

**STATE AGRICULTURE DEVELOPMENT COMMITTEE**

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

**REGULAR MEETING**

**August 27, 2015**

Chairman Fisher called the meeting to order at 9:10 a.m. SADC staff person Patricia Riccitello read the notice indicating the meeting was held in compliance with the Open Public Meetings Act.

Roll call indicated the following:

**Members Present**

Douglas H. Fisher, Chairman  
James Requa (rep. DCA Commissioner Richman)  
Brian Schilling (rep. Executive Dean Goodman)  
Renee Jones (rep. DEP Commissioner Martin)  
Ralph Siegel (rep. Acting State Treasurer Romano)  
Peter Johnson  
James Waltman  
Jane Brodhecker

**Members Absent**

Alan Danser, Vice Chairman  
Denis C. Germano, Esq.

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

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**Others present as recorded on the attendance sheet:** Heidi Winzinger, Cindy Roberts, Stefanie Miller, Paul Burns, Dan Knox, Jeffrey Everett, Hope Gruzlovic, Brian Smith, Esq., David Kimmel, Charles Roohr, Alison Reynolds, Esq., Pat O'Connell, Matthew DiStaulo, Hector Weah, Steven Bruder and Patricia

Riccitello, SADC staff; Michael Collins, Esq., Governor's Authorities Unit; Harriet Honigfeld, Linda Brennan and Michaela Kramer, Monmouth County Agriculture Development Board; Daniel Pace, Mercer County Agriculture Development Board; Brian Wilson, Burlington County Agriculture Development Board; Tom Beaver, New Jersey Farm Bureau; Eric Zwerling, Rutgers Noise Technical Assistance Center; Donna Rue, Rue Brothers Farm, Warren County; Bridgitte Sherman, Cape May County Agriculture Development Board; Amy Hansen, New Jersey Conservation Foundation; Jenny Jimenez and Mark Villinger, Ocean County Agriculture Development Board; Glorianne Robbi, Farmland and Open Space Preservation Committee, East Amwell Township, Hunterdon County; and Bill Merkler, Down to Earth Farm, LLC, Upper Freehold Township, Monmouth County.

### **Minutes**

#### **A. SADC Regular Meeting of July 23, 2015 (Open and Closed Sessions)**

It was moved by Mr. Siegel and seconded by Mr. Schilling to approve the Open Session and Closed Session minutes of the SADC regular meeting of July 23, 2015. The motion was approved. (Mr. Johnson abstained from the vote.)

### **REPORT OF THE CHAIRPERSON**

Secretary Fisher noted that the SADC had a record year in farmland preservation in terms of acreage preserved – 7,500 acres, which is close to the target goal of 8,000 acres.

He stated that fruits and vegetables in New Jersey are having a banner year but other sectors are having difficulty because grain prices are low.

### **REPORT OF THE EXECUTIVE DIRECTOR**

Ms. Payne stated that it had been a good year for farmland preservation, thanks to the efforts of partners and staff. There were 95 closings, and our goal is still to close 100 farms per year. She stated that while the SADC will re-examine its goals in the future once it knows how much funding farmland preservation will be allocated, for now the 8,000-acre and 100-farm goals remain the same since we are still spending down 2007 and 2009 bond funds. She stated that in terms of acreage preserved during FY15, the



County program accounted for 52 percent; the Direct Easement Purchase Program 31 percent; the Municipal PIG Program 13 percent, and the Nonprofit Program 4 percent.

She noted the recent \$100 million appropriation for the Green Acres Program – \$90M of that from its revolving loan fund – and stated that the only place the SADC can obtain funding in the near term is to reprogram some funds that are long in the tooth. Staff will be discussing that with the Committee in the future.

Three bills were signed into law that represent pretty big changes for the apiary industry and a big step forward for beekeepers. The Right to Farm Act requires that farm management units on less than 5 acres must produce agricultural or horticultural products worth at least \$50,000 annually in order to be eligible for Right to Farm protection. One of the bills amended the Act to also provide Right to Farm protection to beekeeping operations on less than 5 acres that produce honey or other agricultural or horticultural apiary products, or provide crop pollination services, worth at least \$10,000 annually. Another bill gives the NJDA (rather than each municipality) exclusive authority to regulate the breeding or keeping of honey bees and other apiary-related activities, and to delegate monitoring and enforcement authority to municipalities under certain circumstances. The third bill establishes a penalty for anyone who intentionally destroys a man-made native bee hive.

Ms. Payne stated that the Appellate Court upheld the lower court's decision in the Quaker Valley Farms (QVF) case, finding that QVF did violate the deed of easement in cutting, filling and flattening 20 acres of a preserved farm. The landowner has petitioned the Appellate Court for reconsideration of its decision. If that petition is denied, the last court of appeals would be the Supreme Court.

### **COMMUNICATIONS**

Ms. Payne reminded the Committee to take home the various articles provided in the meeting binders.

### **PUBLIC COMMENT**

Therese White from Gladstone stated that she wanted to comment today concerning the duties that the Department of Agriculture has just been given to draft regulations regarding bee and apiary activities. Ms. White stated that she supports the protection of the honey bees and believes that we need them for the crops and things like that. She and her husband have resided in their home for 20 years. They have seven children ranging

from 18 to 4 years old. A few years ago they started to notice honey bees on their property. They never had them before and it became a problem because they couldn't sit out on their deck because the honey bees were there. When they put out the kiddie pool for their children they couldn't play in it because the honey bees were attracted to the water. Then for whatever reason they were attracted to the sandbox so the kids couldn't play in the sandbox either. Then they got swarms in their yard, thousands upon thousands of honey bees. Ms. White stated that she had to pull the kids in and they couldn't play outside and it would take about an hour for the bees to dissipate. She had no idea where these honey bees were coming from and she thought maybe there was a change in the environment.

Ms. White stated that she received a letter in the mail from an attorney that said one of their neighbors two doors down was recently issued violations because he is maintaining honey bees on his property and it is in violation of the town ordinance. In Gladstone they do allow honey bees but only in two zones and this was not one of them. She figured she would go down there, it wouldn't be a big deal and she would explain what she has been experiencing. It turned into a 20-month proceeding. They hired an attorney. The other neighbors, whom she never even knew, they also came down. The person who lived next door had a honey bee infestation in their house and the one across the street had a pool and their kids couldn't use the pool because of all the honey bees.

Ms. White stated that in the course of that hearing it came out that the New Jersey Department of Agriculture had issued guidelines with regard to the maintaining of the honey bees. They recommended three hives per one quarter of an acre. Well, with each hive there are 50,000 to 60,000 honey bees. Ms. White stated that she lives on a plot of land that is a little over an acre – an acre and a quarter to an acre and a third. So that meant that this individual could have 15 hives according to the guidelines, which are about 750,000 to 900,000 honey bees. That is somewhat alarming because he was maintaining that he only had 12 hives on his property, yet it was affecting all of us from using our properties because of what he was doing.

Ms. White stated that it also came about that these bills that were being put forth through the New Jersey Legislature and when she found out about the bill it had already gone through the Assembly and in the Senate Economic Growth Committee. In May she appeared before that Committee, only to say let's protect the honey bees but can you please put in there some protections for the people living in the residential areas? They rescinded the bill at that time and the N.J. Bee Association was there with their attorney. Unbeknownst to her, it came back before the Economic Growth Committee on June 11<sup>th</sup>. She attended that meeting but on the way there she fell and broke both knees and missed



the meeting. The bills got put through. Ms. White stated she did reach out to Judith Gleason, the Department's attorney, and she suggested that they meet with someone from the Bee Association to see if they could come to some happy medium. Ms. White stated she did meet last night with Janet Katz and they did discuss the issues. Her biggest problem is, with the numbers that were chosen, as it stands now and she doesn't know if these will be the regulations, it is 3 hives per quarter of an acre. Even if that number were cut down, what do you do about the residential area because the houses are surrounded by more houses. In this particular case, if you kept the 3 hives per quarter of an acre, say her other neighbors wanted the honey bees as well, are we are surrounded by three neighbors and that could potentially mean 2.25 million bees to 2.7 million bees? She can tell you with just the 12 hives it impacted everyone. She doesn't know if that is the correct approach to take on this. In her town, she knows that they do permit them in the agricultural permitted use zones and in fact, this particular neighbor who had the bees, he said yes, he had his bees on the other farms but he wanted them here and it didn't seem to make a difference that it was affecting his neighbors and the use of their yards.

Ms. White stated that she understands that these three bills that were passed were packaged together and one of them involved the Right to Farm Act, and people who own these farms, they need these bees. She understands that completely so you cannot move into those areas and then say they can't do that. But the flip side should also be true and valid that she moved into a residential neighborhood not expecting this type of agricultural activity because the bees don't stay on the property – they leave. In some of the guidelines it says to put up a 6-foot barrier. Ms. White stated she brought a picture for the Committee. There are huge trees and you cannot even see into your neighbor's property but that didn't stop the bees from coming over and swarming and always being on her property. She is hoping that when these regulations are made that you can keep the public in mind with regard to that. When you put a number in there for what you are allowed to have in a residential area, you are surrounded by neighbors. What do you do in those circumstances? When she spoke with Ms. Katz last evening, she told her that she gets that you need these for farms and she is for it. Ms. Katz responded by that saying ... to be honest, 85 percent of beekeepers in New Jersey do it for a hobby. Ms. White stated that it's not even that you are giving the bees to the farms for them to use to pollinate the crops; it's because it's a hobby. If she had a hobby of horseback riding, she wouldn't be able to just take a horse and put it in her back yard because she is in a residential area so the same should be true for the bees that don't stay on their property. There are places where people can conduct their hobby and she hopes the Committee will be cognizant of this and also the danger you are posing to so many people who are allergic to bees.

Chairman Fisher thanked Ms. White for her comments, saying that this is good

information to add into the totality of what will take place when these rules are written by the Department. Chairman Fisher stated that Ms. White could leave her name and address so that the Department could use her as a resource in terms of putting a face to an issue that you are bringing up about where bees are in close quarters of neighborhoods. Chairman Fisher stated that when beekeepers say it is their hobby, what the bees do is not their hobby, so the bees are out there doing their work but it just happens to be the owner's hobby to have honey and to raise bees.

### **OLD BUSINESS**

#### **A. Pilot Program for Special Occasion Events on Preserved Farmland – Amendment thereto and Delegation of Review Authority for Events Conducted on Certain Days to CADBs**

Ms. Payne stated that the special occasion events law was passed. The Committee has adopted a pilot program and it was adopted formally by resolution in March. It was established back in October. The law gives the County Agriculture Development Boards (CADBs) specific authorities, the biggest of which is to define what a special occasion event means in their county. It gave municipalities power over site plan review and certain development approvals and ordinances and it gave the SADC authority to approve special occasion events on days other than Friday, Saturday and Sunday and State and federal holidays. If a winery on a preserved farm is having an event on any of the days she just mentioned they do not have to come to the SADC for approval. But if they are having it on, say a Monday through Thursday, the statute says that the SADC needs to approve that. The statute also says that we can delegate that review to the CADBs if we choose.

Ms. Payne stated that in June staff drafted a resolution to discuss the delegation of that authority. Staff worked with the Governor's Office to look a little closer at that, with the goal being, first of all that property owners who are having special occasion events under the provisions of that law, we need to make sure that they are aware of the provisions of the law. Staff has done a lot of work to do outreach and meet with any winery owner who would meet with us to explain it. The goal here is kind of black and white, in writing, to get a certification from landowners that they understand what the provisions of the law are. The reason for that is that this is a pilot program and we are trying to learn what works and what doesn't work. What we don't want at the end of this 44-month pilot program is landowners/winery owners saying, "Oh I didn't know that or I didn't know we had to do that, etc." So one of the goals that was discussed was to make sure that people understand the law.



Ms. Payne stated that the first thing that the resolution before the Committee today does, is state that any winery operating under this special occasion events law would submit a registration once a year to the SADC. This is basically a brief description of the winery. We can provide a copy of the survey to them to show us where the special occasion events occur generally, and then there's the certification that they understand the provisions of the law. The second thing that the resolution proposes to do is to delegate our review authority from Monday through Thursday, conditioned on the CADBs doing a review. Right now what is going on is that some of the counties are passing resolutions that say here is what a special occasion event is and kind of just go ahead – very hands off. Other counties are taking a more detailed approach and saying, OK, if you would like to have a special occasion event you need to submit something to the CADB for review. So there are a variety of approaches out there. What this is intended to do is, if we are going to delegate our authority, and that is "if," then we are requesting that the counties do that review on our behalf. If we are going to delegate the authority to them then they should step into our shoes and take a look at things like, so this is a concert on a Tuesday night. Well, they need to take a look at that. Ms. Payne stated that staff suggested that there be two areas of focus of their review – one is what are the traffic impacts? Is someone having a very large event on a Tuesday during rush hour? The other one is what are the noise impacts of the event, say at 11 p.m. on a Tuesday night during September? We think that the legislation specifically called out SADC review for those mid-week events for a reason and the only reason that she could fathom is that we are trying to make sure they are not disturbing the neighborhood so to speak on a work night and school night, and they are not jamming up traffic where school buses cannot get through and the like. She thinks they are the things that the SADC would be looking at. That is what the resolution today does.

Ms. Payne stated that staff has provided Exhibit A – the registration form – which is pretty light. We ask the landowners to give a general description of the winery, how many years it has been in operation, how many acres of grapes are grown and how their wine is marketed, so it isn't a very detailed form. Then on the next page, if someone wants to have these special occasion events, we give them an example such as what is the name of the event and give a description, how often do you have it and then the dates. Then on the next page is the certification of compliance. This is just a checklist of all the statutory provisions. The goal is to make sure the winery operators are acknowledging that they understand what the law says. Ms. Payne stated that Exhibit B is just a little more detailed to pay attention to traffic and noise questions.

Ms. Payne stated that is what staff is proposing to augment the existing pilot program to

respond to the concern that has been raised that the pilot program be conducted in a manner consistent with the Governor's conditional veto.

Mr. Johnson asked about financial monitoring. Ms. Payne stated that under the law, in terms of financial monitoring, each winery has to submit a separate annual certification regarding their income. The law requires that and then the law allows the county or the SADC to audit farmers' operations to ensure compliance. What we are doing is drafting those audit regulations. This is more acknowledgment and disclosure on the part of the landowner; this is not asking for a lot of financial information or anything else. Ms. Brodhecker asked if staff had any discussions or input from any of the CADBs. Ms. Payne stated no and that staff wanted to share it with the Committee first. Ms. Payne stated that the Committee could adopt this today or if it is not comfortable with that then it could give staff alternative directives.

Chairman Fisher stated that this is a culmination of working back and forth with the Governor's Office, trying to figure out how to proceed on Monday through Thursday and how that would work and whether the SADC would delegate that to the counties. The counties have said different things in different parts of the state. This is the best that we could come up with because if it doesn't seem to be working according to the SADC's liking, he thinks there is a provision in the draft resolution. Ms. Payne stated that it says if the delegation isn't working out the SADC can revoke the delegation. Mr. Siegel asked if the delegation would be revoked entirely. We are delegating our authority to 18 CADBs. If we decide there is noncompliance, we are withdrawing our delegation to all 18 CADBs? Ms. Payne stated that she believes we could withdraw it individually county by county, not all 18 counties. Mr. Siegel stated that if we see something bad happening in a particular county, we're not taking a dramatic step of withdrawing the delegation to the counties that are doing OK. If we are not happy with the way one county is handling the delegation of authority we can reacquire our authority in that case and it wouldn't apply to the other counties. Ms. Payne stated that is correct.

Mr. Schilling stated that one of the things the law was trying to do was establish a pilot program for the purpose of getting information that was lacking. The way he reads this and from his memory, he doesn't think this is necessarily imposing any new criteria to the counties. The counties still retain the right to define special occasion events how they see it. A lot of this to him is meeting the legislative intent to collect data and information on the types and scope of activities that are going on. The certification of compliance he as almost like an educational outreach tool to help people be reminded of the types of things they have to comply with if they are going to participate under the pilot program.



Chairman Fisher stated that if you do this, it is essentially following the provisions of the legislation plus the Governor's conditional veto. He suggested that the Committee at least motion it, discuss it and then decide whether to pass it or not.

Mr. Johnson stated that as a farmer who does direct marketing and agri-tourism, he sees a lot of overlap or some overlap with the direct marketing/agri-tourism AMP that was developed by this Committee a couple of years ago. He knows that special occasion events specifically were not given Right to Farm protection. He hopes that we don't wait 44 months until we discuss this. He hopes that as this process goes along we can be gathering information. He is sure there will be complaints but he hopes we don't just talk about them after 44 months. He hopes that we're also monitoring the positive economic impact that these things have on neighborhoods and communities.

Mr. Waltman stated that there is a reference to the Noise Control Act in the law. He asked if he was correct that municipalities can enact noise standards that are different than the state. Mr. Waltman stated that he knows people complain about the noise of farm machinery and that is one of the reasons we needed the Right to Farm Act but in this case the noise that could be a problem isn't from the farm machinery; it could be a winery that has a band playing. Ms. Payne stated that we happen to have a noise expert in the audience today, Eric Zwerling, Director of the Rutgers Noise Technical Assistance Center, who could address this question. Mr. Zwerling stated that municipalities can adopt noise ordinances; however an ordinance contains a sound level limit decibel-denominated performance standard, then it must be consistent with the statewide scheme of noise regulation, which means essentially that you have to adopt the verbatim model ordinance that has been promulgated for local adoption by the New Jersey Department of Environmental Protection. So the standards are statewide. A simple solution to this would be to say that any amplified sound sources must adhere to the State noise standard, period. Obviously, agricultural activities such as, if you have to dry your corn at night to prevent the development of aflatoxins, that corn must be dried and that dryer can and should be allowed to exceed the permissible limits in the State code. If you need to bring in the hay before it rains and you have to do that in the middle of the night that should be and is properly exempt. However an amplified sound source, if it's part of the sale of agricultural productions and that is the definition in the State noise code of agriculture, is exempted. It includes the sale of agricultural products. So as long as you are engaged in the sale of the product it is exempt. For example, he got a call last fall about a farm that had a fright fest. The neighbors were complaining because they had someone in the cornstalks with a chainsaw, with the chain removed, chasing people through the maze. The neighbor stated that this was not an agricultural activity. Mr. Zwerling responded that if they are selling donuts made with apple cider from that farm inside the building or

if they are selling cornstalks or any other agricultural product, it is part of the sale of that. All that being said, like any other restaurant or any other wedding venue or the like, it would be very reasonable to state that any source of amplified sound must adhere to the State noise regulation and remove the exemption from that.

Ms. Payne stated to her it is very much a farm setting and a zoning issue and the law tried to provide municipalities with certain jurisdictions. But whether you are marketing wine or not, if you had a rock concert next to a residential property every night of the week, it becomes a zoning issue. She thinks that is what we are trying to grapple with. Municipalities say, OK, here is the agricultural zone, here are the residential zone and commercial zones, and we are talking about inserting what can be a substantial commercial activity into the middle of an agricultural zone potentially next to a residential zone. She stated that it goes a little bit beyond the noise regulations; it is a land use question. That is the essence of municipal land use laws, municipalities are tasked with trying to set a land use pattern to try to minimize conflicting land use. She thinks that is what the statute was trying to get at with this. This is a conflicting land use and whether it meets a State noise code or not it's like the honey bee conversation – there are conflicts, and we are trying to, through this pilot, understand what the conflicts are and how can they get resolved.

