to N.J.A.C. 2:76-8 and 11 shall be effective as of July 1, 2017, for all applications which have not had option agreements authorized by that date; and

BE IT FURTHER RESOLVED, the standards established in this resolution and (Schedule A) shall remain in effect through June 30, 2018; and

BE IT FURTHER RESOLVED, that this approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey; and

BE IT FURTHER RESOLVED, this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

7/27/17
Date


Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas H. Fisher, Chairperson	YES
Renee Jones (rep. DEP Commissioner Martin)	YES
Thomas Stanuikynas (rep. DCA Commissioner Richman)	YES
Ralph Siegel (rep. Acting State Treasurer Scudder)	YES
Jane Brodhecker	YES
Alan Danser, Vice Chairman	YES
W. Scott Ellis	YES
Denis C. Germano, Esq.	YES
Peter Johnson	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
James Waltman	ABSENT

SADC Minimum Standards - State Acquisition Program

"Priority" "Alternate" "Other" Prioritization System

	FY2013			FY2014			FY2015			FY2016			FY2017			FY2018			Average			Priority			Alternate			
	Average	Quality	Score	Average	Quality	Score	Average	Quality	Score	Average	Quality	Score	Average	Quality	Score	Average	Quality	Score	Average	2012	Census	Average	Census	Average	Census	Average	Quality	Score
Atlantic	64.91			59.9			59.90			52.08										73		54			40			
Bergen	***			43.4			43.40			43.40			***			***				24		18			13			
Burlington	64.54			68.2			68.94			69.37			69.74			68.99				114		85			62			48
Camden	***			58.64			58.64			58.64			***			***				41		30			22			
Cape May	49.35			49.89			56.36			56.59			57.98			59.19				48		36			26			41
Cumberland	59.87			61.98			64.69			64.20			63.81			63.23				111		83			61			44
Gloucester	62.65			67.38			67.60			66.48			61.33			60.88				74		55			40			42
Hunterdon	64.97			64.25			63.36			61.70			68.55			67.35				66		49			36			47
Mercer	68.52			70.69			71.52			72.64			68.69			71.58				73		54			40			50
Middlesex	57.98			62.06			56.81			60.17			60.17			64.29				87		65			47			45
Monmouth	70			73.47			76.65			****			78.46			77.72				47		35			25			54
Morris	60.65			60.5			62.00			68.40			66.72			66.04				40		30			22			46
Ocean	71.17			71.17			***			67.20			59.06			61.65				45		33			24			43
Passaic	34.11			34.11			34.11			54.37			54.37			54.37				19		14			10			38
Salem	65.86			66.26			67.65			69.93			68.54			68.65				123		92			67			48
Somerset	67			60.58			56.43			58.61			65.01			68.12				87		65			47			47
Sussex	54.9			53.66			54.60			54.74			56.30			58.37				69		51			37			40
Warren	60.99			59.89			63.17			62.70			63.40			62.94				92		69			50			44

* Based on preliminary or Green Light quality scores for County Planning Incentive Grant fiscal years '15, '16, and '17
N.J.A.C. 2:76-17.9 (a) and 17.2 (County Planning Incentive Grant Program)

These standards are effective July 1, 2017 through June 30, 2018

** all numbers are rounded down to the nearest whole number

**** Independent review and approval by SADC to secure preliminary approval.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2018R7(4)

Adoption of Right-to-Farm Hearing Report

**Todd and Stephanie Hollywood v. Walker Brothers, Inc.
SADC ID #1440**

July 27, 2017

WHEREAS, by resolution dated February 24, 2016, the Salem County Agriculture Development Board transferred to the State Agriculture Development Committee (SADC) a Right-to-Farm complaint filed by Todd and Stephanie Hollywood against Walker Brothers, Inc.; and

WHEREAS, on April 22, 2016 the SADC authorized staff to conduct an administrative hearing in that matter; and

WHEREAS, on February 14, 2017, SADC staff held an administrative hearing in accordance with the Right to Farm Act, N.J.S.A. 4:1C-10.1(c) and the Administrative Procedure Act, N.J.S.A. 52:14B-9; and

WHEREAS a hearing report was prepared at the conclusion of the administrative hearing; and

WHEREAS the SADC reviewed and discussed the hearing report at its regular meeting on July 27, 2017;

NOW, THEREFORE, BE IT RESOLVED that the SADC adopts the hearing report, a copy of which is attached hereto and incorporated herein by reference; and

BE IT FURTHER RESOLVED, that this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

July 27, 2017

Date



Susan E. Payne, Executive Director
State Agriculture Development Committee

TODD and STEPHANIE HOLLYWOOD,
Complainants,

STATE AGRICULTURE DEVELOPMENT COMMITTEE
SADC ID #1440

v.