Mr. Siegel stated that he raised objections to this back in June, after seeing the definition by the Cape May County CADB as to what they would permit on wineries. We are going to have other issues he assumes but we have a hot issue already in Cape May so that is where the blow-up is going to be. There is a winery at odds with the township and the county is taking different sides. It's not an abstract down there, it is a real fight. He understands that we have minor violations that occur all the time, which we would call little offenses. His problem with this policy is we are putting it in writing that we are accepting a CADB policy that violates the easement. Mr. Siegel stated that he is concerned with the Securities and Exchange Commission and the Internal Revenue Service, which have never given us clear guidance, particularly the Internal Revenue Service (IRS), on how much marketing really counts as agricultural activity. There have been tax findings around the country that have not permitted any. The Securities and Exchange Commission is of importance because the taxpayers in this room are paying for the preserved farmland today. They haven't paid for it, they're paying for it every time we buy something and we pay sales tax, because the preserved farmland in this state was preserved with bond funds that were issued that are still being paid – almost \$700 million in bonds. His concern here is that we are putting in writing, and we have one CADB that has already acknowledged that its policy, its definition of special occasion, is any occasion. They are going to permit wineries to do absolutely anything they please and our



jurisdiction over the other four days of the week we are handing over to them to give them seven-day jurisdiction of a policy that to him is a clear violation of the easement and is actually a violation of the statute because it says special occasion, not anything you can think of.

Mr. Siegel stated that he is glad that we are going to document and track these activities. But he is concerned that putting in writing accepting a policy of extreme permissiveness in one specific county, which is the county where we will have the blow-up.... Ms. Payne stated it isn't just one county – several counties have adopted the same or more lenient definitions. Mr. Siegel stated that he is concerned with noncompliance and that someday we are going to be in for a really rude surprise and that someone from the federal government is going to show up in New Jersey and say they cannot believe what we are permitting on preserved property. Your easement is fine but what you are allowing to occur we don't think is eligible for bond funding and the bond funds have to be cancelled and the tax has to be applied.

Chairman Fisher stated that doing nothing right now, if something like this is not adopted, then every winery that is on a preserved farm would have to come in for their Monday through Thursday activity to discuss with the Committee things like zoning, traffic flow and noise. And if they don't and they are still doing these types of events then there are violations that have to be issued that have what kind of teeth? Ms. Payne stated that the SADC is given authority to enforce the law by filing a complaint in Superior Court. We would go before a judge and say the property owners are violating this statute. The first offense is \$1,000, then we would take them to court again and the second offense would be \$2,000 and suspension from conducting special occasion events for up to 6 months, the third violation is \$3,000 and a suspension of up to a year and then for a fourth violation you can suspend the winery from conducting special occasion events for up to two years. The only implementation mechanism is the SADC going to court with farmers and we are trying to avoid that if we can.

Mr. Siegel stated that he wanted to be clear that he was giving his personal opinion. He communicated with Mr. Collins from the Governor's Office and they have approved what staff has come up with. He isn't sure that the Treasurer would object to this either. Ms. Payne stated that the SADC has gone through this conversation with Treasury. The SADC annually issues a bond compliance report. We have to go through every appropriation, highlighting changes to statutes, etc. So we have this disclosure conversation with the bond counsel every year. At some point in time we have executed an agreement with them. Mr. O'Connell will be preparing the FY2015 bond compliance report so it is all out on the table. She doesn't know what else the Committee can do at

this point.

Mr. Johnson stated that regarding Mr. Siegel's comments, he would like to rebut some of them. He stated that the government likes to collect taxes. On his operations the things that generate the most taxes are things that you would not consider agriculture. He stated that we get hung up on these 51 percent or 49 percent issues and his biggest product is his farm. That is what brings people to him so the farm itself is his biggest product and they are the biggest supporter of using your tax dollars to do this. To suggest that he can only market his product so much is almost like saying those people are allowed to drive by but not allowed to come in.

It was moved by Mr. Schilling and seconded by Mr. Requa to approve Resolution FY2016R8(1) establishing procedures for wineries subject to the Pilot Program, as outlined in said Resolution.

Discussion: Mr. Waltman stated that he would vote for this. This issue does make him uncomfortable, however. He thinks that gathering the information is important and we haven't done enough of that. He would request a couple of caveats to this – one being he would like to make sure that the data is cataloged in some way so that maybe on an annual basis we can see what is going on out there. The other would be that when we communicate to the CADBs we make it clear that this authority is subject to being revoked and that maybe there is an annual review. He realizes we have a 44-month window and we are months in already but he still thinks there needs to be some review and some notice given that we can revoke this.

Ms. Jones stated she also agrees and she thinks it is good at some point to regroup with the CADBs to get their input on how things are going and she thinks it is a good idea to move forward on this.

Ms. Payne stated that staff will meet with them again. She stated that staff wanted to get feedback from the wineries, the towns and the CADBs each year as to how it is going from each perspective. This issue of delegation and what questions we're asking is holding up our ability to finish those questionnaires that we would like to send, which is voluntary. This is not voluntary; it is part of the pilot program and required for participation. We are trying to get there.

A roll call vote was taken as follows with the above noted caveats to the resolution made by Mr. Waltman:



|                                |         |
|--------------------------------|---------|
| Douglas H. Fisher, Chairperson | YES     |
| Renee Jones                    | YES     |
| James Requa                    | YES     |
| Ralph Siegel                   | ABSTAIN |
| Brian Schilling                | YES     |
| Jane R. Brodhecker             | YES     |
| Alan A. Danser, Vice Chair     | ABSENT  |
| James Waltman                  | YES     |
| Peter Johnson                  | YES     |
| Denis C. Germano               | ABSENT  |

7 Yes votes    1 Abstention Vote    2 Absentees – The motion carries.

Chairman Fisher stated that this is a pilot program, we are gathering information and we still reserve the right, if we think something is out of control, to be able to pull it back. Mr. Siegel asked if there is any way we can share a communication in some way where we say special occasion doesn't mean any occasion and that the statute doesn't say that the sky is the limit. Ms. Payne stated that the statute says "special occasion events, including weddings and other lifestyle milestone events" and then it says "and other social and cultural events or gatherings as determined by the county agriculture development board." So there is not a lot that couldn't fit under "other social and cultural." She is not comfortable sending a letter to the CADBs saying she knows what the statute says but we think it should be something else. The statute says what it says.

**B.    AMP for Generation of Wind Energy on Commercial Farms – Proposed Noise Standard**

Ms. Payne reintroduced Mr. Zwerling to the Committee. Mr. Zwerling has been instrumental in helping the SADC staff grapple with implementation of the State law passed in 2010 that dealt with renewable energy on preserved farms and as it pertains to Right to Farm. The law allows a certain amount of renewable energy on preserved farms. The SADC has adopted rules on the development of solar facilities on preserved farms. The law also said the SADC needs to write Right to Farm regulations for renewable energy development for solar, wind and biomass. We have done the solar rules and that is when we engaged Mr. Zwerling the first time to help us understand the noise impacts associated with solar facilities. That was integral to the Committee's ability to adopt an agricultural management practice (AMP) on solar development. So we are now at wind energy. We have been working with Mr. Zwerling for a couple of years as the wind

industry has been going through some major ups and downs and is trying to come back up again. We are required to do this by statute so staff has drafted and fleshed out what the rules look like and they are modeled after the solar rules, but in wind the noise issues are totally different. The Committee has spoken before with Mr. Zwerling and we had a preliminary report some time ago. What we would like to do today is provide an opportunity for him to present the final report. This is the acoustics homework that the Committee will rely on in developing its regulations. So we are not asking for any action by the Committee today. This is the Committee's opportunity to hear from Mr. Zwerling and to ask questions.

Mr. Zwerling stated that before he gets started on the wind energy discussion he would like to say that regarding the winery issue, if you are collecting data he would suggest that you ask them to collect whether or not there is amplified sound at the event and to log whether there were complaints as part of the data collection process. Without that information, evaluating the impacts of those events would be difficult in his opinion.

Mr. Zwerling stated that the regulation of wind turbines is a very complex endeavor. It is also a field of evolving science. You have to look first at what the impacts are of wind turbine noise. You have to rely on the epidemiological data that is out there. The data has been collected over the past 15 years or so and it continues to be collected. The data that has been incorporated in the final report provided to the Committee is pretty much up to about a year and a half ago. More data is constantly coming out.

Mr. Zwerling stated that this issue is becoming particularly timely in that as of August 3<sup>rd</sup> the USEPA came out with its Clean Power Plan, which is going to require the reduction of carbon dioxide emissions by 32 percent over 2005 levels, so this will very much play a role in that. As with any regulations that you are writing, it is a balancing act. There are competing interests and they have to be considered.

Mr. Zwerling stated that in this endeavor there are two competing interests. One is that we want to protect the quality of life of the citizens of New Jersey. There should not be an overt nuisance from that property. But on the other hand, having alternative energy is an important goal and one that he himself supports. He has 10 kilowatts of photovoltaic in his backyard ground-mount. Wind turbines do create noise and that can be disturbing. The threshold of annoyance for people differs. For some it is simple audibility; I can hear it, it annoys me and want it to go away. For others, there are many factors that determine annoyance. The three primary factors in the research he did are first, is it visible, particularly, is there flicker? If light goes through the turbine blade onto someone's house, their level of annoyance is completely disproportional to the sound level. It is



astronomically high. Another factor is whether or not they have an economic interest in the wind turbine, whether they themselves are interested in it if it is on their property or whether someone has bought a noise easement on the neighbor's property. I'm going to put this in and give you say \$500 a year. The third factor is the intensity of the sound level itself. Interestingly, in the studies he has seen, the thing that was the least determinant of all was the actual absolute noise level.

Mr. Zwerling stated that he had to work within some fairly difficult parameters. The SADC is not an enforcement agency and doesn't have the ability to review extensive acoustic analyses submitted to it. What we wanted to do was come up with something that was a relatively simple to comply with scoping tool to come up with setback distances that could be applied for wind turbines based upon manufacturer's data that is variously available and will be more so now. To rely on manufacturer's data – if the data is collected pursuant to one of the standards organizations that are out there, that information also has been discussed in his report – you can then look up tables that are in the back of the report. So you can look up a table, for example, for an AWEA-rated sound level of 49 dB(A) turbine and therefore, based upon this setback table, as long as I set it 394 feet or more from the property line I'm OK. Then they would submit that documentation to the SADC.

Mr. Zwerling stated that the overview of the report is that turbines make noise and there will be some people who will be variously annoyed by it. Some will consider it a minor inconvenience, some won't care at all and some will be highly annoyed. It is a balancing act to determine where to put the permissible limit because if you make the level so restrictive that everyone is protected then there will be no siting of turbines. For some people the mere audibility of it will be enough for them to say they are annoyed. He relied on the epidemiological data that was available at the time of the writing of this report to come up with the standard that he did. He stated that there is a list of definitions in the terminology section.

Mr. Zwerling reviewed the definitions with the Committee. Regarding the dB (decibel) definition, Mr. Zwerling stated that there are many ways to measure sound and most regulation is written with the term dB(A) – decibel as measured on the "A" scale. The "A" scale basically mimics human hearing to sounds of moderate intensity. It is discriminatory against low frequency because people do not hear low intensity/low frequency. In this room there is low frequency, we just do not hear it so we can ignore it because it is at a very low intensity. But you put those same frequencies either through a subwoofer with a couple thousand watts behind it, then people two blocks over are hiding in their basements calling for enforcement. Or if you put it on top of an 80-meter tower

people can hear that well. A "C" weighting is used for lower frequency, like the thumping base of some music. There are other methods listed in the report that the Committee can refer to. Mr. Zwerling continued to review the various definitions with the Committee as outlined in the report. He stated that regarding the "tonality" definition, which is a characteristic of a sound emission with elevated levels at discrete frequencies and may be described as a whine, buzz or hum, that is considered to be more annoying. If a turbine is identified as having a tonal quality to it there is a penalty that is assessed to that turbine if it has a gear noise – a 5 decibel penalty that is added to it.

Mr. Zwerling stated to quickly go over the design and human health impact, after all the research that he did, 37 decibels was a level that is reasonably protective of human health. There are people who will recommend levels as low as 33.5 decibels or 35 decibels. There are agencies that are setting permissible levels as high as 40 or 50 decibels for wind turbines. Just by way of reference, the New Jersey State noise standard at night is 50 dB(A) so at nighttime, if he for instance was going to put in a heat pump on the side of his house and his neighbors were complaining about it, if it is below 50 dB(A) he would be OK but if it was above 50 dB(A) he would have to do something about it. Mr. Zwerling stated that he is proposing a standard for wind turbines here that is 13 decibels below that. Decibel scales are logarithmic so a 13 decibel reduction is very significantly below statewide standards. If you remember when we started this process there was some discussion that the New Jersey State standard was what was going to be applied, if he remembers correctly. At 50 decibels, based upon the research that he saw, there would be unbelievable outrage by some nearby residents – 37 decibels will bring it well below that. Mr. Zwerling stated the way that he has done this is that 37 decibels will be at an identified receptor property. Mr. Zwerling referred the Committee to the final draft report under the proposed standard definitions. He stated that the definition for "point of reception" means a structure used for human habitation, unless the habitation is a condition of employment, including but not limited to a private residence, apartment building, commercial living accommodations, dormitory, hospital or inpatient facility, as well as public or private areas for overnight camping. It shall also include planned structures and facilities for which preliminary approvals have been granted by the municipality. It shall not include dwellings of parties with an economic interest in the wind turbine generator." Mr. Johnson asked it's not on the property line, it is at the structure or at the proposed structure that has been approved? Mr. Zwerling responded yes, that is correct.

Mr. Zwerling stated that there was a lot of analysis that went into whether or not to base this regulation on low frequency measurements. There is a lot of literature about the low frequency impacts from wind turbines. The problem is that there is no epidemiological



data denominated in those frequencies so we don't have a specific standard – if we had set a standard based upon those limits it might be considered capricious and arbitrary. We need to have a basis for the number that we adopt. There is no low frequency data out there from the manufacturers so if we were to say that the permissible standard should be – and there is a whole bunch of metrics of low frequency – we pick some metric, the manufacturer provides no data in that metric. Therefore, we have no table. Chairman Fisher asked if Mr. Zwerling felt that the turbines located around the state already meet the 37 decibels. Mr. Zwerling stated he had no idea. He stated that he did not go out and take field measurements but it certainly can be done. One of the things about taking measurements afterwards is that the complexity of taking sound measurements from wind turbines is tremendous. There are a lot of variables as far as the wind, the microphone array, etc. You are taking measurements under windy conditions and if you take measurements under windy conditions, you cannot just put the microphone up on a tripod because the wind can impact the measurement. There are very specific microphone arrays. The turbines only operate during windy days and that makes it more complicated because in general the turbine will be making more noise on a windy day but the ambient sound level may also be rising during a windy day so you have both things happening simultaneously. The amount to which the increased ambient noise will mask the increase in noise in the turbine, is somewhat unknowable because masking is a function of both intensity and frequency. It is also a function of the structure you are in. Some houses are such that they don't make a lot of noise, other ones may have shutters that may whistle in the wind or have foundation plantings around them and trees that make noise. Another thing he considered was do we set permissible sound levels based upon wind speed. That's highly complex.

Chairman Fisher stated that your calculation is your calculation based on your expertise and the work you have done around the country. That is why we brought you in and that is what you are known for. You come up with this number 37, which is 13 decibels less than the 50 that the State requires. That 37, do you know if there are others states that have come up with standards in that range? Mr. Zwerling stated the one he looked the closest at and the one that was most advanced was Ontario's Ministry of the Environment. They set a permissible limit of 40. There were people who were very annoyed by 40 decibels. He saw just yesterday, the Canada Health Department is now starting to submit – they think that maybe it should be reduced to 35 decibels. So we are bracketing the numbers. There are a lot of regulations in Australia on wind turbines. New South Wales has a very active environmental protection agency and they have started to regulate around 35 decibels. There are also other jurisdictions that have the simple 50 decibels sound level. Mr. Zwerling stated that when he discusses with a jurisdiction on writing an ordinance he says that you can write this ordinance so restrictive that it

essentially prohibits whatever that behavior is or it forces tremendous modifications to that behavior, or it enshrines legality of whatever the people are currently doing. There is that whole spectrum in between and it's jurisdictional so they need to tell him where he should fall in the spectrum. He stated that he has gotten, from his discussions with the SADC, that they want it fairly restrictive but not to the point of choking off the activity. Ms. Payne stated that the basis for that will be a Right to Farm standard. The statute told us to write rules to give Right to Farm protection to what can be large-scale industrial wind development so for Right to Farm we are supposed to be thinking about communities and impacts on neighbors. The courts keep saying that so that is the basis of how we have been approaching this. It needs to be reasonable, reasonably protective of people close by but it needs to allow the industry to function. That is where we were trying to go. The courts keep saying over and over about public health and safety and you have to consider the impacts to the neighbors. Under Right to Farm that is what the courts say so that is what we are following here in terms of laying out a philosophy to give Mr. Zwerling guidance.

Mr. Zwerling stated that one of the studies that he looked was a series of studies by Peterson described under section 2.0 of the report. The studies suggested that the proportion of participants who were fairly or very annoyed remained quite level through the 29-37 dB(A) range (no more than roughly 5%) but increased at levels above 37 dB(A), with peaks at 38 dB(A) and 41 dB(A), where up to 30% of the people were very annoyed. So at the 37 decibel limit 5 percent of the people will be annoyed. But it will still allow some development of this activity. Ms. Payne stated that for everyone's edification, this is only when a landowner is seeking Right to Farm protection. That is the standard we are talking about. We are not telling farmers how to build the wind turbines. If they are not seeking Right to Farm protection this doesn't apply. Like every other Right to Farm rule, we are creating a standard that we know is protective of public interest and still allows the activity to occur. Mr. Johnson asked how far away from a big wind turbine that is. Mr. Zwerling stated if you are talking about the ones that are down in Atlantic City, that may be 1,000 feet or 2,000 feet depending upon the size of the turbine. Mr. Johnson asked if the bigger ones are louder. Mr. Zwerling stated in general, but it is not directly proportional. Part of what this regulation is meant to do is to force the market to build quieter units. This will force people to buy units that are quiet and the industry will respond by building units that are quieter. That is exactly what he did when he helped New York City write their noise ordinance. They said that regarding construction equipment if it were quieter they would get some benefit, they would be able to use it later at night, wouldn't have to file a noise management plan, so they started developing quieter jack hammers.



Mr. Zwerling provided the Committee with a sample Small Wind Certification Council Certificate. It is a certificate that represents that an identified small wind turbine is in conformance with the AWEA Small Wind Turbine Performance and Safety Standard (AWEA Standard 9.1-2009). The back of the form shows what the sound level rating is. Chairman Fisher asked if the turbines make more noise as they age. Mr. Zwerling stated he didn't look into that but he would assume they would.

Mr. Schilling stated that on the sample certificate that was presented today, it shows a peak power of 12.6 kW per unit of time and it has a sound level rating of 42.9 dB(A), so based on the table, to achieve the standard that is being discussed you would need a distance of 394 feet. Mr. Zwerling stated that unit could be 400 feet from the property line and meet the standard. It would be that simple for a farmer to say he wants to put this unit in, you get the certificate, you submit that, you have an image of the identified closest receptors, you show it on Google Earth – the distance marker there, say you're 600 feet from this guy, 900 from that guy and 1,200 feet in that distance and you are done. For the larger turbines it can be more complicated but in that application if someone is putting up a \$3 million or \$4 million large turbine then having someone do a full acoustic analysis is inconsequential in the total cost. What we wanted to make sure was that an individual farmer didn't have to go through the expense of some expensive study. They could just pull this data down from the manufacturer and submit it.

Ms. Jones stated that she knows we are looking at the noise impacts to humans but she is sure that there are studies regarding impacts to wildlife and or bird species and turbines. Is that folded into this or is that separate? Mr. Zwerling stated that he would provide something anecdotally from his own experience. He received a complaint that somebody was next to a shooting range and they said they were highly annoyed and their horse was extremely annoyed by the noise. What actually happened was that when he went out there, the horse had no response to the noise but the owner was extremely agitated. Horses, like dogs, know what their owner's stress level is. The horse was actually responding to the owner's stress, not the noise itself. Interestingly there have been a lot of studies about the noise levels in Pennsylvania, that some bird species will leave the area because the noise is at the frequency of their communication. So for those birds where the frequencies match, they will leave because communication is impossible. There are some that persist because it doesn't overlap their communications frequencies, but there are some that actually gravitate to the noise source because their predators were deterred by the noise but they themselves found refuge in that area. Mr. Zwerling stated that for wildlife concerns, he would be more concerned about the bird strikes by the turbine blades than the noise of the turbines.

Chairman Fisher stated that the human capacity to block out sound – these sounds are there. Do they find that people say they are annoyed but then they adapt to it and then they don't hear it in a way that they initially heard it? Mr. Zwerling stated that people either can habituate to a noise or after a while they just say it's there, I'll deal with it. That habituation can also be assisted by the introduction of masking noise in their environment. They can put a white noise generator in their house. It's like rain or thunder or whatever and even though you are introducing noise you have control over that noise so you are going to accept it. Also, people hyper-sensitize to noise. Through no fault of their own they focus and fixate and hyper-sensitize on a noise. He has never been able to see any particular way to predict an individual's response to noise.

Chairman Fisher stated that as always when Mr. Zwerling comes in it is just fascinating, the variables that he has to deal with to give the SADC some kind of balancing guidance on how we are going to deal with some kind of decibel level. Ms. Payne stated that she had a question regarding section "E" in the report regarding multiple turbines where it says "if the applicant desires to utilize the Tables, an acceptably conservative approach would be to logarithmically sum the sound levels of the turbines." She asked if Mr. Zwerling would remind her what that actually means. Mr. Zwerling stated that he had mentioned that the decibel scale was logarithmic. If you have, for instance, one alarm clock going off at 70 and another alarm clock going off at 70, the two of them together would not be 140, which would be the case if it were a linear scale, but two identical sources will be a 3 decibel increase. So if you have one turbine at 70, two turbines would be 73 and then to double that you would have to go to 4 and 4 would be 76, eight would be 79 and 10 turbines or any other source would be a 10 decibel increase. A 10 decibel increase is a tenfold increase in intensity. That being said it is not a tenfold increase in perceived loudness. While 10 decibels is a tenfold increase in intensity it is only perceived as a doubling of loudness.

Chairman Fisher and Ms. Payne thanked Mr. Zwerling for coming in and making his presentation. Ms. Payne stated that the SADC could not have done these rules without his assistance. It helps the SADC have credibility in what it is doing and she thanked Mr. Zwerling again on behalf of the Committee.

## **NEW BUSINESS**

### **A. Eight-Year Farmland Preservation Program**

#### **1. New Enrollment**

- a. William Kohl, LLP, Middletown Township, Monmouth County



Mr. Everett referred the Committee to Resolution FY2016R8(2) for a new enrollment in the Municipally Approved Farmland Preservation Program for William Kohl, LLP, SADC # 13-0005-8M, owner of Block 1117, p/o Lot 30.01 and p/o Lot 31.01, located in the Township of Middletown, Monmouth County, comprising 5.48 acres. Mr. Everett reviewed the specifics with the Committee. To be certified by the Committee, a petition of this type has to have farmland assessment, be located within an agricultural development area (ADA), meet eligibility criteria established by the CADB and meet the SADC's eligibility criteria. The latter the SADC does not have. The SADC does not have criteria at this time for municipal eight-year programs. Mr. Everett reviewed various slides with the Committee showing the agricultural development area (ADA), the subject property within the ADA and the soils on the property, which indicate 98 percent "other" soils and 2 percent "prime" soils. This property was in the eight-year program from 2001 to 2009 but there was a change in the vesting deed. There was a William Kohl Family Trust, which became William Kohl LLP in 2005 so it was in the middle of the eight-year program. It was not automatically renewed after the eight-year expiration date and why it is before us six year later he doesn't know. Mr. Everett reviewed the original slides of the property from 2001 and also the reconfiguration of the property as it is now. On a positive note, the reconfiguration does take in the prime soils that were there. There is a physician's office in the front of the property and this tax parcel goes all the way up through the top (as shown on mapping). As a condition of subdivision approval to create the physician's office, the municipality required that the parcel be placed in an eight-year program. However, he has asked for documentation of that from the municipality and the CADB and it has not been provided to his knowledge.

Ms. Payne stated that staff recommendation is to certify the new enrollment for the reason that the agency approved it in the prior configuration and now it is coming in with actually a superior configuration. She doesn't know the basis for which the SADC would turn it down on.

It was moved by Ms. Jones and seconded by Ms. Brodhecker to approve Resolution FY2016R8(2) certifying the Municipally Approved Farmland Preservation Program for William Kohn, LLP, SADC # 13-0005-8M, owner of Block 1117, p/o Lot 30.01 and p/o Lot 31.01, located in the Township of Middletown, Monmouth County, comprising 5.48 acres, as presented and discussed, subject to any conditions of said Resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2016R8(2) is attached to and is a part of these minutes.)

**B. Request for Extension of a Soil and Water Conservation Cost-Share Grant**  
1, Gregory McLaughlin Farm, Robbinsville Township, Mercer County

Mr. Everett referred the Committee to Resolution FY2016R8(3) for a request for an extension of a soil and water conservation cost-share grant on the Gregory McLaughlin property, known as Block 44, Lot 43, in the Town of Robbinsville, Mercer County, comprising 58.216 acres. The soil and water cost-share grant was originally approved in July 2011 for \$8,129.00 to install drainage tiles and an irrigation system. There is a three-year approval period when the SADC approves a grant. The last approval was granted in October 2014 until July 28, 2015. Mr. Everett stated that the SADC's rules do not specify the number of extensions or their duration. Instead they are deferential to the State Soil Conservation Committee (SSCC). He has been in contact with the SSCC because this landowner has installed the drainage tiles and has been trying to line up the well driller but has had problems with getting a DEP permit. Therefore, the SSCC felt that one more extension was justified. The resolution before the Committee does say that staff recommends approval until August 31, 2015. However, the SSCC contacted him yesterday and felt that we should bring it up to when we approved it last year (October 3, 2014), and to give the landowner the benefit of the doubt and provide a full year extension from October of last year, so they are recommending the extension go to October 3, 2015 rather than August 31, 2015. The SSCC also indicated that this would be his last extension for this cost-share grant.

It was moved by Mr. Requa and seconded by Ms. Jones to approve Resolution FY2016R8(3) granting an extension of a soil and water conservation cost-share grant for Gregory McLaughlin, owner of Block 44, Lot 43, in the Town of Robbinsville, Mercer County, comprising 58.216 acres, until October 3, 2015 with no further extension for this cost-share grant. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2016R8(3) is attached to and is a part of these minutes.)

**C. Resolution for Certification – Agricultural Development Area Map  
Amendments – Hunterdon County**

Mr. Bruder referred the Committee to Resolution FY2016R8(4) for a request to amend the Hunterdon County Agriculture Development Board's Agricultural Development Area (ADA) map to include Block 27, Lot 3. Hunterdon County had included the Chang Farm



(Block 9, Lots 2, 6, 6.01, 6.02 and 6.03) in Tewksbury Township in its State FY 2016 Municipal Planning Incentive Grant application as a targeted farm. Block 27, Lot 3 in Califon Borough is a steep sloped and wooded farmland-assessed parcel with an active woodland management plan that is part of the Chang Farm operation. All six lots associated with the Chang farm were included in an application for farmland preservation that is currently being processed by Hunterdon County. In May the Council of the Borough of Califon adopted a resolution supporting the expansion of the ADA to include this block and lot. The ADA amendment is within the Highlands Preservation Area. Staff recommendation is to grant certification to include Block 27, Lot 3 in the ADA map.

It was moved by Ms. Brodhecker and seconded by Mr. Schilling to approve Resolution FY2016R8(4) certifying the amendment to the Hunterdon County Agriculture Development Board's Agricultural Development Area map to include Block 27, Lot 3 in the Borough of Califon, as presented and discussed, subject to any conditions of said Resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2016R8(4) is attached to and is a part of these minutes.)

#### **D. Resolution for Final Approval – County PIG Program**

Ms. Miller referred the Committee to a request for final approval under the County Planning Incentive Grant Program. Ms. Miller reviewed the specifics with the Committee and stated that the recommendation is to grant final approval.

It was moved by Mr. Siegel and seconded by Mr. Johnson to approve Resolution FY2016R8(5) 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:

1. Perie Thomas Thompson, SADC # 21-0559-PG  
Block 67, Lot 16, White Township, Warren County, 41.2 Gross Acres  
State cost share of \$2,560 per acre (71.11% of the certified easement value and purchase price), for a total grant need of \$95,462.40 of competitive funding pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C. The property includes a 5-acre nonseverable exception area for and limited to two existing single-family residential units and to afford future flexibility of use. The property includes zero single-family residential units, zero agricultural labor units and no pre-existing non-agricultural uses on the portion of the property to be

preserved outside of the exception area. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

Discussion: The County has requested to encumber an additional 3 percent buffer above the net acreage to be preserved for possible final surveyed acreage increases; therefore, 37.29 acres will be utilized to calculate the grant need.

The motion was unanimously approved. (A copy of Resolution FY2016R8(5) is attached to and is a part of these minutes.)

**E. Resolutions for Final Approval – State Acquisition Program**

Ms. Miller referred the Committee to Resolution FY2016R8(6) for a request for final approval under the State Acquisition Program. Ms. Miller reviewed the specifics of the request with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Waltman and seconded by Mr. Siegel to approve Resolution FY2016R8(6) granting final approval to the following application under the State Acquisition Program, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. Perrotti Farms, LLC, SADC # 10-0232-DE  
Block 23, Lots 11, 11.01, Kingwood Township, Hunterdon County, 130.7 Gross Acres  
Acquisition of the development easement at a value of \$5,300 per acre for a total of approximately \$673,100, subject to the conditions contained in Schedule B.

Discussion: The property includes one approximately 4-acre nonseverable exception area containing a duplex residential unit and barns resulting in approximately 127 net acres to be preserved. The portion of the property to be preserved outside of the exception area includes one single-family residential unit, zero agricultural labor units and no pre-existing nonagricultural uses.

The motion was unanimously approved. (A copy of Resolution FY2016R7(3) is attached to and is a part of these minutes.)



Ms. Roberts referred the Committee to Resolution FY2016R8(7) for a request for final approval under the State Acquisition Program. Ms. Roberts reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Siegel and seconded by Ms. Brodhecker to approve Resolution FY2016R8(7) granting final approval to the following application under the State Acquisition Program, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. Patti L. Davis and Robina M. Coleman, SADC # 17-0281-DE  
Block 53, Lots 27, 33; Block 47, Lot 18  
Mannington Township, Salem County, 169 Gross Acres  
Approximately 142.2 net acres for payment purposes  
Acquisition of the development easement at a value of \$4,525 per acre for a total of approximately \$643,455, subject to the conditions contained in Schedule B.  
The property has one single-family residential unit, zero agricultural labor units and no pre-existing nonagricultural uses. **The SADC conditions this approval on an agricultural access easement being obtained and recorded, to allow crossing over the railroad lot now owned by Salem County, between Lots 27 and 33, prior to closing.** This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

Discussion: At the time of application it was determined that there were significant areas of riparian, tidelands and boundary water; therefore, the appraisals were based on an estimated net acres of 142.2. The certification of value was conditioned upon an agricultural access easement being obtained and recorded, to allow crossing over the railroad lot now owned by Salem County, between Lots 27 and 33, prior to final approval. This agricultural access easement is still in the process of being obtained and is therefore a condition of final approval to be finalized prior to closing. SADC staff has been working with the Open Space Institute (OSI), which administers a New Jersey Delaware Bayshore grant that was given to it by the William Penn Foundation. Staff has been trying to develop the mechanics to be able to use that type of funding on a property that falls within OSI's and William Penn's targeted areas. The crosshatch on the mapping shown to the Committee shows the target area covers the entire Town of Mannington. The focus of the grant is to protect water quality and quantity so it is looking for environmentally sensitive areas on farms. This seems like a perfect fit. We are just not there as yet. William Penn really wants to support land trusts so they want the land trust to have a significant part of the transaction – that would be for the land that is on the

other side of the railroad. This is something where the SADC and staff are very interested in working out the mechanics because with limited funding down the road this would be a way for the State to leverage its funding on direct easements. It is also being looked at to work with the Nonprofit Program. We give only 50 percent grants to the nonprofits and they are having a hard time coming up with the other 50 percent.

Ms. Payne stated that staff would like to proceed on this application and if things get worked out on the OSI/William Penn grant, staff will come back to the Committee with the details on how that partnership might work.

The motion was unanimously approved. (A copy of Resolution FY2016R8(7) is attached to and is a part of these minutes.)

#### **F. Resolutions for Final Approval – Nonprofit Grant Program**

Mr. Knox referred the Committee to three requests for final approval under the Nonprofit Grant Program. Mr. Knox reviewed the specifics for each application with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Mr. Siegel and seconded by Mr. Johnson to approve Resolution FY2016R8(8) granting final approval to the following application under the Nonprofit Grant Program, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. Monmouth Conservation Foundation/Conover Farm, SADC # 13-0014-NP Block 772, Lot 2, Wall Township, Monmouth County, 14.1 Gross Acres  
Cost share grant not to exceed \$9,500 per acre or \$107,500 available to the Monmouth Conservation Foundation for the development easement acquisition on the Conover Farm, subject to the availability of funds. The property includes one approximately .75-acre nonseverable exception, limited to zero residential units. The property to be preserved outside of the exception area includes zero single-family residential units, zero agricultural labor units and no pre-existing nonagricultural uses.

Discussion: In February 2014 the SADC approved an amended preliminary approval that removed the request for a housing opportunity in the nonseverable exception and reduced its size from approximately one acre to approximately .75 acres and moved the location (Schedule B). Because the Monmouth Conservation Foundation is limited to \$107,500 of



FY 2013 SADC funding available, the estimated SADC cost share will be approximately 42.38 percent, not 50 percent.

The motion was unanimously approved. (A copy of Resolution FY2016R8(8) is attached to and is a part of these minutes.)

**Ms. Brodhecker recused herself from any discussion/action pertaining to The Land Conservancy of New Jersey/Syberg Farm in Sussex County, to avoid the appearance of a conflict of interest. Ms. Brodhecker is the Chairperson of the Sussex County Agriculture Development Board.**

It was moved by Mr. Waltman and seconded by Mr. Requa to approve Resolution FY2016R8(9) granting final approval to the following application under the Nonprofit Grant Program, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. The Land Conservancy of New Jersey/Syberg Farm, SADC # 19-0021-NP Block 3805, Lot 4.01, Stillwater Township, Sussex County, 113 Gross Acres Cost share grant not to exceed \$2,575 per acre (total of \$285,825 based on 111 acres) to The Land Conservancy of New Jersey for the development easement acquisition on the Syberg farm, subject to the availability of funds. The SADC approves the assignment of the Deed of Easement from The Land Conservancy of New Jersey to Sussex County conditioned upon the SADC's review and approval of all documentation to accomplish the assignment, including but not limited to review of survey, title and assignment documents, prior to the conveyance. The property includes one approximately 1.6-acre nonseverable exception limited to one future single-family residential unit. The property to be preserved outside of the nonseverable exception area includes zero single-family residential units, zero agricultural labor units and no pre-existing non-agricultural uses.

Discussion: The landowner will be contributing a little bit, approximately \$150 per acre. The SADC certified \$5,150 per acre and the landowner has accepted \$5,150 per acre and will donate \$150 per acre that will go toward the nonprofit's 50 percent share.

The motion was approved. (Ms. Brodhecker recused herself from the vote.) (A copy of Resolution FY2016R8(9) is attached to and is a part of these minutes.)

It was moved by Mr. Siegel and seconded by Mr. Johnson to approve Resolution FY2016R8(10) granting final approval to the following application under the Nonprofit Grant Program, as presented and discussed, subject to any conditions of said resolution. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey:

1. New Jersey Conservation Foundation/Doak Farm, SADC # 17-0048-NP  
Block 12, Lot 13, Mannington Township  
Block 12, Lots 3, 4, Alloway Township,  
Salem County, 71 Gross Acres  
Cost share grant not to exceed \$2,887.50 per acre (total of approximately \$199,237.50 based on 69 Acres) to the New Jersey Conservation Foundation for the development easement acquisition on the Doak Farm subject to the availability of funds. **This final approval is conditioned upon securing Federal Farm and Ranch Lands Protection Program funding in an amount sufficient to cover the New Jersey Conservation Foundation's 50 percent cost share.**  
The SADC approves the use of New Jersey Conservation Foundation Federal Farm and Ranch Lands Protection Program funds for the preservation of this farm, which will include an impervious coverage limitation of 7% and other restrictions required under the federal program. The property includes one approximately 2-acre nonseverable exception limited to one future single-family residential unit. The property to be preserved outside of the nonseverable exception includes zero single-family residential units, zero agricultural labor units and no pre-existing nonagricultural uses.

Discussion: A parcel application was submitted by the New Jersey Conservation Foundation to the USDA, NRCS Federal Farm and Ranch Lands Protection Program. The NRCS has determined that the property and landowner qualify for federal funding. At this time the FRPP-approved current easement value has not been finalized. Therefore, for the purpose of this resolution, the federal grant will be estimated using the SADC current easement value of \$5,775 per acre equating to an estimated federal grant of \$2,887.50 per acre (50% of \$5,775) or approximately \$202,125 based on 70 acres. The landowner has agreed to the additional restrictions associated with the federal grant, including a 7% maximum impervious coverage restriction (approximately 4.8 acres) on the lands being preserved outside of the exception area for the construction of agricultural infrastructure on the property, which is the maximum impervious coverage allowable for the property through the federal program at this time.

The motion was unanimously approved. (A copy of Resolution FY2016R7(3) is attached



to and is a part of these minutes.)