WALKER BROTHERS, INC.,
Respondent.

HEARING OFFICER'S REPORT

PROCEDURAL HISTORY

Todd and Stephanie Hollywood (Hollywood) filed a complaint in October 2015 under the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. (RTFA), with the Salem County Agriculture Development Board (SCADB or board) against Walker Brothers, Inc. (Walker). The complaint alleged that significant flooding from the vegetable operation on a Walker farm field had occurred, resulting in damage to Hollywood's nearby, residential property.

The SCADB, in a February 24, 2016 resolution, determined that Walker operated a "commercial farm" as defined in the RTFA and concluded that the Hollywood-Walker dispute implicated activities not addressed by an agricultural management practice in regulations adopted by the State Agriculture Development Committee (SADC). The board transferred the complaint to the SADC for a hearing in accordance with RTFA procedures set forth in agency regulations.

The SADC held a hearing on February 14, 2017, at which time testimony was presented and evidence introduced by Stephanie Hollywood and Scott Walker, a principal of the Walker Brothers, Inc. farming operation. Both parties were represented by counsel. The record in this matter is also comprised of the voluminous materials submitted in connection with the SCADB's consideration of the 2015 RTFA complaint. Administrative notice is taken of SADC inspections of the Walker farm property. N.J.S.A. 52:14B-10(b); N.J.R.E. 101(a)(3); Re New Jersey Bell Telephone Company, 1992 WL526766 (N.J.Bd.Reg.Com.)

This Hearing Report concludes that Walker satisfies statutory "commercial farm" eligibility criteria. The report also determines that Walker's implementation of a farm conservation plan on the farm property is a generally accepted

agricultural management practice to control flooding, soil erosion and runoff from the farm property's vegetable operations onto adjoining properties. Accordingly, pursuant to RTFA regulations, the SADC remands the matter to the SCADB to consider the merits of Hollywood's complaint.

STATEMENT OF FACTS

Walker owns Block 301, Lot 32 which, according to the most recent (2017) FA-1 form admitted into evidence, is a 92.42 acre property in Pittsgrove Township with 33.74 acres of cropland harvested for snap beans and 58.68 acres of appurtenant woodland.¹ Mr. Walker testified that Lot 38 is part of a farm management unit of several parcels totaling approximately 150 acres owned by his company and collectively generating annual agricultural production worth over \$200,000 according to 2016 and 2017 paid invoices introduced into evidence at the SADC hearing. Lot 38 production over the past several years has been comprised of snap beans, winter wheat, soybeans, corn and asparagus.

Agriculture is a permitted use in all zones in Pittsgrove Township pursuant to §60-3B.(2) of the municipality's "Land Use and Development" ordinance.

Lot 38 and other Walker farmland was preserved pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11, et seq. (ARDA), by deed of easement to the SADC dated August 14, 2001 and recorded August 16, 2001 in the Salem County Clerk's Office in Deed Book 1078, Page 171. Lot 38 was inspected by SADC stewardship staff for compliance with the deed of easement in conjunction with the agency's monitoring responsibilities under ARDA and in response to the conditions giving rise to the RTFA complaint.

The SADC advised Walker by letter dated August 29, 2012, of complaints that stormwater runoff from Lot 38 was impacting adjoining residential properties. SADC stewardship staff assisted in convening a meeting at the Pittsgrove municipal building in September 2012 to examine possible solutions to the

¹ Scott Walker testified at the hearing that the farm parcel at issue in this case is Lot 38, which he stated is 17 acres and "sits inside" Lot 32. SADC inspection reports refer to the subject property as Lot 38. In any event, the lot designations are not relevant to these proceedings because the subject matter of the RTFA complaint exists regardless of the farm's lot number. The Walker farm property will be referred to as Lot 38 in this report based on Walker's testimony and SADC inspection records.

problem. The meeting was attended by Walker; county and municipal officials; representatives of the New Jersey Department of Agriculture; and staff from the United States Department of Agriculture, Natural Resources Conservation Service (NRCS).