**F. Stewardship**

1. Request for Agricultural Labor Housing  
Down to Earth Farms, Upper Freehold Township, Monmouth County

Mr. Roohr referred the Committee to Resolution FY2016R8(11) for a request by Down to Earth Farms, owner of Block 50, Lot 9.01, in Upper Freehold Township, Monmouth County, to construct a pre-fabricated home on the farm that would consist of a duplex-style living unit with two bedrooms in each half for a total of four bedrooms. The new structure would be approximately 2,240 square feet in size, in the location as shown in Schedule A. The owner operates a wholesale nursery on a 60-acre farm in Jackson Township and has two additional nursery stock farms in Galloway Township that are used to supply his Jackson location, and a farm in East Amwell Township that is currently in hay production. The owner has approximately 70 acres planted in various nursery stock and 35 acres of hay on these other farm management unit properties. The owner intends to prepare the premises and replant a majority of the tillable acres of the property back into nursery stock to further increase its production of plant material.

Mr. Roohr stated that one of the two partners in Down to Earth Landscaping owns an additional 22-acre farm in Manalapan where he raises beef cattle and proposes to use the less desirable cropland and some overgrown areas on the premises as pasture for additional beef cattle. The farm workers will be full time employees of the farm directly involved with the day-to-day production activities of prepping the fields, planting, crop maintenance, irrigation, cultivation and harvest of nursery stock as well as care and maintenance of the beef cattle and associated pasture areas. The owner currently uses off-site labor housing for his other properties and has found that not having someone on-site on a daily basis often leads to crop problems. The owner finds that having employees on-site will be necessary to properly manage the livestock that will be on-site as well as field preparation, fence and irrigation installation, and planting and maintenance of the nursery stock. Staff recommendation is to approve the request.

Mr. Roohr stated that on Page 3 of the resolution it says seasonal labor but there will also likely be one or two people who will stay on year-round to do general things around the property and manage the cattle. Also, seasonal for this landowner will be approximately 10 months. He requested that the wording reflect seasonal and year-round agricultural laborers in the 2<sup>nd</sup> Be It Further Resolved section.

It was moved by Mr. Siegel and seconded by Mr. Johnson to approve Resolution

FY2016R8(11) with the above-noted amendment to the “seasonal and year-round” language requested by SADC staff, approving the request to construct a new duplex-style, four-bedroom modular home on the Premises as a year-round agricultural labor unit, consisting of approximately 2,240 square feet each in size, as depicted on Schedule A, subject to municipal, State and federal requirements. Only agricultural labor employed on the Premises, in production aspects of the operation, and their immediate family, may live in the agricultural labor units. The seasonal and year-round agricultural laborers shall be engaged in the day-to-day production activities on the Premises, which at this time include field preparation, planting, crop maintenance, irrigation, cultivation and harvest of nursery stock and will include care and maintenance of beef cattle and associated pastures once the animals are brought onto the Premises. This approval is valid for a period of three years from the date of approval. This approval is not transferrable. The owner’s use of any structures for housing seasonal agricultural laborers shall be in compliance with all applicable federal, State, county and local regulations. This approval is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey. The motion was unanimously approved. (A copy of Resolution FY2016R8(11) is attached to and is part of these minutes.)

#### **PUBLIC COMMENT**

None

#### **TIME AND PLACE OF NEXT MEETING**

SADC Regular Meeting: Thursday, September 24, 2015, beginning at 9 a.m. Location: Health/Agriculture Building, First Floor Auditorium.

#### **CLOSED SESSION**

At 11:35 a.m., Ms. Brodhecker moved the following resolution to go into Closed Session. The motion was seconded by Mr. Siegel and unanimously approved.

“Be it resolved, in order to protect the public interest in matters involving minutes, real estate, and attorney-client matters, pursuant to N.J.S.A. 10:4-12, the N.J. State Agriculture Development Committee declares the next one-half hour to be private to discuss these matters. The minutes will be available one year from the date of this meeting.”



## **ACTION AS A RESULT OF CLOSED SESSION**

### **A. Real Estate Matters - Certification of Values**

#### **County Planning Incentive Grant Program**

It was moved by Mr. Siegel and seconded by Mr. Waltman to approve the Certification of Values as discussed in Closed Session for the following applicants:

1. Mellisa Beck-Callahan/Heatherwood Farms, SADC # 12-0023-PG  
Block 30, Lot 8.07  
Monroe Township, Middlesex County, 17 Net Acres (AOC)
2. Maria Young Farm # 2, SADC # 14-0120-PG  
Block 33, Lot 113.01, Chester Township, Morris County, 10 Acres

#### **Municipal Planning Incentive Grant Program**

1. Oscar Braun, Jr. and Karen B. Braun, SADC # 10-0361-PG  
Block 15, Lot 2 and 22.02, Holland Township, Hunterdon County, 127 Acres (AOC)
2. Philip and Dawn Jasper, (Holly View Farm), SADC # 17-0136-PG  
Block 4, Lots 8 and 50, Upper Pittsgrove Township, Salem County, 93.3 Acres (per application letter)

The motion was unanimously approved. (Copies of the Certification of Value Reports are attached to and are a part of the Closed Session minutes.)

### **B. Attorney/Client Matters**

None

## **PUBLIC COMMENT**

None

**ADJOURNMENT**

There being no further business, it was moved by Mr. Siegel and seconded by Ms. Brodhecker and unanimously approved to adjourn the meeting at 12:00 p.m.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Susan E. Payne".

Susan E. Payne, Executive Director  
State Agriculture Development Committee

Attachments



STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2016R8(1)

PILOT PROGRAM FOR SPECIAL OCCASION EVENTS ON PRESERVED FARMLAND  
AMENDMENT THERETO AND DELEGATION OF REVIEW AUTHORITY FOR EVENTS  
CONDUCTED ON CERTAIN DAYS TO CADBS

WHEREAS, P.L. 2014, c. 16 (N.J.S.A. 4:1C-32.7 et seq.) ("the Act"), effective July 2, 2014, directs the State Agriculture Development Committee (SADC) to establish a 44-month pilot program permitting special occasion events to be conducted on preserved farmland at wineries under certain conditions (the "Pilot Program"); and

WHEREAS, on October 3, 2014, the SADC approved the creation of the Pilot Program, including a description of the various responsibilities of the SADC, county agriculture development boards (CADBs), municipalities and winery owners under the Act; and

WHEREAS, on March 26, 2015, the SADC adopted RESOLUTION FY2015R3(6), which reaffirmed the SADC's establishment of the Pilot Program covering the period from the effective date of the Act, July 2, 2014, to March 1, 2018; and

WHEREAS, the SADC seeks to further ensure the proper functioning of the Pilot Program, including the role of the CADBs, the delegation of certain SADC review authority, and the compliance of affected wineries with the provisions of the Act;

NOW THEREFORE BE IT RESOLVED, the SADC establishes the following procedures for wineries subject to the Pilot Program:

1. A winery that is subject to the Pilot Program shall, at least annually, submit a Registration for Conducting Special Occasion Events on Preserved Farmland to the State Agriculture Development Committee (SADC) and file a copy with the CADB, in a form substantially the same as the one attached hereto as Exhibit A, containing the following:
  - a. A description of the winery, including the types, frequency and dates (if dates are known) of special occasion events held at the winery;
  - b. A property survey or site plan depicting the preserved areas and the areas to be used for special occasion events;
  - c. A certification by the winery's chief executive officer, or other properly designated officer with the power to bind the winery,
    - i. certifying the winery owner/operator understands and will comply with the Pilot Program's requirements set forth in the Act, specifically, N.J.S.A. 4:1C-32.8a.(1) through (11);
    - ii. acknowledging it is subject to an audit consistent with N.J.S.A. 4:1C-32.9a.(1) and (2), and
    - iii. is subject to civil penalties pursuant to N.J.S.A. 4:1C-32.10 for failure to comply with any requirement of the Act.

2. CADBs have the authority to define a "special occasion event" pursuant to N.J.S.A. 4:1C-32.7. In accordance with N.J.S.A. 4:1C-37.8a.(3), the SADC is authorized to, and hereby delegates to the respective CADBs, its authority to approve special occasion events conducted on days other than Friday, Saturday, Sunday, or federal or State holidays by wineries located within the CADBs' respective jurisdictions, subject to the conditions set forth in paragraphs 3 through 5 of this Resolution. The SADC reserves the right to revoke this delegation.
3. A winery subject to the Pilot Program that wishes to conduct a special occasion event, including recurring events, pursuant to the Pilot Program on days other than Friday, Saturday, Sunday, or federal or State holidays shall submit an application to the CADB, in a form substantially the same as the one attached hereto as Exhibit B, containing, at a minimum:
  - a. A detailed description of the special occasion event it proposes to conduct, including but not limited to, the following:
    - i. the nature of the event to be held;
    - ii. the anticipated number of attendees;
    - iii. the anticipated number of cars or other vehicles that will be present and how parking will be accommodated;
    - iv. a description of any outdoor amplified music or other outdoor amplified sound expected to be utilized during the event including, but not limited to, music, performances, contests, announcements, or other communications whether live or recorded; and
    - v. a copy of the tax map and description of the types of land use surrounding the winery property including adjacent residential buildings, commercial establishments and places of worship and the distance from the proposed special occasion event to those surrounding land uses;
  - b. The specific day or days on which the winery proposes to conduct the event, and the time period during which the event will be held; and
  - c. Proof that the winery has filed with the SADC and CADB the Registration for Conducting Special Occasion Events on Preserved Farmland, including the required certification, in accordance with paragraph 1 of this Resolution.
4. The CADB shall review and approve the application submitted pursuant to paragraph 3 of this Resolution if it meets the following requirements:
  - a. The application contains the information required by paragraph 3 of this Resolution;
  - b. The event proposed to be conducted complies with the CADB's definition of "special occasion event," adopted pursuant to N.J.S.A. 4:1C-32.7;
  - c. The CADB finds that the event will not likely disturb the quiet enjoyment of adjoining properties during evening and night time hours; and



- d. The CADB finds that the event likely will not result in significant traffic impacts on surrounding public roadways including during typical peak traffic periods or interfere with school bus route schedules.
5. If a CADB approves an application, it shall notify the applicant of the approval, and file a copy of the approval with the Executive Director of the SADC and the Mayor/Administrator of the municipality in which the event will occur. The approval shall be effective for not more than one year and may, upon application, be renewed annually thereafter by the CADB, provided the conditions set forth in paragraph 4 of this Resolution have been satisfied.

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 this approval is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4F.

8/27/15

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     |
| James Requa (rep. DCA Acting Commissioner Richman) | YES     |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | ABSTAIN |
| Brian Schilling (rep. Executive Dean Goodman)      | YES     |
| Jane R. Brodhecker                                 | YES     |
| Alan A. Danser, Vice Chair                         | ABSENT  |
| James Waltman                                      | YES     |
| Peter Johnson                                      | YES     |
| Denis C. Germano                                   | ABSENT  |

## EXHIBIT A

### REGISTRATION FOR CONDUCTING SPECIAL OCCASION EVENTS ON PRESERVED FARMLAND

Name of Winery: \_\_\_\_\_

Address of Winery: \_\_\_\_\_

Tax Block/Lot of Winery: \_\_\_\_\_

Municipality, County \_\_\_\_\_

CEO/Principal Officer: \_\_\_\_\_

Telephone: \_\_\_\_\_

- A. Please provide a general description of the winery, including years of operation, number of acres of grapes grown on the winery operation, and how wine is marketed for sale. Feel free to include any information you want to share.

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- B. Please provide a property survey or site plan depicting the preserved areas and the areas to be used for special occasion events (please check one):

\_\_\_\_\_ Farmland Preservation Program survey

\_\_\_\_\_ Winery site plan

\_\_\_\_\_ Other (please specify): \_\_\_\_\_

- C. Please list and describe all special occasion events covered by this registration, including frequency and dates (if dates are known). ***Please note that for events to be held on days OTHER THAN Friday, Saturday, Sunday, or federal or State holidays, an application***



*must be submitted to the County Agriculture Development Board (CADB) for review and approval.*

| EVENT NAME AND DESCRIPTION                                                                                                                          | FREQUENCY     | DATES                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------|
| (Example)<br><br>Wedding receptions – either cocktail-type or sit down dinners. Outside caterer supplies food. Located in the main winery building. | 2 X per month | Usually 1 <sup>st</sup> and 3 <sup>rd</sup> week of the month |
|                                                                                                                                                     |               |                                                               |
|                                                                                                                                                     |               |                                                               |
|                                                                                                                                                     |               |                                                               |

### **CERTIFICATION OF COMPLIANCE**

Please answer the following questions:

|     |                                                                                                                                                                                                                                                                                                                                                                            | YES | NO |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| (1) | Will the gross income generated by the winery from all special occasion events conducted for the calendar year together account for less than 50 percent of the annual gross income of the winery?                                                                                                                                                                         |     |    |
| (2) | Will the special occasion events hosted use the agricultural output of the winery, to the maximum extent practicable, promote agricultural tourism and advance the agricultural or horticultural output of the winery?                                                                                                                                                     |     |    |
| (3) | Does the winery request to conduct events outside of Friday, Saturday, Sunday, or federal or State holidays?                                                                                                                                                                                                                                                               |     |    |
| (4) | Will the special occasion events being proposed be conducted in one of the following: (a) a temporary structure, such as an enclosed or open canopy or tent or other portable structure or facility, and any temporary structure would be put in place for only the minimum amount of time reasonably necessary to accommodate the special occasion event; (b) an existing |     |    |

|      |                                                                                                                                                                                                                                                        |  |  |
|------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|      | permanent agricultural building; (c) a farm or open air pavilion; or (d) another structure used in the normal course of winery operations and activities?                                                                                              |  |  |
| (5)  | Will the special occasion events being hosted comply with applicable municipal ordinances, resolutions, or regulations concerning litter, solid waste, and traffic and the protection of public health and safety?                                     |  |  |
| (6)  | Will the winery operate in compliance with site plan review and any applicable development approvals, as may be required by the municipality?                                                                                                          |  |  |
| (7)  | Will the special occasion event comply with noise standards, as set forth in the Noise Control Act, N.J.S.A. 13:1G-1 et. seq.?                                                                                                                         |  |  |
| (8)  | Will the special occasion event comply with any applicable municipal ordinance that restricts the performing or playing of music inside the winery's buildings and structures?                                                                         |  |  |
| (9)  | Will the special occasion event end at a time compliant with any applicable curfew established by municipal ordinance?                                                                                                                                 |  |  |
| (10) | Will the special occasion event not knowingly result in a significant and direct negative impact to any property adjacent to the winery?                                                                                                               |  |  |
| (11) | Will the winery enforce State and federal requirements concerning the legal drinking age?                                                                                                                                                              |  |  |
| (12) | Does the winery certify that, by entering the Pilot Program, it consents to an audit at its own expense to determine compliance with the Pilot Program law?                                                                                            |  |  |
| (13) | Does the winery certify that it is subject to civil penalties of up to \$3,000 if it conducts special occasion events on its preserved farmland in a manner inconsistent with the Pilot Program law, including the requirements outlined on this form? |  |  |

**CERTIFICATION:**

I hereby certify that the above responses are accurate, and that if approved, the winery will conduct the listed special occasion events in accordance with the provisions of P.L. 2014, c. 16.

\_\_\_\_\_  
CEO/Principal Officer

DATE: \_\_\_\_\_



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SADC meeting.docx

EXHIBIT B

**APPLICATION TO CONDUCT SPECIAL OCCASION EVENT ON PRESERVED FARMLAND  
(On other than Friday-Sunday or State/Federal Holidays)**

Pursuant to P.L. 2014, c. 16, a special occasion event may be conducted at a winery on preserved farmland on days other than Friday-Sunday or a State or Federal holiday only with the prior approval of the State Agriculture Development Committee (SADC), or the County Agriculture Development Board (CADB) if the SADC delegates its approval authority to that Board. The SADC has delegated its approval authority for special occasion events on these days to the CADBs subject to certain conditions.

Please complete this application and submit it to your CADB with the documentation required below.

Name of Winery:

\_\_\_\_\_

Address of Winery:

\_\_\_\_\_

\_\_\_\_\_

Tax Block/Lot of Winery:

\_\_\_\_\_

Municipality, County

\_\_\_\_\_

CEO/Principal Officer:

Print Name

\_\_\_\_\_

Signature

\_\_\_\_\_

Telephone:

\_\_\_\_\_

Date of Application:

\_\_\_\_\_

The attached **Event Description form** must be completed for each event for which approval is sought. If the event is of a recurring nature, one form may be submitted provided that it adequately addresses the information requested. Approvals are effective for up to a year before a new application is required.

All applications must include proof that the winery has filed with the SADC and CADB a **Registration for Conducting Special Occasion Events on Preserved Farmland, including the required Certification of Compliance with P.L. 2014, c. 16**. Please provide such proof as an attachment to this application.

**Please provide a copy of the tax map for the preserved farm and indicate on it the surrounding land use(s) – e.g., adjacent residential buildings, commercial establishments and places of worship – and the distance(s) from the proposed special occasion event to the surrounding land use(s).**



APPLICATION TO CONDUCT SPECIAL OCCASION EVENT – EVENT DESCRIPTION FORM

EVENT \_\_\_\_\_

DATE(S) & TIME PERIOD(S) DURING WHICH THE EVENT WILL BE HELD E.g., 5/22/2015, 2 to 4 p.m.

DETAILED EVENT DESCRIPTION Include where it will be held – e.g., winery building, tent, other structure, patio – nature of activities, whether there will be caterers or other vendors and what they will supply, how wine will be marketed.

ANTICIPATED NUMBER OF ATTENDEES PER EVENT \_\_\_\_\_

ANTICIPATED NUMBER OF CARS/VEHICLES PER EVENT \_\_\_\_\_

DESCRIBE HOW PARKING WILL BE ACCOMMODATED For existing parking areas that will be used for the event, specify location, capacity and type of area (e.g., paved or gravel parking lot). For any area(s) to be used for overflow parking for the event, specify location, capacity and use the rest of the year (e.g. gravel farm yard, farm lanes, hayfield).

DESCRIBE ANY OUTDOOR AMPLIFIED MUSIC/SOUND E.g., music, performances, contests, announcements, or other communications whether live or recorded. Describe amplification equipment to be used.

*Please attach additional pages if you wish to provide additional information or more space is required.*

s:\legislation\wineries and weddings\application to cadb to conduct soes august 24 2015.docx

# **Proposed Noise Standard for Wind Turbine Generators on Farms**

**Prepared for:**

**State Agriculture Development Committee  
New Jersey Department of Agriculture**

**Prepared by:**

**Eric Zwerling, Director  
Rutgers University Noise Technical Assistance Center**

**June 2015**



## **1.0 Objective**

The State Agriculture Development Committee (SADC) desires to establish siting guidelines for wind turbine generators (WTG) on farmland, in order to protect neighboring residential properties from intrusive levels of noise. While some WTG regulatory schemes require the completion and submission of a site- and equipment-specific acoustical analysis, followed by post-installation monitoring, the SADC requested a simplified process in the form of a design goal, not a regulatory standard. This study has developed a screening tool model for turbine setback distances, in the form of look-up tables, so as to greatly simplify the process for applicants and the reviewing agency.

An extensive review of the literature has been conducted in the following areas: human health impacts from WTG noise; WTG sound emissions; regulatory schemes; and, propagation of WTG noise, amongst others. A health-based permissible sound level limit (design standard) has been established. Acoustical models have been constructed from which to derive the look-up tables. As in any scoping model, numerous assumptions had to be made regarding inputs and propagation parameters. These assumptions, and the variability in emissions data from WTG manufacturers, necessarily introduce uncertainty as a predictive model for any specific installation. For that reason, modeling assumptions and the design standard have been reasonably conservative. This screening tool represents the best efforts to find a solution to all the issues raised in the literature analysis, within the parameters set out by the SADC.

### **1.1 Overview**

The sound from WTG farms can propagate as far as several miles under favorable atmospheric and ground conditions. When it reaches a sensitive receptor, it may be perceived as noise, dependent on several factors, one of which is the sound level. Residents have expressed annoyance at a distance of 1900 m (van den Berg 2004). Where turbines are audible, some percentage of the population will be annoyed; within closer

proximity to large turbines a non-trivial percentage will be highly annoyed (Pedersen 2004, Pedersen 2009).

In the matter of determining an appropriate regulatory framework for wind turbine noise as received at potentially sensitive receptors, there are fundamentally competing interests: the development of a “green” energy source, with its attendant economic activity; and, the protection of human health and the right of homeowners to the peaceable enjoyment of their private property. The more restrictive the regulatory guideline, the more protective it will be; while increasing the required setback will reduce the number of approvable sites. The acceptable level is thus a policy decision.

### **1.1 Terminology**

**Annualized average wind speed** - is the overall average of the wind speed, as measured at the stated elevation, for a one year period.

**AWEA** - (American Wind Energy Association) is a national trade association representing the wind power industry and wind energy advocates. AWEA is involved in legislative and educational efforts, the development of policy, and a range of publications.

**Blade sweep** - is the area swept by the blades of a turbine, calculated by using the formula for the area of a circle:  $\pi \times \text{radius}^2$ . The amount of energy potentially captured by a turbine has a linear relationship to swept area; double the sweep and you double the potential energy.

**dB - (decibel)** - in the field of acoustics, it is a unit of measurement and reporting of sound intensity, of the ratio between two intensities equal to 10 times the logarithm (to the base 10) of this ratio. In acoustics, the reference sound pressure level is .0002 microbar, or 20 micropascals, which approximates the average threshold of human hearing. The decibel scale is logarithmic, and an increase of 3 dB represents a doubling

of sound intensity (two sound sources of the same intensity), with a 10 dB increase representing an order of magnitude increase in intensity. An increase of 10 dB represents a doubling of perceived loudness (as opposed to intensity), but at low frequencies (such as 50 Hz), an increase of 6 dB represents a doubling of perceived loudness.

**dB(A) - (A-weighted decibel)** - is an expression of the relative loudness of a sound of low to moderate intensity as perceived by the human ear. The relative response of the A-weighting system decreases at frequencies below 1000 Hz, discriminating against lower frequencies in a manner approximating the sensitivity of human hearing.

**dB(C) - (C-weighted decibel)** - is a frequency-weighting characteristic representing the sensitivity of human hearing to sounds of high intensity. At high intensities, human hearing is more sensitive to low frequencies than at low intensities. The C-scale is relatively flat when compared to the A-scale, as there is very little reduction in response to low frequencies.

**dB(G) - (G-weighted decibel)** - is a frequency-weighting characteristic for infrasound (low frequency) measurements of sound whose spectrum lies partly or wholly within the frequency band from 1 Hz to 20 Hz, which is below the conventional audio frequency limits of 20 Hz to 20,000 Hz.

**dB(Lin)** - is an unweighted (linear) measurement of sound pressure levels. Older generation sound levels meters would employ the "Linear" or "Flat" frequency weighting. Current generation sound level meters employ the Z-scale (zero frequency weighting), which standardizes the low- and high-frequency cut offs between meter manufacturers.

**IEC (International Electrotechnical Commission)** - the international standards and conformity assessment body for all fields of electrotechnology, publishing consensus-based International Standards.



**ISO ( International Organization for Standardization)** - developer of voluntary International Standards covering almost all aspects of technology and business.

**Hz (Hertz)** - a measure of the frequency of sound, in cycles per second. The range of human hearing is approximately 20 Hz - 20,000 Hz.

**Octave Band** - is a frequency interval between two sounds whose frequency ratio is 2. For the purposes of acoustical measurements, the preferred band-center frequencies are standardized. Octave band measurements are conducted to determine the frequency distribution of a sound.

**Tonality** - is a characteristic of a sound emission with elevated levels at discrete frequencies, and as such is perceptible as a tone which may be described as a whine, buzz or hum. In turbines, such emissions are usually mechanical and related to meshing gears, although unstable air flow across blade surfaces or tower components may also be a source.

## **2.0 Human Health Impact and Design Goal**

A primary consideration in the development of policy is the setting of a permissible sound level limit, the basis of which should be the protection of human health with an adequate margin of safety, as derived from the best available research. In the case of wind turbines, however, this assessment is an emerging field, especially with relation to the impact of low frequencies (20-200Hz) and infrasound (1-20Hz) (Salt 2010), which are the subject of concern. Regardless, while medical consensus has not yet been reached (and may not be for decades), regulatory certainty must be established, to allow the development of these facilities, within guidelines.

There are essentially three source categories for information regarding the health effects of WTG noise: peer-reviewed scientific literature; non-reviewed studies; and, popular literature including the internet. The range of opinions is great (e.g., Phillips 2011) as is

apparent data quality. Ideally, regulatory guidelines limiting human exposure to a pollutant (in this case noise) should be based upon peer reviewed epidemiological analyses which demonstrate a dose-response relationship between exposure and impact, illuminating a threshold of acceptable exposure. It is understood that while this threshold may be acceptable for a population as a whole, there are individuals who may be more sensitive to the pollutant than the whole population; however, environmental regulation is necessarily a balancing act.

Peer reviewed studies have demonstrated sleep disruption for people exposed to wind turbine noise at levels above 37.5 dB(A) (outdoors, at the residence) (Pedersen 2002 and 2004). Peer-reviewed literature have not yet demonstrated physiological health impacts from human exposure to wind turbine noise (Ellenbogen 2012): "(w)hilst it is biologically and physically plausible that low frequency noise generated by wind turbines could effect people, there is insufficient evidence on which to base conclusions," (Farboud, 2013). All sources of information agree that wind turbine noise can cause annoyance, which in and of itself can induce stress in some people (Pedersen, 2003). It has been demonstrated that WTG noise is more annoying than either industrial or transportation at the same levels (van den Berg 2008, Janssen 2011). Annoyance can also result in sleep disturbance, which has been shown in other studies to have both physiological and psychological impacts (Suter 1991). Annoyance, as well, can deprive a person of the peaceable enjoyment of their property. Thus, the most appropriate standard for wind turbine regulation is one based upon the avoidance of annoyance.

Annoyance is, of course, a subjective self-evaluation, and in the case of wind turbines, it is influenced by a number of factors, including: the intensity and character of the sound; visual cues (i.e., can a person see the turbine from their property); and, economic interest. Peer reviewed studies have shown that the later two factors are most influential in determining a person's self-reported level of annoyance (Pedersen 2009, Janssen 2011). That said, there is a statistically significant correlation between WTG noise exposure intensity and annoyance (Pedersen 2003). A series of studies (Pedersen 2004, 2007 and 2008) "suggested that the proportion of participants who were fairly or very annoyed

remained quite level through the 29-37 dB(A) range (no more than roughly 5%), but increased at levels above 37 dB(A), with peaks at 38 dB(A) and 41 dB(A), where up to 30% of people were very annoyed," (Knopper, 2011). A synopsis of German and Danish guidelines suggests a limit of 37 dB(A) for "residential areas, 6 m/s wind (measured at 10 M above ground, outside of residence or location of concern), (Ellenbogen, 2012)." The annualized average wind speed for virtually all of on-shore New Jersey is less than 5.1 m/s (at 10 m above ground), (U.S. DOE 2003)

The regulatory goal of this guideline is 37 dB(A) at a residential receptor, and that is the basis of the setback distances in Tables 1 and 2. Current regulatory limits for wind turbines across the world range from 30 dB(A) - 55 dB(A), outdoors, at a sensitive receptor (Gamba 2011, Hessler 2010, Pedersen 2003).

### **3.0 Metric of Sound Level Reporting**

There are numerous sound level measurement metrics employed or proposed around the world in wind turbine guidelines, regulations and impact studies (e.g.: dB(A); dB(C); dB(G); dB(Lin);  $L_{pA,LF}$ ; octave bands; etc.) (Bolin 2011, Moller 2011, Howe 2006). Extensive analyses evaluate the merits and weaknesses of each metric, with a major focus on low-frequency and infrasound emissions of wind turbines, which are a major concern, as are the impulsivity and periodicity of the turbine emissions. Additional research is needed and is ongoing (Salt 2011, Faroud 2013). Some of these metrics are undoubtedly better than dB(A) at describing wind turbine noise, as the A-scale discriminates against low frequencies. However, the vast majority of impact literature is dB(A) denominated, including studies of wind turbine annoyance (Salt 2010). There are apparently no dose-response studies yet in which the exposure is reported in any metric that represents low frequency. In order to be useful for the purposes of informing the regulatory process, these studies must be conducted, and on a statistically significant population.

The permissible limit within these guidelines are established in the A-scale; they do not specifically address low frequency noise. That said, the WTGs in the epidemiological



studies in which exposure was reported on the A-scale, were emitting low frequencies. Thus, there is presumably a correlation between the A-scale exposure levels, low frequency exposure levels and impacts. At this point in time the majority of wind turbine regulations and guidelines across the world are dB(A) denominated (e.g., Gamba, 2011, Artom 2011).

Further, no pre-construction screening tool such as this could incorporate specific limits on low frequency noise, as the requisite data is simply not available from manufacturers. If acoustical data is available, it infrequently includes frequency analysis, and infrasound data is nonexistent for individual WTG units, as far as we can determine.

#### **4.0 Wind Turbine Sound Emissions**

Wind turbine generators (WTG) emit sound primarily from mechanical components and airflow around the blades. The mechanical and electrical equipment within the nacelle which emit sound include: gearbox; generator; yaw drives; cooling fans; and auxiliary equipment such as hydraulics. Much of the mechanical sound is generated by rotation of the components, and thus tends to be tonal (Rogers, 2006). Turbine emissions containing tones are known to be more annoying than emissions without tones (Pedersen, 2003). Analysis and reporting of tonality is required in the International Standards IEC 61400-11 and IEC 61400-14. Many regulatory and rating agencies apply a penalty for tonal noise (e.g., BWEA, 2008, and EPA SA, 2009).

Aerodynamic sound is generated by a turbulent air layer on the downwind trailing edge of a turbine blade, which is a long surface rotating at high speed. These sound emissions tend to be broadband and are generally the largest component of sound emissions from a modern turbine (van den Berg, 2005), especially if the nacelle is well insulated.

## 5.0 Wind Turbine Generator Sound Data

There is no direct relationship between turbine characteristics (such as power output or blade sweep) and sound emission levels. "(T)he differences between small and large turbines are much smaller than the differences between the individual wind turbines in each electrical class with regard to total noise emission and low frequency noise emission," (Madsen 2011). However, low frequency emissions increase with turbine size as the frequency spectrum shifts downward (Madsen 2011, Moller 2011).

Thus, characteristics such as power output or blade sweep area are not a reliable indicator of sound emissions levels. Such data must be derived from testing of the specific WTG model, and in fact, in the configuration in which it will be used (e.g., blade set, trailing edge modifications).

The look-up tables herein represent the output of acoustical models. The output of an acoustical model is only as accurate as the inputs and assumptions used in constructing the model. The primary input in these acoustical models is the sound emission level of the source. Utilization of the setback tables within this standard requires WTG-specific data. Many WTG manufacturers can provide such data, however, many can not; and of those that can, some utilize varying or unspecified methods by which to collect the data, with inconsistent reporting of the data collected.

International and national standards for the measurement and reporting of such data have been developed including:

- IEC 61400-11 *Wind turbine generator systems - Part 11: Acoustic noise measurement techniques*
- IEC TS 61400-14 *Wind Turbines - Part 14: Declaration of apparent sound power level and tonality values*
- AWEA 9.1-2009 *Small Wind Turbine Performance and Safety Standard*).

- British Wind Energy Association *Small Wind Turbine Performance and Safety Standard*

Data collected and reported pursuant to these standards is presumed to be accurate, within the stated uncertainty known for each method, and may be reliable for a screening-level standard.

In general, large turbine manufacturers have conducted the necessary standardized testing pursuant to the IEC protocols, although some of this data is not always easily obtained. Testing and reporting are more inconsistent with small turbine manufacturers; they do not uniformly submit their units for standardized testing. While a number of units are certified pursuant to the AWEA protocols (section 5.2, below), apparently many more are not. The collection and reporting of their acoustical data appears less rigorous, and thus the reliability of such data can not be evaluated. It is for this reason that data derived from non-standardized testing may not be used to demonstrate prospective compliance with the permissible sound level limit established herein. While this requirement may prove somewhat restrictive to unit choice in the immediate future, recent changes in US Internal Revenue Service rules will almost certainly increase the number of units submitted for standardized testing (Section 5.2).

Rigorous data requirements (i.e., only accepting standardized measurements) will result in more reliable outcomes from the use of the look-up tables. As there is no provision or requirement for post-construction monitoring, nor are there enforcement mechanisms, the reliability of this pre-construction screening is of paramount importance.

Acoustical data can be presented as either a Sound Power Level ( $L_w$ ), or as a Sound Pressure Level ( $L_p$ ), sometimes also referred to as a Sound Level or Noise Level. The Sound Power Level is an absolute measure of the acoustical energy being emitted by a source, while the Sound Pressure Level is a measure of the level of that energy at a specific distance from the source. The reliability of these levels in a predictive model is



relative to the rigor with which the data was collected and increases when derived from testing multiple units of the same model<sup>1</sup>.

## **5.1 IEC 61400 Declared Apparent Sound Power Level**

The protocols within the IEC standards are rigorous for measurement, data analysis and reporting which:

"will ensure consistency and accuracy in the measurement and analysis of acoustical emissions by wind turbine generator systems. The standard has been prepared with the anticipation that it would be applied by:

- the wind turbine manufacturer striving to meet well defined acoustic emission performance requirements and/or a possible declaration system;
- the wind turbine purchaser in specifying such performance requirements;
- the wind turbine planner or regulator who must be able to accurately and fairly define acoustical emission characteristics of a wind turbine in response to environmental regulations or permit requirements for new or modified installations," (IEC 61400-11 2002).

## **5.2 AWEA Rated Sound Level**

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<sup>1</sup> Sound emission levels vary for different samples of the same model WTG. "In order to account for variations between different samples of the same model, somewhat higher apparent sound power levels should be used in project planning," (Moller 2011). "According to IEC TS 61400-14, manufacturers should declare values that are 1.645 times the standard deviation between turbines higher than the mean of turbines of a given model...the margin will typically be several decibels...(however) manufacturers often declare values that do not have the safety margin," (ibid). This issue is apparently greater for small turbines as many of sound studies reviewed in this analysis appear to indicate that only a single sample of any given WTG model was tested.

"Using data without safety margin, such as mean values for a given turbine model, measurements from a single turbine, or "best guess" for future turbines, gives in principal a probability of 50% that the actual erected turbine(s) will emit more noise than assumed, and that noise limits will be exceeded, if the project is planned to the limit. It is noted that small changes in apparent sound power level may result in sizeable changes in distance requirements. As an example, for a single turbine, 3 dB higher apparent sound power level results in a 41% higher distance requirement,"(Moller 2011).

The American Wind Energy Association (AWEA) has developed a standard and process, based upon IEC 61400 with minor modifications, by which small turbines may be certified, including an acoustical analysis and rating (AWEA 2009). The "AWEA Rated Sound Level" is defined as the sound level that will not be exceeded 95% of the time, assuming an average wind speed of 5 m/s (11.2 mph), assuming a Rayleigh wind speed distribution, at a distance of 60 meters. The entire certification process, however, can take a year or more and there are only a few testing sites. The AWEA certification process evaluates performance and safety as well as acoustics. If desired, WTG manufacturers can seek to have the acoustical component of the certification expedited, prior to full certification.

As of January 2015, there are twelve WTGs currently certified by AWEA (Sommerville 2015), with five additional models at some stage in the certification process. These numbers represent a slowdown in applications, as there were two units certified in 2012 and thirteen in 2014 (one has subsequently withdrawn from the US market).

Certification of units will almost certainly increase as a result of Internal Revenue Notice 2015-4 issued by the United States Internal Revenue Service (IRS). In order to be eligible for the 30% federal Investment Tax Credit (ITC), effective 26 January 2015, all small wind turbines (defined as having "a nameplate capacity of not more than 100 kilowatts") "must meet the performance and quality standards of the AWEA or the IEC<sup>2</sup>."

A list of currently certified WTGs and their certification documents can be accessed at these internet sites:

Interstate Renewable Energy Council

<http://www.irecusa.org/credentialing/certified-small-wind-turbines/>

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<sup>2</sup> Property Qualifying for the Energy Credit under Section 48  
<http://www.irs.gov/pub/irs-drop/n-15-04.pdf>

Small Wind Certification Council, an independent organization for the certification of wind turbines.

<http://www.smallwindcertification.org/certified-turbines/>

Intertek Group plc., a product testing and certification laboratory

<http://www.intertek.com/wind/small/directory/>

### **5.3 Apparent Noise Level or Noise Level**

A number of manufacturers of small turbines report the Apparent Noise Level or simply "noise level" of their WTG models without reference to the data collection protocols. If the acoustical analysis was not done by an accredited laboratory utilizing either the AWEA or IEC protocols, the data derived therefrom is not acceptable for the purposes of demonstrating compliance with this regulation.

### **6.0 Acoustical Modeling and Look-Up Tables**

Two look-up tables have been developed, each of which represents a separate acoustical model to determine the distance that a WTG must be set back from a sensitive receptor, so as to achieve the design goal of 37 dB(A).

#### *Table 1 - AWEA Rated Sound Level*

Table 1 is based upon AWEA Rated Sound Levels, listing the setback distance required to meet the design goal. Acoustical modeling for Table 1 is based upon the distance propagation formula presented in Appendix A of AWEA Standard 9.1 - 2009.

#### *Table 2 - IEC 61400 Declared Apparent Sound Power Level*

Acoustical modeling for Table 2 was conducted with CadnaA (Computer Aided Noise Abatement; Datakutisk, Greifenberg, Germany), a three-dimensional sound propagation modeling software package. CadnaA calculations are based upon a number of international standards, including:



ISO 9613-1:1993. Acoustics -- Attenuation of sound during propagation outdoors -- Part 1: Calculation of the absorption of sound by the atmosphere; and,

ISO 9613-2:1996. Acoustics -- Attenuation of sound during propagation outdoors -- Part 2: General method of calculation.

ISO meteorology was assumed, with no ground attenuation (hard ground) (as per Kaliski 2008).

The model assumed a hub height of 80 m. The frequency spectrum of turbine emissions was derived from Moller (2011).

## **6.1 Tonality**

If the WTG manufacturer declares tonality, (such as pursuant to IEC TS 61400-14), then a penalty of 5 dB(A) must be added to the Declared Apparent Sound Power Level prior to use of Table 2, if not already done so by the manufacturer.

## **6.2 Wind Speed**

IEC 61400 specifies that sound power levels be reported for all integers of wind speed between 6 m/s and 10 m/s. Sound emissions data is most commonly available at a wind speed of 8 m/s. "This wind speed is often used in noise regulations, and most analyses...are made for this" (Moller 2011). In cases where data is available at more than one wind speed, the data representing 8 m/s shall be used in conjunction with both Tables.