In December 2012 Walker obtained an NRCS-approved farm conservation plan (FCP or plan), prepared in conformance with NRCS's field office technical guide (FOTG), for several parcels of the farm management unit including Lot 38. The FCP recommended the following conservation measures, and with the general results of implementation described, relevant to the management of flooding, runoff and soil erosion from the vegetable operation on Lot 38:

Conservation Crop Rotation to provide adequate amounts of organic material for erosion reduction.

Cover Crop to improve water infiltration and reduce soil erosion.

Filter Strip to reduce sediment, organics, nutrients, pesticides and other contaminants from runoff; improve water quality; slow the velocity of water; filter suspended soil particles; and increase infiltration of runoff and soluble pollutants.

Irrigation Water Management to control the rate, amount and timing of irrigation water to minimize soil erosion and control water loss from runoff and deep percolation.

The FCP was signed by Walker and by the NRCS official who prepared the plan. It was also signed in January 2013 by a representative of the Cumberland-Salem Soil Conservation District.

Hollywood purchased their residential property (Block 301, Lot 36.01) in February 2010. Three adjoining residential parcels in Block 301 southwest of Lot 38 and fronting Porchtown Road (Salem County Route 553), including Hollywood's, are each situated at progressively lower elevations than the Walker farm lot and are owned by the following individuals: Penn (Lot 37); Quering (Lot 36.02), which is next to Penn; and the Hollywood parcel, which adjoins Quering. Due to the varying depths of the three lots and the irregular shape of Lot 38, each of these residential properties shares a border with the Walker farm parcel's southwestern boundary line.

A 2012 U. S. Geological Survey quadrangle map of the Walker farm and residential properties, prepared by SADC staff and used at the hearing, indicates that Lot 38 is generally at an elevation of 120 feet and, about 500 feet from that contour interval, the elevation slopes down to almost 110 feet at the rear of the Hollywood lot. A manmade feature in the immediate area is Porchtown Road, which not only is higher than the Penn, Quering and Hollywood properties fronting it, but also conveys surface water and runoff in a southwesterly direction to those lots as well as to areas near the intersection of Porchtown Road and Harris Road.

Hollywood's presentation at the SADC hearing included videos of rainstorm events on January 18 and July 14, 2015 showing widespread flooding of Porchtown Road, of Hollywood's and other residential properties in the immediate vicinity of Lot 38, and of the Harris Road area further southwest and downgradient of Walker's farm lot. This report takes administrative notice of various undated photographs introduced by Hollywood at the SCADB hearing showing the severe flooding of Hollywood's and neighboring residential lots as well as flooding of Porchtown and Harris roads.

On August 13, 2013, in connection with agency monitoring for deed of easement compliance, SADC stewardship staff and the NRCS inspected Lot 38 immediately after a thunderstorm. Staff's observations and conclusions were set forth in a September 30, 2014 memorandum, a copy of which is attached to this report as Exhibit A.² Rain gauges near the site had recorded rainfall totals of 1.24" - 3.65" over a 3-hour period. The farm field was planted for late soybeans which were approximately 3" tall, with the crop oriented across the length of the field, generally up and down the slope and parallel to Porchtown Road. Runoff from the field was clear, meaning that detached sediment in the runoff was minimal. Walker had left winter crop residue in the field, protecting the soil from the full force of rainfall by dissipating energy before contact with the soil. Staff calculated allowable soil loss tolerance, or "T", from Lot 38 at 3T/acre, and staff calculated the predicted soil loss at 2.4T/acre. As a result, SADC staff concluded that Lot 38 was in compliance with deed of easement paragraph 7, which provides:

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control,

² Seven (7) attachments referred to in the September 30, 2014 memorandum total 155 pages and are available upon request.

or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

While agency staff considered Walker's agricultural operations on Lot 38 to be in compliance with the deed as a result of the August 2013 site inspection, additional conservation practices were recommended in the memorandum, including installing a field border/filter strip to reduce off-site sediment deposition.

A routine inspection of the preserved Walker farm properties was conducted by SADC staff on June 24, 2014 and, aside from the inspector's confirmation that an FCP had been developed for all of the lots, there were no areas of concern such as unnecessary soil disturbance, dumping or impairment of natural resources on the farm parcels, including Lot 38. A copy of the June 24, 2014 field inspection report is attached to the Hearing Report as Exhibit B.