Wind speed maps of New Jersey show that the annualized average wind speed at a height of 10 m is < 5.1 m/s (11.4 mph) for virtually all onshore areas. At a height of 80 m, the average wind speed is <6.0 m/s (13.4 mph) for all land except within a few kilometers of the shoreline, where average wind speeds can range up to 7.5 m/s (16.8 mph) on the barrier islands.

While the annualized average wind speed for much of New Jersey is approximately 5 m/s, the wind speed is above that level for a significant percentage of the time. The AWEA Rated Sound Level is based on a Rayleigh wind speed distribution, which is a statistical curve that approximates the actual distribution of wind speeds around a user-defined annualized average wind speed. If one assumes an annualized average wind speed of 5.0 m/s, then the wind speed is  $\geq 8$  m/s 13.3% of the time. Thus, requiring the use of turbine data representing 8 m/s in the look-up Tables is reasonably, but not overly conservative. There will be an appreciable percentage of the time when the wind speed will exceed that level.

## **7.0 Limitations of a Screening Tool**

If an applicant has reason to believe that the applicable Table requires a setback distance that is greater than necessary in their circumstances to achieve the design goal, then it may be reasonable to give them the opportunity to submit an acoustical model demonstrating such prospective compliance.

"A number of proprietary software packages are available for modeling the prediction of noise including SoundPLAN, ENM, CandaA, Nord2000 and many others. Packages such as WindPRO and WiTuProp have been developed for specific application to wind turbine noise prediction," (Teague 2011).

## **8.0 Multiple Turbines**

Evaluating more than one turbine with a screening tool is problematic, as so many assumptions would have to be made about the distances and relative orientation of the turbines to each other and the sensitive receptor(s). It is more appropriate in such a circumstance to require an applicant to submit an acoustical model demonstrating such prospective compliance. If the applicant desires to utilize the Tables, an acceptably conservative approach would be to logarithmically sum the sound levels of the turbines and assume the distance to a summed turbine is the shortest distance between any turbine

and the identified receptor. If two identical turbines are installed, the summed sound level of the two turbines would be 3 dB(A) greater than the sound level of one turbine, and that summed level would be entered into the appropriate Table to determine the setback distance.



## PROPOSED STANDARD

### A. Definitions

"AWEA Rated Sound Level" means the sound level that will not be exceeded 95% of the time, assuming an average wind speed of 5 m/s (11.2 mph), a Rayleigh wind speed distribution, 100% availability, and an observer location at 60 m (197 ft) from the rotor center, calculated from IEC 61400-11 test results. (AWEA 9.1-2009).

"IEC 61400 Declared Apparent Sound Power Level" is the sound power level measured in conformance with IEC TS 61400-11 *Wind turbine generator systems - Part 11: Acoustic noise measurement techniques*.

"dBA" means the sound level as measured using the "A" weighting network with a sound level meter.

"Decibel" means the practical unit of measurement for sound pressure level as defined in N.J.A.C. 7:29.

"IEC" means the international standards and conformity assessment body for all fields of electrotechnology, publishing consensus-based International Standards.

"Point of Reception" means a structure used for human habitation, unless the habitation is a condition of employment, including but not limited to a private residence, apartment building, commercial living accommodations, dormitory, hospital or inpatient facility, as well as public or private areas for overnight camping. It shall also include planned structures and facilities for which preliminary approvals have been granted by the municipality. It shall not include dwellings of parties with an economic interest in the WTG.

"Sound power" is a measure of the total acoustic energy emitted by a source. The Sound Power Level ( $L_w$ ) in decibels is defined as:

$$L_w = 10 \log_{10} (W/W_0)$$

$W$  = sound power in watts

$W_0$  = reference sound power ( $10^{-12}$  watts)

"Sound level" or "sound pressure level" is a measure of the acoustic energy as received at a specific location or distance from a sound source. The Sound Pressure Level ( $L_p$ ) in decibels is defined as:

$$L_p = 20 \log_{10} (p/p_0)$$

$p$  = measured root-mean-square (rms) sound pressure

$p_0$  = reference rms sound pressure (20 micropascals [ $\mu\text{Pa}$ ])

## **B. Sound Level Limit for Wind Turbine Generators**

A permissible sound level limit of 37 dB(A) shall apply at Points of Reception.

## **C. Statement of Prospective Compliance**

A Statement of Prospective Compliance shall be completed and submitted electronically for all proposed WTG installations. The following details shall be included:

- a description of the site of the proposed turbine, including:
  - name of applicant
  - mailing address
  - Township
  - County
  - Lot and Block
- a map including the proposed WTG location, and identified Points of Reception<sup>3</sup>, with scale (satellite imagery is acceptable). Point of Reception properties shall include all properties within the calculated setback distance, and all properties beyond the setback distance which share a common property line with the applicant property, or those properties only separated from the applicant property by a right-of-way or body of water (unless the body of water extends beyond the calculated setback distance);
- tax map(s) showing the lot and block of the applicant property and all identified Point of Reception properties;
- a description of the WTG including:

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<sup>3</sup> When compliance is demonstrated for a Point of Reception in a given compass direction, it is not required to list more distant Points of Reception in that direction, unless topographic or structural features serve to shield the closer Point of Reception.

- manufacturer;
- model;
- rated electrical power;
- blade set (if the WTG is not preconfigured and can be modified);
- swept area of the blades;
- hub height of the turbine;
- a characterization of the sound emissions of the WTG as provided by the manufacturer, including supporting documentation (such as a specifications sheet or acoustic test report):
  - AWEA Rated Sound Level: or,
  - IEC 61400 Declared Apparent Sound Power Level, at a wind speed of 8 m/s.; and,
  - Declaration of tonality, if made.
- The setback distance as determined in the appropriate Table;
- a table, listing each Point of Reception, and the distance from the base of the WTG to the center of the residential structure or facility, or planned structure or facility where preliminary approvals have been granted by the municipality.

**D. Look-Up Tables to Determine Setback Distance to Achieve 37 dB(A)**

The appropriate Table to use in determining setback distance is based upon the acoustical data supplied by the WTG manufacturer:

- *Table 1 - AWEA Rated Sound Level*
  - *Table 2 - IEC 61400 Declared Apparent Sound Power Level*
- Data for a wind speed of 8 m/s shall be used.



### **D(1). Tonality**

If the WTG manufacturer declares tonality, (such as pursuant to IEC TS 61400-14), then a penalty of 5 dB(A) must be added to the Rated Sound Level or Declared Apparent Sound Power Level prior to use of Tables 1 and 2, if not already done so by the manufacturer.

### **E. Multiple Turbines – Look-Up Tables**

Installations of more than one turbine are more appropriately addressed through acoustical modeling, than through the use of look-up Tables. If the applicant desires to utilize the Tables, an acceptably conservative approach would be to logarithmically sum the sound levels of the turbines and assume the distance to a summed turbine is the shortest distance between any turbine and the identified receptor. If two identical turbines are installed, the summed sound level of the two turbines would be 3 dB(A) greater than the sound level of one turbine, and that summed level would be entered into the appropriate Table to determine the setback distance.

### **E(1) Multiple Turbines - Acoustical Modeling**

The noise prediction method must be based upon one of the following algorithms: ISO9613-2; CONCAWE; Nord2000 (Delta, Denmark); GPM (General Prediction Method, Nordic); WiTuProp (Delta, Denmark); or, HARMONOISE. There are several commercial software packages based upon these algorithms. The following assumptions shall be made:

- atmospheric conditions at 10°C and 80% humidity;
- weather category 6 (if CONCAWE method is used); and
- hard ground (attenuation factor 0).

All modeling shall be based upon manufacturer's data for emissions levels at 8 m/s, and the wind speed in the model (if applicable) shall also be set at 8 m/s. All receptors shall be modeled downwind of the source(s).

All reporting requirements of Section C (above) shall apply. In addition, all modeling assumptions will be detailed in a report, including the calculation procedure used; and any topography/screening assumed.

**Table 1 - AWEA Rated Sound Level**

| AWEA Rated<br>Sound Level<br>(dBA) | Distance<br>(to achieve 37 dBA) |      |
|------------------------------------|---------------------------------|------|
|                                    | meters                          | feet |
| 35                                 | 47.75                           | 157  |
| 36                                 | 53.5                            | 175  |
| 37                                 | 60                              | 197  |
| 38                                 | 67.25                           | 221  |
| 39                                 | 75.5                            | 248  |
| 40                                 | 84.5                            | 277  |
| 41                                 | 96                              | 315  |
| 42                                 | 107                             | 351  |
| 43                                 | 120                             | 394  |
| 44                                 | 134                             | 440  |
| 45                                 | 150                             | 492  |
| 46                                 | 169                             | 554  |
| 47                                 | 190                             | 623  |
| 48                                 | 213                             | 699  |
| 49                                 | 240                             | 787  |
| 50                                 | 268                             | 879  |
| 51                                 | 301                             | 987  |
| 52                                 | 337                             | 1105 |
| 53                                 | 379                             | 1243 |
| 54                                 | 425                             | 1394 |
| 55                                 | 477                             | 1565 |



**Table 2 - IEC 61400 Declared Apparent Sound Power Level**

| Sound<br>Power<br>Level<br>Lw (dBA) | Distance<br>(to achieve 37 dBA) |      |
|-------------------------------------|---------------------------------|------|
|                                     | meters                          | feet |
| 85                                  | 53                              | 174  |
| 86                                  | 71                              | 233  |
| 87                                  | 89                              | 292  |
| 88                                  | 107                             | 351  |
| 89                                  | 126                             | 413  |
| 90                                  | 146                             | 479  |
| 91                                  | 167                             | 548  |
| 92                                  | 190                             | 623  |
| 93                                  | 215                             | 705  |
| 94                                  | 243                             | 797  |
| 95                                  | 272                             | 892  |
| 96                                  | 305                             | 1000 |
| 97                                  | 341                             | 1118 |
| 98                                  | 380                             | 1246 |
| 99                                  | 424                             | 1391 |
| 100                                 | 470                             | 1542 |
| 101                                 | 523                             | 1715 |
| 102                                 | 579                             | 1899 |
| 103                                 | 642                             | 2106 |
| 104                                 | 709                             | 2326 |
| 105                                 | 783                             | 2568 |
| 106                                 | 863                             | 2831 |
| 107                                 | 950                             | 3116 |
| 108                                 | 1046                            | 3431 |
| 109                                 | 1150                            | 3772 |
| 110                                 | 1261                            | 4136 |

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STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2016R8(2)

MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM  
CERTIFICATION

NEW ENROLLMENT

MONMOUTH COUNTY

**William Kohl L.L.P.**

**August 27, 2015**

WHEREAS, the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, provides for the creation of MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAMS; and

WHEREAS, the Monmouth County Agriculture Development Board has submitted an approved PETITION, AGREEMENT and supporting documents to the State Agriculture Development Committee for certification of a MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM involving **William Kohl L.L.P., SADC ID# 13-0005-8M**, concerning the parcels of land located in the Township of Middletown, in the County of Monmouth, known and designated as the following: Block 1117, Part of Lot 30.01, and Block 1117, Part of Lot 31.01, consisting of 5.48 acres; and

WHEREAS, the State Agriculture Development Committee has reviewed said PETITION and accompanying documents to assure compliance with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and N.J.A.C. 2:76-4.1 et seq.;

NOW THEREFORE, BE IT RESOLVED that the State Agriculture Development Committee, under the authority of N.J.S.A. 4:1C-11 et seq. and N.J.A.C. 2:76-4.1 et seq., certifies the MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM of **William Kohl L.L.P., SADC ID# 13-00057-8M**, Block 1117, Part of Lot 30.01, and Block 1117, Part of Lot 31.01, consisting of 5.48 acres, as identified on the attached map marked Schedule "A", which shall continue for an eight (8) year period beginning from the recording date of the fully executed AGREEMENT with the Monmouth County Clerk's Office; and



BE IT FURTHER RESOLVED that upon the effective date of the MUNICIPALLY APPROVED FARMLAND PRESERVATION PROGRAM, the landowner is eligible to receive the benefits described in the AGREEMENT pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and N.J.A.C. 2:76-4.1 et seq.; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-5.4 et seq., the landowners or farm agent as an agent for the landowners shall be eligible to apply to the local soil conservation district for a soil and water state cost-share grant in an amount up to \$3,288.00, subject to availability of such funds; and

BE IT FURTHER RESOLVED that work performed on projects prior to Soil Conservation District and State Soil Conservation Committee approval will not be eligible for cost sharing.

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.

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

8-27-15

Date



Susan E. Payne, Executive Director  
State Agriculture Development Committee

#### VOTE WAS RECORDED AS FOLLOWS

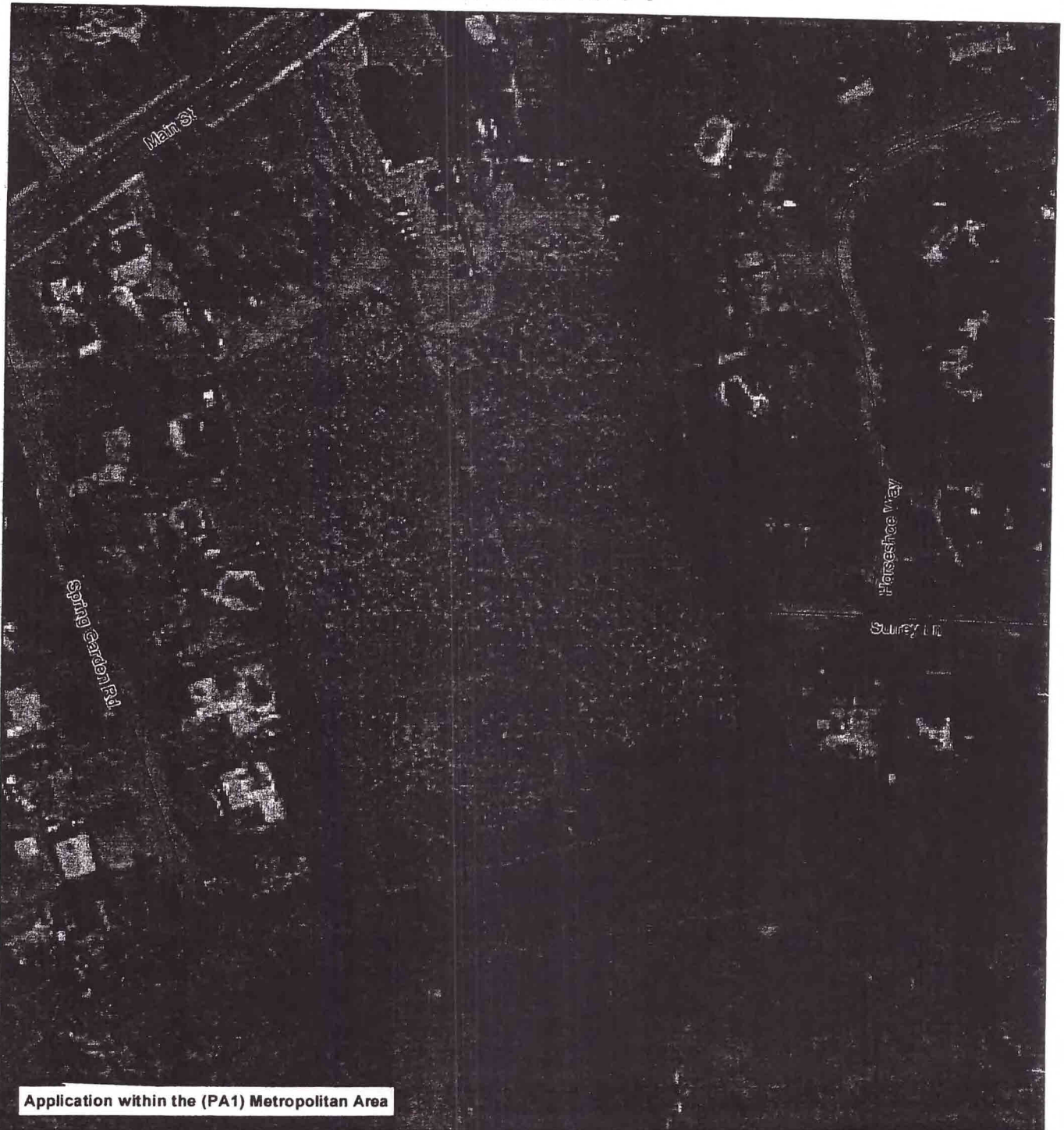
|                                                    |        |
|----------------------------------------------------|--------|
| Douglas H. Fisher, Chairperson                     | YES    |
| Renee Jones (rep. DEP Commissioner Martin)         | YES    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |

Date Agreement (F3-A) Recorded

Authorized CADB Signature

# Schedule A

X:\counties\monco\projects\Kohl\_William\_8Year\_project\_map.mxd

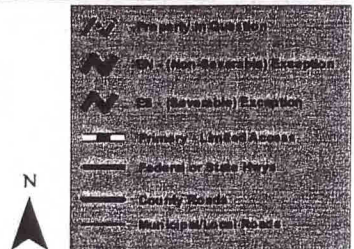


## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

Kohl, William (8 Year)  
Block 1117 P/O Lot 30.01 (2.68 ac)  
& P/O Lot 31.01 (2.67 ac) Gross Total = 5.48 ac  
Middletown Twp., Monmouth County

100 50 0 100 200 Feet

**DISCLAIMER:** Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user. The configuration and geo-referenced location of parcel polygons in this data layer are approximate and were developed primarily for planning purposes. The geodetic accuracy and precision of the GIS data contained in this file and map shall not be, nor are intended to be, relied upon in matters requiring delineation 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



**Sources:**  
Green Acres Conservation Easement Data  
NJGIT/OGIS 2012 Digital Aerial Image

Date: 8/19/2015



STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2016R8(3)

Request for Extension of Soil and Water Conservation Project Cost-Share Approval

Gregory S. McLaughlin Farm

August 27, 2015

Subject Property: Gregory S. McLaughlin Farm  
Block 44, Lot 43  
Town of Robbinsville, Mercer County  
58.216 Acres

WHEREAS, the State Agriculture Development Committee (SADC) has received a request for extension of a soil and water conservation project cost-share approval from the State Soil Conservation Committee (SSCC) for **Gregory S. McLaughlin, SADC ID#11-0041-EP**; and

WHEREAS, on October 3, 2014, the SADC approved an extension for the project by Resolution # FY2015R10(7) until July 28, 2015 pursuant to N.J.A.C. 2:76-5.4(d)2, subject to no further extensions; and

WHEREAS, N.J.A.C. 2:76-5.4(d)2 states that the term of obligation may be extended due to seasonal constraints or other unavoidable delays only upon the approval of the local soil conservation district, the SSCC, and the SADC; and

WHEREAS, the SSCC has determined pursuant to N.J.A.C. 2:90-3.6(c) that the expiration date for the project is extended to August 31, 2015 since completion of the project is imminent; and

WHEREAS, the landowner has expended the amount of \$3,058.00 to date and has requested the balance in the amount of \$5,071.00 be extended until August 31, 2015; and

WHEREAS, pursuant to N.J.A.C. 2:76-5.4(d)2, the SADC wishes to align its extension period with that of the SSCC due to the imminent completion of the project;

NOW THEREFORE BE IT RESOLVED, that the SADC, under the authority of N.J.A.C. 2:76-5.4(d)2, approves the extension of the term of obligation for a cost share grant in the amount of \$5,071.00 until October 3, 2015, with no further extension for **Gregory S. McLaughlin, SADC ID#11-0041-EP**, Township of Robbinsville, County of Mercer, subject to available funds; and

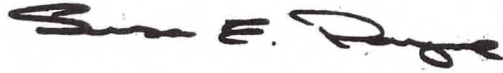
BE IT FURTHER RESOLVED, that the project must be completed by October 3, 2015; and

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

8/27/15

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    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |

S:\SW\MER\mclaughlin\Extension Res 08 27 15 mtg.doc





STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2016R8(4)

CERTIFICATION OF AMENDED AGRICULTURAL DEVELOPMENT AREA MAP

HUNTERDON COUNTY

AUGUST 27, 2015

WHEREAS, the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, provides for the identification of Agricultural Development Areas (ADAs) by county agriculture development boards; and

WHEREAS, pursuant to N.J.S.A. 4:1C-18, the Hunterdon County Agriculture Development Board (HCADB) adopted, after a public hearing, ADA criteria and a map identifying areas where agriculture shall be the preferred, but not necessarily exclusive use of land, documenting that the area:

1. Encompasses productive agricultural lands which are currently in production or have a strong potential for future production and in which agriculture is a permitted use under the current municipal zoning ordinance or in which agriculture is permitted as a nonconforming use;
2. Is reasonably free of suburban and conflicting commercial development;
3. Comprises not greater than 90% of the agricultural land mass of the county;
4. Incorporates any other characteristics deemed appropriate by the Board; and

WHEREAS, pursuant to N.J.A.C. 2:76-1.4, the HCADB incorporated the following other criteria into the County ADA criteria:

1. A minimum contiguous area of at least 250 acres;
2. The predominance of prime or statewide important soils;
3. Land use that is reasonably free of non-farm development;
4. The absence of public sewers; and
5. Landowner consent to be included within the ADA; and

WHEREAS, the State Agriculture Development Committee (SADC) certified Hunterdon County's designated ADA criteria pursuant to N.J.S.A. 4:1C-18, and N.J.A.C. 2:76-1.4 on September 23, 1999; and

WHEREAS, on November 6, 2008, the SADC approved the Hunterdon County Comprehensive Farmland Preservation Plan which included statements reaffirming the County's ADA criteria but also recognizing the need to waive certain criteria in suburbanizing areas at the request of landowners and municipal officials in order to protect important farmlands in strategic areas from increasing development pressures; and

WHEREAS, the SADC certified amendments to Hunterdon County's designated ADA map showing the general location of the ADA(s) as defined by the application of the criteria many times over the years at the request of several municipalities, most recently on April 24, 2015; and

WHEREAS, Hunterdon County included the Chang Farm (Block 9, Lots 2, 6, 6.01, 6.02 & 6.03) in Tewksbury Township in their State Fiscal Year 2016 Municipal Planning Incentive Grant Application as a targeted farm; and

WHEREAS, Block 27, Lot 3 in Califon Borough is a steep sloped and wooded farmland assessed parcel with an active woodland management plan that is part of the Chang Farm operation; and

WHEREAS, all six (6) lots associated with the Chang farm were included in an application for farmland preservation currently being processed by Hunterdon County; and

WHEREAS, on May 18, 2015, the Council of the Borough of Califon adopted a resolution supporting the expansion of the Hunterdon County ADA to include Block 27, Lot 3; and

WHEREAS, Block 27, Lot 3 is in the R-1 Residential Zone (3 acre minimum lot size) and not in a sewer service area or a public water service area and adjacent to an existing ADA; and

WHEREAS, the ADA amendment consists of soils that are not primarily classified as prime and of statewide importance; and

WHEREAS, the ADA amendment is within the Highlands Preservation Area; and

WHEREAS, HCADB and its staff reviewed the proposed ADA amendment against the ADA criteria set forth at N.J.S.A. 4:1C-18 and N.J.A.C. 2:76-1.4 and the certified CADB criteria; and

WHEREAS, on June 11, 2015, the HCADB held a public hearing to consider public comment on the proposed amendment to its ADA map pursuant to N.J.A.C. 2:76-1.5; and

WHEREAS, on June 11, 2015, the HCADB approved the ADA amendment to include Block 27, Lot 3 in the Borough of Califon; and



WHEREAS, the HCADB requested the SADC's certification of the amended ADA map (as identified in the attached "Schedules A and B"); and

WHEREAS, pursuant to N.J.A.C. 2:76-1.5, the CADB submitted to the SADC, copies of the agenda and minutes of the June 11, 2015 and the July 9, 2015 meetings; and

WHEREAS, the SADC has reviewed the CADB's submissions and has determined that the analysis of factors and resultant criteria is reasonable and consistent and in compliance with the provisions of N.J.A.C. 2:76-1.6;

NOW THEREFORE BE IT RESOLVED that the SADC certifies the amendment to the Hunterdon County Agriculture Development Board's Agricultural Development Area map to include Block 27, Lot 3 in the Borough of Califon; 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 this approval is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4F.

8/27/15

Date

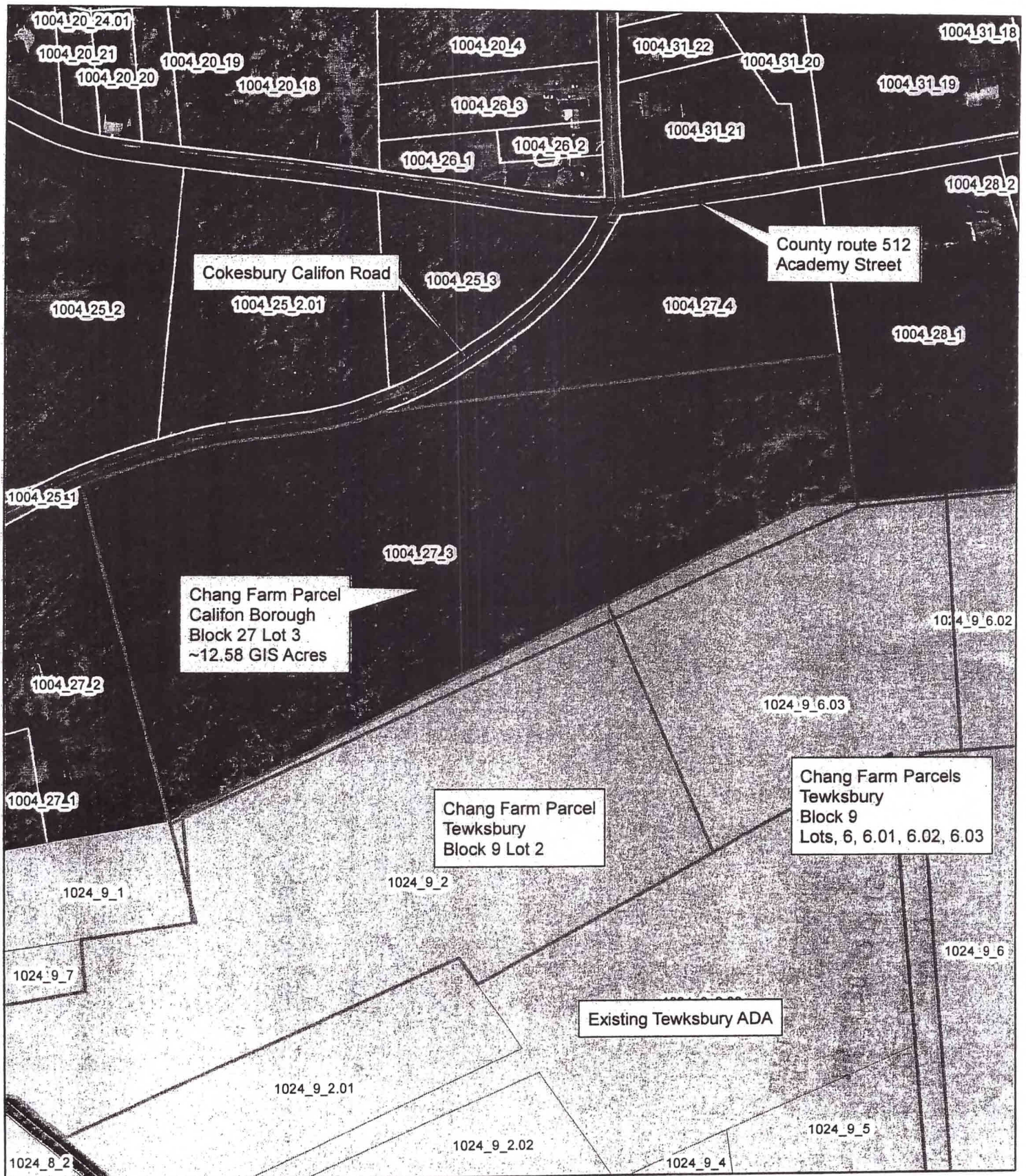


Susan E. Payne, Executive Director  
State Agriculture Development Committee

#### VOTE WAS RECORDED AS FOLLOWS

|                                                    |        |
|----------------------------------------------------|--------|
| Douglas H. Fisher, Chairperson                     | YES    |
| Renee Jones (rep. DEP Commissioner Martin)         | YES    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |





## Chang/Calfon ADA Amendment

Chang - Block 27, Lot 3 - Total Acreage: ~12.58 acres

650

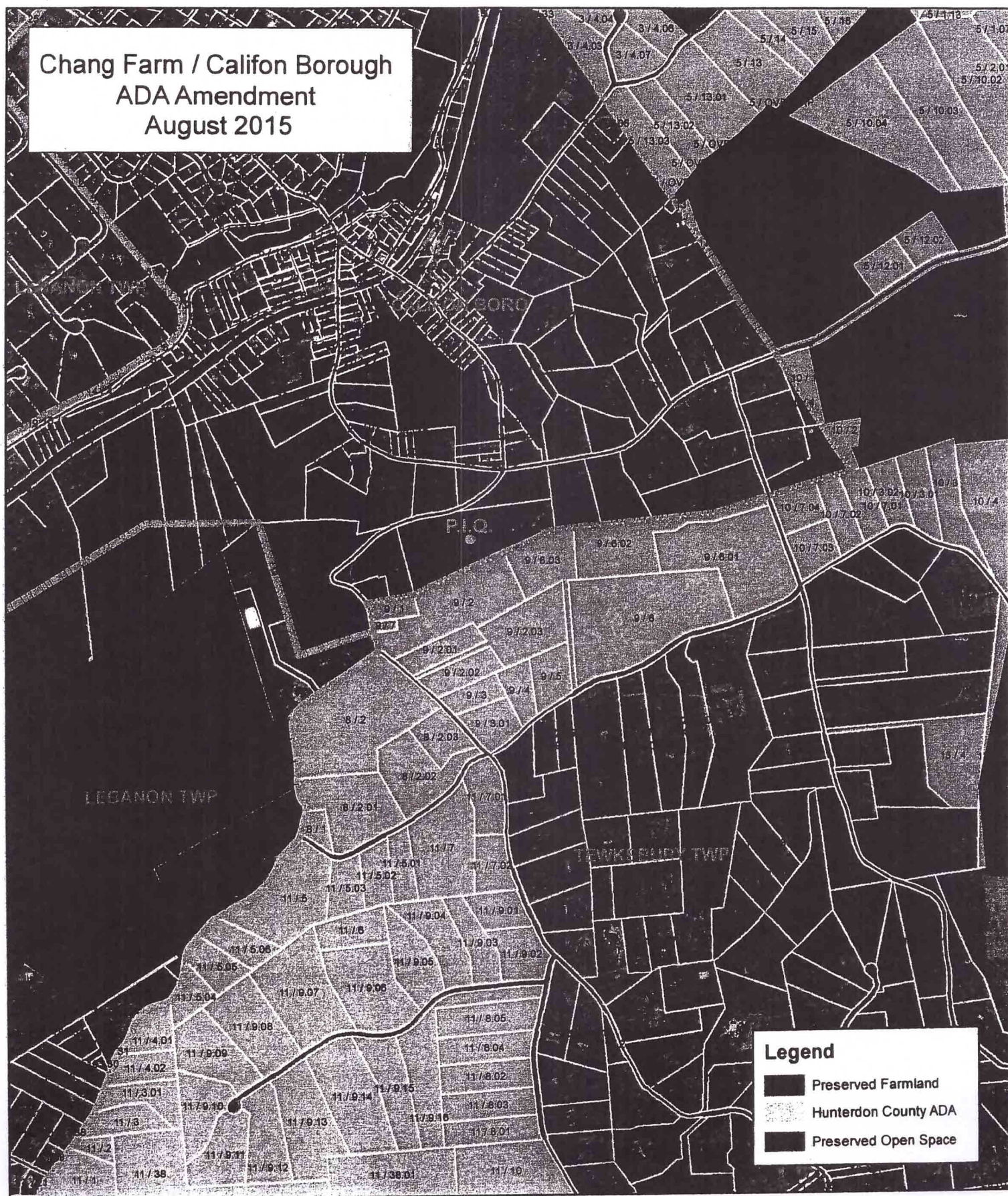
Feet

Soils Breakdown:  
 Not Important: > 99%  
 Prime: < 1.0%  
 Statewide: 0%





**Chang Farm / Califon Borough  
ADA Amendment  
August 2015**







STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2016R8(5)

FINAL REVIEW AND APPROVAL OF A PLANNING INCENTIVE GRANT TO

WARREN COUNTY

for the

PURCHASE OF A DEVELOPMENT EASEMENT

On the Property of  
Perie Thomas Thompson ("Owners")  
White Township, Warren County

N.J.A.C. 2:76-17 et seq.  
SADC ID# 21-0559-PG

August 27, 2015

WHEREAS, on December 15, 2007 the State Agriculture Development Committee ("SADC") received a Planning Incentive Grant ("PIG") plan application from Warren 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, Warren County received SADC approval of its FY2016 PIG Plan application annual update on May 28, 2015; and

WHEREAS, on February 27, 2014 the SADC received an application for the sale of a development easement from Warren County for the subject farm identified as a Block 67, Lot 16, White Township, Warren County, totaling approximately 41.2 gross acres hereinafter referred to as "the Property" (Schedule A); and

WHEREAS, the Property is located in Warren County's West Project Area and the Highlands Planning Area; and

WHEREAS, the Property includes a 5-acre non-severable exception area for and limited to two existing single family residential units and to afford future flexibility of use, resulting in approximately 36.2 net acres to be preserved; and

WHEREAS, the portion of the Property to be preserved outside of the exception area includes zero (0) single family residential units, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

WHEREAS, at the time of application the Property was in hay production; 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 51.35 which exceeds 42, which is 70% of the County's average quality score as determined by the SADC July 25, 2013; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(b) on August 6, 2014 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 22, 2015 the SADC certified a development easement value of \$3,600 per acre based on zoning and environmental regulations in place as of 1/1/04 and \$3,600 per acre based on zoning and environmental regulations in place as of the current valuation date 06/28/14; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.12, the Owner accepted the County's offer of \$3,600 per acre for the development easement; and

WHEREAS, on June 18, 2015 the County prioritized its farms and submitted its applications in priority order 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 June 11, 2015 the White Township Committee approved the Owner's application for the sale of a 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 18, 2015 the Warren CADB passed a resolution granting final approval for funding the Property; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13 on June 24, 2015 the Board of Chosen Freeholders of the County of Warren passed a resolution granting final approval and a commitment of funding for \$1,040 per acre per acre to cover the entire local cost share; and

WHEREAS, the County has requested to encumber an additional 3% buffer above the net acreage to be preserved for possible final surveyed acreage increases, therefore, 37.29 acres will be utilized to calculate the grant need; and

WHEREAS, the estimated cost share breakdown is as follows (based on 37.29 net easement acres); and

|                         |               |                |
|-------------------------|---------------|----------------|
| SADC                    | \$ 95,462.40  | (\$2,560/acre) |
| Warren County           | \$ 38,781.60  | (\$1,040/acre) |
| Total Easement Purchase | \$ 134,244.00 | (\$3,600/acre) |

WHEREAS, pursuant to N.J.A.C. 2:76-17.14, the Warren County Agriculture Development Board is requesting \$95,462.40 from available 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 Warren County for the purchase of a development easement on the Property, comprising approximately 37.29 net easement acres, at a State cost share of \$2,560 per acre, (71.11% of certified easement value and purchase price), for a total grant need of \$95,462.40 of competitive funding 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 a 5-acre non-severable exception area for and limited to two existing single family residential units and to afford future flexibility of use; and

BE IT FURTHER RESOLVED, the Property includes zero (0) single family residential units, zero (0) agricultural labor units, and no pre-existing non-agricultural uses on the portion of the Property to be preserved outside of the exception area; 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 area 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-B Supplement; 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.