SADC staff inspected Lot 38 on February 24, 2016, after about 1" of rain had fallen during a storm starting before the site visit. A staff memorandum dated April 12, 2016 is attached to this report as Exhibit C. Green beans had been planted in 2015 as a row crop for harvest and, following the green beans, the field was disked twice and winter wheat was planted. While some surface runoff was present in the winter wheat crop field planted parallel to Porchtown Road, and runoff was not as clear as that observed in August 2013, no ponding or evidence of previous ponding was seen, and soil loss from the lot was again calculated at or below "T" over the length of the crop rotation. Staff concluded that Lot 38 farm field operations were in compliance with the FCP and with paragraph 7 of the deed of easement. While SADC stewardship personnel noted that additional conservation measures such as a filter strip could be installed, staff opined that such a measure would be beyond what was required in the deed of easement.

In October 2016 Walker installed a filter strip in the south-southwest portion of Lot 38. The farm conservation plan called for a 30' wide filter strip but Walker installed one that was 35' wide. SADC stewardship staff, accompanied by the local NRCS representative who had assisted in the drafting of and signed Walker's 2012 FCP, inspected the filter strip on May 9, 2017. The inspection was performed at that time in order to allow a sufficient growing period for the prior Fall planting of the filter strip. SADC and NRCS staff concluded that the project had been properly installed and was fit for its intended

purposes of reducing erosion and runoff, reducing dissolved contaminants, and trapping sediments and nutrients. These conclusions were set forth in a staff memorandum dated May 26, 2017, a copy of which was transmitted to the parties on June 13, 2017, and which is attached to this Hearing Report as Exhibit D.³

There was no dispute at the hearing that Walker had followed all of the other recommended FCP practices applicable to Lot 38, including conservation crop rotation, cover crop, and irrigation water management practices specifically addressing flooding, soil erosion and runoff from the vegetable field operations.

Hollywood testified at the hearing that, in the summer of 2016, they installed a berm running across the front of their lot and down the edge of their property next to its boundary with the Quering parcel. According to Hollywood, the berm has helped ameliorate flooding of their property.

LEGAL DISCUSSION

N.J.S.A. 4:1C-10.1a. of the RTFA requires that any person aggrieved by the operation of a commercial farm must file a complaint with the applicable county agriculture development board (CADB) prior to filing an action in court. Section 10.1 provides the CADB with two options after it receives a complaint: (1) the board retains the case, holds a public hearing and issues a decision on the merits of the dispute if the complaint implicates activities addressed by an agricultural management practice (AMP) promulgated through rulemaking by the SADC; or (2) the board refers the complaint to the SADC if no promulgated AMP addresses the disputed agricultural activities, in which case the SADC determines "whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice." See, generally, N.J.A.C. 4:1C-10.1b. and 10.1c., respectively.

N.J.A.C. 2:76-2.7(e) and (h) clarify that when no promulgated AMP addresses the agricultural activity in dispute, there can be no referral of the complaint to the SADC unless the CADB first determines that the farm is a "commercial farm" as defined in the RTFA and that the activity giving rise to the complaint is included in the list of permitted agricultural

³ The NRCS representative signed a "Practice Checkout" sheet dated May 9, 2017 evidencing her concurrence with SADC's conclusion that the filter strip had been installed in accordance with NRCS standards (see Exhibit D).

activities in N.J.S.A. 4:1C-9 ("section 9"). When those findings are affirmatively made by the CADB, the board refers the complaint to the SADC for a determination "whether the disputed agricultural operation constitutes a generally accepted agricultural operation or practice." N.J.A.C. 2:76-2.7(h).

The SADC's role is limited after it receives a referral of a complaint by a CADB. The SADC reviews the board's determinations that the farm is an RTFA-defined "commercial farm" and that the activity giving rise to the complaint is included in section 9. N.J.A.C. 2:76-2.7(h)2. When those findings are made by the SADC, it holds a hearing "limited to consideration of whether or not the disputed agricultural operation constitutes a generally accepted agricultural operation or practice." N.J.A.C. 2:76-2.7(i).

If the disputed agricultural activity is determined by the SADC to constitute a generally accepted agricultural operation or practice, then the case is remanded to the CADB "for a public hearing on the allegations of the complaint filed by the aggrieved person against the commercial farm." N.J.A.C. 2:76-2.7(i)1. The SADC dismisses the complaint if it cannot make such a determination. N.J.A.C. 2:76-2.7(i)2. In sum, when a CADB forwards an RTFA complaint to the SADC due to the absence of an AMP promulgated through rulemaking, the agency hearing is limited to the issue of whether or not a generally accepted agricultural management practice exists for the farming operation giving rise to the dispute. The factual and legal merits of the complaint, the factual and legal positions that may be asserted by the commercial farmer, and all other relevant surrounding circumstances bearing on the dispute, are not litigated before the SADC.

The SCADB's February 24, 2016 resolution found, and this Hearing Report agrees, that Walker operates a "commercial farm" as defined in the RTFA because the farm management unit of which Lot 38 is a part comprises more than 5 acres of property eligible for farmland assessment and annually produces agricultural products worth \$2,500 or more. This report concurs with the board's finding that the Walker farm property is located in a zone in Pittsgrove Township in which agriculture is a permitted use. The SCADB resolution did not articulate, as required by SADC regulations, whether the activity generating the RTFA complaint --- the vegetable farming operation on Lot 38 --- was included in section 9. This Hearing Report concludes that Walker was engaged in agricultural production on that property, a permitted activity set forth in N.J.S.A. 4:1C-9a.

The board resolution, at p.2, stated that the "Natural resource conservation" AMP, promulgated by the SADC at N.J.A.C. 2:76-2A.7, was "implicated" by the complaint, but concluded that "stormwater runoff is not addressed in AMP 2:76-A.7 [sic] and, accordingly, there is no AMP that governs" the Hollywood-Walker dispute. The SCADB noted, at p.3 of the resolution, that while Walker possessed an NRCS-approved farm conservation plan,⁴ the natural resource conservation AMP "[did] not fully, completely, or otherwise satisfactorily, address the disputed activities in the. . .[c]omplaint." The resolution reiterated, *passim* at pp.4-5, the board's conclusion that "there are no existing AMPs that provide guidance to the CADB on the issues of flooding, drainage, and stormwater management", and that the SADC, not the SCADB, had "jurisdiction to determine whether the disputed activities set forth in the. . .[c]omplaint constitute generally accepted agricultural practices entitled to Right to Farm protection."

N.J.A.C. 2:76-2A.7(a) explains that the purpose of the natural resource conservation AMP is to "establish a generally accepted agricultural management practice for the implementation of a farm conservation plan for the conservation and development of soil, water and related natural resources on farmland." Such implementation "shall be a generally accepted agricultural management practice recommended by the [SADC]" provided the plan is prepared in accordance with the NRCS-FOTG.

By letter dated May 2, 2016, a copy of which was provided to the parties in this dispute, the SADC advised the board that

[a]lthough the SCADB resolution did not address whether and to what extent implementation of Walker's farm conservation plan addressed or could address soil erosion and water runoff from the farm property, the SADC acknowledges that the applicability of N.J.A.C. 2:76-2A.7 to the RTF[A] dispute in this case is unclear. Accordingly, the SADC will conduct a hearing pursuant to N.J.S.A. 4:1C-10.1(c) and . . . if appropriate, return the complaint to the SCADB as set forth in N.J.A.C. 2:76-2.7(i) and (j).

This Hearing Report concludes, based on the evidence presented at the hearing, that Walker has implemented relevant provisions of the 2012 FCP for Lot 38, including conservation

⁴ A copy of Walker's FCP was part of the record before the SCADB.

crop rotation, cover crop, filter strip and irrigation water management practices. In particular, the filter strip was inspected and approved by SADC and NRCS staff in May 2017, at which time it was determined that the project was properly installed. All of the FCP measures implemented by Walker are designed to reduce erosion and water runoff, reduce dissolved contaminants in any runoff that occurs, and trap on-site sediments and nutrients from any runoff caused by the Lot 38 farm field. Accordingly, Walker's implementation of the 2012 FCP is a generally accepted agricultural management practice for the vegetable operation on Lot 38 to help prevent and mitigate adverse impacts from the farm field that may occur on Hollywood's residential property.

The case is returned to the SCADB for a public hearing on the allegations of Hollywood's complaint filed against Walker. See, generally, N.J.A.C. 2:76-2.7(i)1 and (j).

Dated: July 27, 2017

Brian D. Smith

Brian D. Smith, Esq.
Chief of Legal Affairs
Hearing Officer