8/27/15



Page 4 of 4

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    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |

S:\Planning Incentive Grant -2007 rules County\Warren\Thompson\final approval final.doc

| Farm                     | Municipality   | App Acres | Plus 3 Percent Acres | Application Processing Date |          |          |          |          |                     |          |          | SADC Certified Per Acre | Negotiated & Approved Per Acre | SADC Grant Per Acre | Grant% Per Acre | Easement Consideration | Cost Basis   | Cost Share   | COMPETITIVE GRANT |              | STATEWIDE TOTAL | COMPETITIVE GRANT ELIGIBILITY (subject to available funds statewide) |  |
|--------------------------|----------------|-----------|----------------------|-----------------------------|----------|----------|----------|----------|---------------------|----------|----------|-------------------------|--------------------------------|---------------------|-----------------|------------------------|--------------|--------------|-------------------|--------------|-----------------|----------------------------------------------------------------------|--|
|                          |                |           |                      | App Rec'd                   | SADC GLA | SADC CMV | SADC FA  | SADC FA  | Encumbered at Final | Voucher  | FY11     |                         |                                |                     |                 |                        |              |              | FY13              |              |                 |                                                                      |  |
|                          |                |           |                      |                             |          |          |          |          |                     |          |          |                         |                                |                     |                 |                        |              |              |                   | Expend       |                 | Balance                                                              |  |
| J&K Smith #1 (Lot 17.02) | Harmony        | 46.00     | 47,380               | 10/22/13                    | 02/10/14 | 09/26/14 | 10/03/14 | 10/03/14 | 6,000.00            | 6,000.00 | 3,800.00 | 65.00%                  | 302,742.00                     | 196,782.30          | 184,782.00      | 184,782.00             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| J&K Smith #2 (Lot 17)    | Harmony        | 51.00     | 52,930               | 10/22/13                    | 02/10/14 | 09/26/14 | 10/03/14 | 10/03/14 | 6,000.00            | 6,000.00 | 3,800.00 | 65.00%                  | 282,612.00                     | 197,551.60          | 191,734.50      | 197,551.60             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Carlotta #1              | Franklin       | 182.00    | 187,460              | 11/25/13                    | 02/07/14 | 07/24/14 | 11/13/14 | 11/13/14 | 6,200.00            | 6,200.00 | 4,000.00 | 64.52%                  | 1,162,252.00                   | 749,840.00          | 675,620.00      | 622,524.00             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Carlotta #2              | Franklin       | 30.500    | 31.42                | 11/25/13                    | 02/07/14 | 09/26/14 | 11/13/14 | 11/13/14 | 5,760.00            | 6,000.00 | 3,775.00 | 65.65%                  | 188,520.00                     | 110,811.35          | 110,811.35      | 110,811.35             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Kimley Estate            | Blair/Knowlton | 35.059    | 36.110               | 04/23/14                    | 08/23/14 | 11/13/14 | 01/22/15 | 06/23/15 | 5,600.00            | 5,600.00 | 3,700.00 | 66.07%                  | 181,720.00                     | 120,065.00          | 91,703.83       | 78,161.83              | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| JJ Smith North           | Harmony        | 77.00     | 79.31                | 02/28/14                    | 06/10/14 | 12/11/14 | 04/24/15 | 04/24/15 | 4,600.00            | 4,600.00 | 3,160.00 | 68.70%                  | 364,826.00                     | 250,619.60          | 250,619.60      | 250,619.60             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| JJ Smith South           | Harmony        | 39.00     | 40.17                | 02/28/14                    | 06/10/14 | 12/11/14 | 04/24/15 | 04/24/15 | 4,600.00            | 4,600.00 | 3,900.00 | 65.00%                  | 241,020.00                     | 156,663.00          | 156,663.00      | 156,663.00             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Klimes                   | Mansfield      | 190.000   | 195.70               | 10/25/13                    | 11/10/14 | 04/24/15 | 07/22/15 | 07/22/15 | 3,700.00            | 3,700.00 | 2,620.00 | 70.81%                  | 724,090.00                     | 512,734.00          | 512,734.00      | 512,734.00             | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Thompson                 | White          | 36.200    | 37.29                | 02/27/14                    | 08/06/14 | 01/22/15 | 09/27/15 | 09/27/15 | 3,600.00            | 3,600.00 | 2,560.00 | 71.11%                  | 134,244.00                     | 95,462.40           | 95,462.40       | 95,462.40              | 2,924,493.33 | 2,924,493.33 | 3,000,000         | 5,000,000    |                 |                                                                      |  |
| Encumbered/Expended FY11 |                |           |                      | 20                          | 15       | 8        | 7        |          |                     |          |          |                         |                                |                     |                 |                        |              | Encumbered   | Expend            | Balance      |                 |                                                                      |  |
| Encumbered/Expended FY13 |                |           |                      |                             |          |          |          |          |                     |          |          |                         |                                |                     |                 |                        |              | 74,220.00    | 1,286.67          | 2,924,493.33 |                 |                                                                      |  |
| Total                    |                | 2,734.26  |                      |                             |          |          |          |          |                     |          |          |                         |                                |                     |                 |                        |              | 2,121,147.95 | 200,915.75        | 2,678,836.30 |                 |                                                                      |  |



State Agriculture Development Committee  
SADC Final Review: Development Easement Purchase  
August 27, 2015

Thompson, Perie Thomas  
21- 0559-PG  
County PIG Program  
38 Acres

|                        |        |                    |                                   |
|------------------------|--------|--------------------|-----------------------------------|
| Block 67               | Lot 16 | White Twp.         | Warren County                     |
| <b>SOILS:</b>          |        | Other              | 27% * 0 = .00                     |
|                        |        | Prime              | 62% * .15 = 9.30                  |
|                        |        | Statewide          | 11% * .1 = 1.10                   |
|                        |        |                    | <b>SOIL SCORE: 10.40</b>          |
| <b>TILLABLE SOILS:</b> |        | Cropland Harvested | 66% * .15 = 9.90                  |
|                        |        | Wetlands           | 5% * 0 = .00                      |
|                        |        | Woodlands          | 29% * 0 = .00                     |
|                        |        |                    | <b>TILLABLE SOILS SCORE: 9.90</b> |
| <b>FARM USE:</b>       | Hay    | 25 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: No Nonagricultural Uses
  - b. Exceptions:
    - 1st five (5) acres for  
Exception is severable  
Exception is to be limited to two existing single family residential unit(s)
  - c. Additional Restrictions: No Additional Restrictions
  - d. Additional Conditions: No Additional Conditions
  - e. Dwelling Units on Premises: No Dwelling Units
  - 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.

**VOTE WAS RECORDED AS FOLLOWS**

|                                                    |        |
|----------------------------------------------------|--------|
| Douglas H. Fisher, Chairperson                     | YES    |
| Renee Jones (rep. DEP Commissioner Martin)         | YES    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |

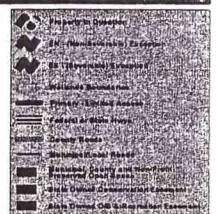
# Schedule A

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## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

Estate of Irma Perrotti  
Block 23 Lots 11.01 (4.73 ac), P/O 11 (126.86 ac)  
& P/O 11-EN (non-severable exception - 4.04 ac)  
Gross Total = 130.9 ac  
Kingwood Twp., Hunterdon County



**Wetlands Legend:**  
F - Freshwater Wetlands  
L - Linear Wetlands  
M - Wetlands Modified for Agriculture  
T - Tidal Wetlands  
N - Non-Wetlands  
B - 300' Buffer  
W - Water

**DISCLAIMER:** Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user. The configuration and geo-referenced location of parcel polygons in this data layer are approximate and were developed primarily for planning purposes. The geodetic accuracy and precision of the GIS data contained in this file and map shall not be, nor are intended to be, relied upon in matters requiring delineation 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

**Sources:**  
NJDEP Freshwater Wetlands Data  
Green Acres Conservation Easement Data  
NJDOT Road Data  
NJOT/OGIS 2012 Digital Aerial Image

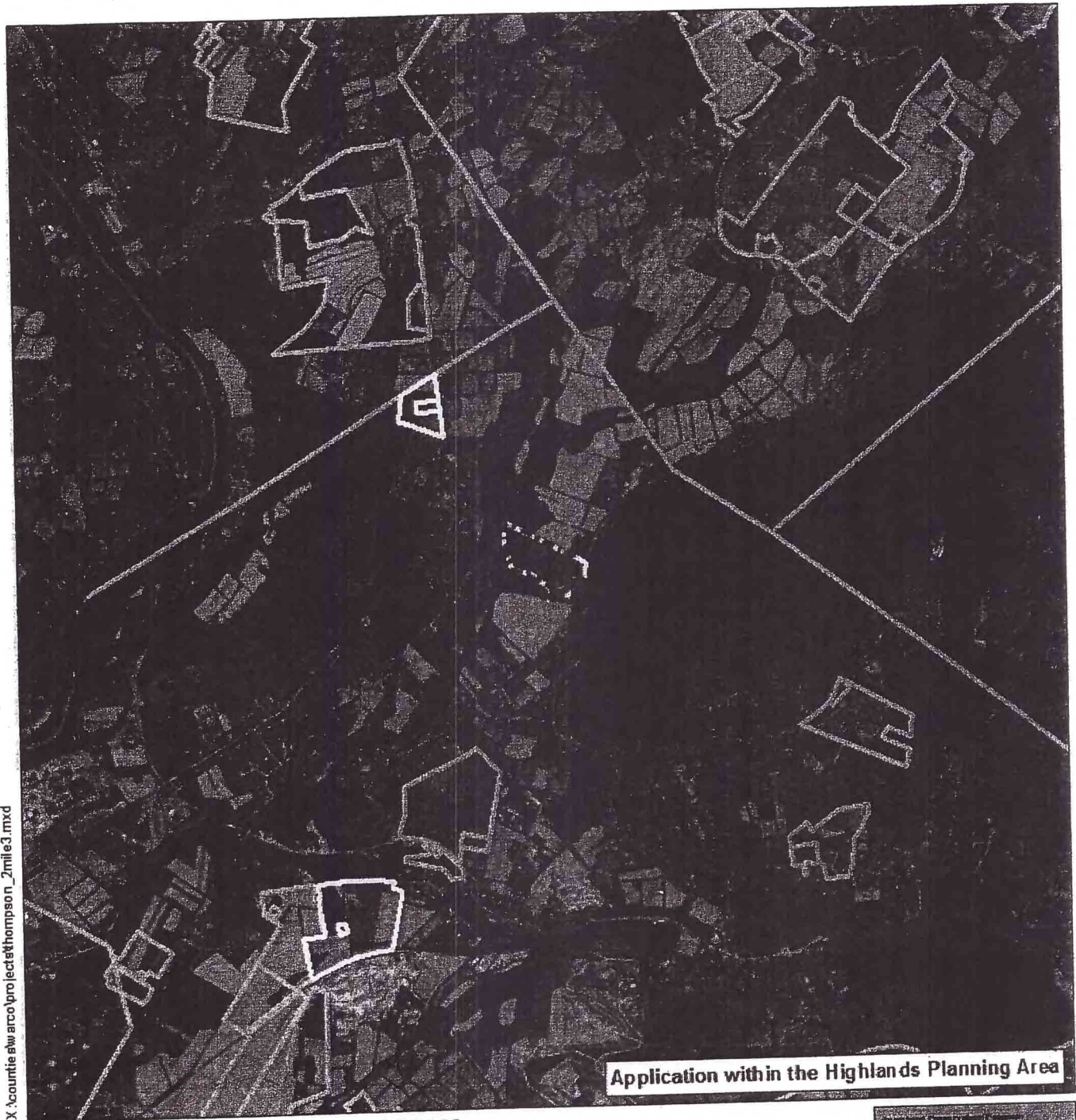
March 10, 2015



# Preserved Farms and Active Applications Within Two Miles

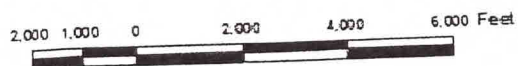
Schedule A cont.

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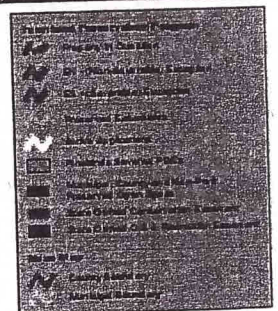


## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

Perie Thomas Thompson  
Block 67 Lots P/O 16 (36.2 ac)  
& P/O 16-ES (severable exception - 5.0 ac)  
Gross Total = 41.2 ac  
White Twp., Warren County



**NOTE:**  
The parcel location and boundaries shown on this map are approximate and should not be construed to be a land survey as defined by the New Jersey Board of Professional Engineers and Land Surveyors



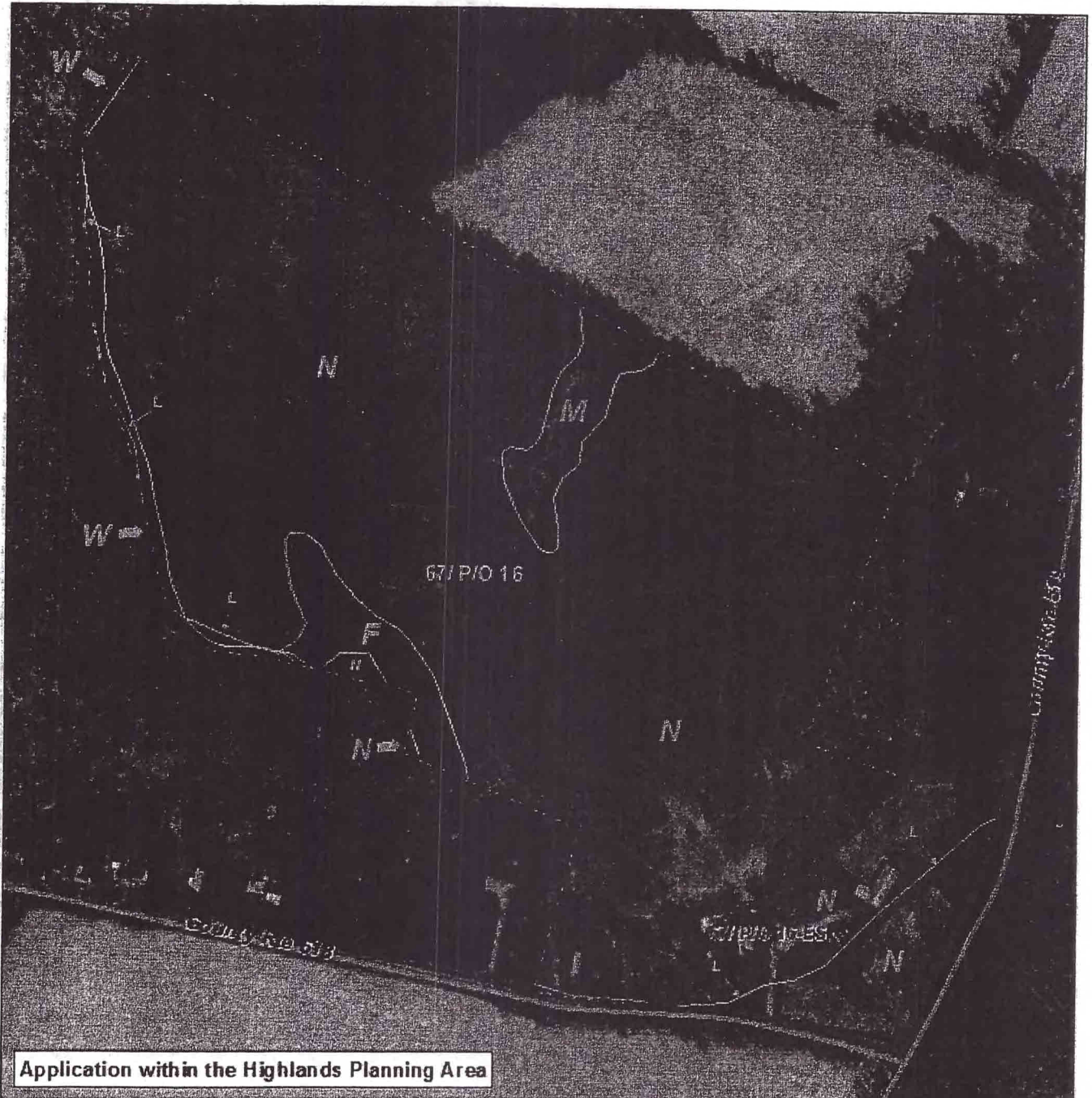
Source:  
NJ Farmland Preservation Program  
Green Acres Conservation Assessment Data  
NJOCTOG 15 2012 Digital Aerial Image

August 13, 2014



# Schedule A

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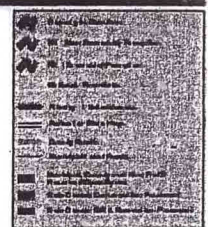
Application within the Highlands Planning Area

## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

Perie Thomas Thompson  
Block 67 Lots P/O 16 (36.2 ac)  
& P/O 16-ES (severable exception - 5.0 ac)  
Gross Total = 41.2 ac  
White Twp., Warren County

250 125 0 250 500 Feet

**DISCLAIMER:** Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user. The configuration and geo-referenced location of parcel polygons in this data layer are approximate and were developed primarily for planning purposes. The geospatial accuracy and precision of the GIS data contained in this file and map shall not be, nor are intended to be, relied upon in matters requiring delineation 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.



Sources:  
NJODP Freshwater Wetlands Data  
Green Acres Conservation Assessment Data  
NJODGIS 3012 Digital Aerial Image

August 15, 2014

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2016R8(6)

Final Approval and Authorization to Execute Closing Documents  
Authorization to Contract for Professional Services  
SADC Easement Purchase

On the Property of  
Perrotti Farms, LLC ("Owners")

August 27, 2015

Subject Property: Perrotti Farms, LLC ("Owners")  
Block 23, Lots 11 & 11.01  
Kingwood Township, Hunterdon County  
SADC ID#: 10-0232-DE

WHEREAS, on October 30, 2014, the State Agriculture Development Committee ("SADC") received a development easement sale application from Perrotti Farms LLC, hereinafter "Owners," identified as Block 23, Lots 11 and 11.01 Kingwood Township, Hunterdon County, hereinafter "the Property," totaling approximately 130.7 Gross Acres (Schedule A); and

WHEREAS, the SADC is authorized under the Garden State Preservation Trust Act, pursuant to N.J.S.A. 13:8C-1 et seq., to purchase development easements directly from landowners; and

WHEREAS, the Property includes one approximately 4-acre non-severable exception area containing a duplex residential unit and barns resulting in approximately 127 net acres to be preserved; and

WHEREAS, the portion of the Property to be preserved outside of the exception area includes one (1) single family residential unit, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

WHEREAS, staff evaluated this application for the sale of development easement pursuant to SADC Policy P-14-E, Prioritization criteria, N.J.A.C. 2:76-6.16 and the State Acquisition Selection Criteria approved by the SADC on July 24, 2014, which categorized applications into "Priority", "Alternate" and "Other" groups; and

WHEREAS, SADC staff determined that the Property meets the SADC's "Priority" category for Hunterdon County (minimum acreage of 49 and minimum quality score of 57) because it is approximately 127 net easement acres and has a quality score of 72.18; and

WHEREAS, at the time of application, the Property was devoted to hay production; and

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



WHEREAS, on July 23, 2015, the SADC certified the development easement value at \$5,300 per acre based on current zoning and environmental conditions as of June 30, 2014; and

WHEREAS, the Owners accepted the SADC's offer to purchase the development easement for \$5,300 per acre; and

WHEREAS, to proceed with the SADC's purchase of the development easement it is recognized that various professional services will be necessary including but not limited to contracts, survey, title search and insurance and closing documents; and

WHEREAS, contracts and closing documents for the acquisition of the development easement will be prepared and shall be subject to review by the Office of the Attorney General;

NOW THEREFORE BE IT RESOLVED that the SADC grants final approval for its acquisition of the development easement at a value of \$5,300 per acre for a total of approximately \$673,100 subject to the conditions contained in (Schedule B); and

BE IT FURTHER RESOLVED, the Property includes one approximately 4-acre non-severable exception area containing a duplex residential unit; and

BE IT FURTHER RESOLVED, that the SADC's purchase price 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 area 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-B Supplement; and

BE IT FURTHER RESOLVED, that contracts and closing documents shall be prepared subject to review by the Office of the Attorney General; and

BE IT FURTHER RESOLVED, the SADC authorizes Secretary of Agriculture Douglas H. Fisher, Chairperson, SADC or Executive Director Susan E. Payne, to execute an Agreement to Sell Development Easement and all necessary documents to contract for the professional services necessary to acquire said development easement, including but not limited to a survey and title search and to execute all necessary documents required to acquire the development easement; 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 this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

8/27/15

Date



Susan E. Payne, Executive Director  
State Agriculture Development Committee

\_\_\_\_\_

[illegible]

March 10, 2015



- 2016 D

State Agriculture Development Committee  
SADC Final Review: Development Easement Purchase

Perrotti Farm LLC  
State Acquisition  
Easement Purchase - SADC  
127 Acres

|          |           |               |                  |
|----------|-----------|---------------|------------------|
| Block 23 | Lot 11    | Kingwood Twp. | Hunterdon County |
| Block 23 | Lot 11.01 | Kingwood Twp. | Hunterdon County |

|        |           |          |     |   |      |
|--------|-----------|----------|-----|---|------|
| SOILS: | Other     | 5.54% *  | 0   | = | .00  |
|        | Prime     | 7.4% *   | .15 | = | 1.11 |
|        | Statewide | 87.06% * | .1  | = | 8.71 |

SOIL SCORE: 9.82

|                 |                    |       |     |   |       |
|-----------------|--------------------|-------|-----|---|-------|
| TILLABLE SOILS: | Cropland Pastured  | 16% * | .15 | = | 2.40  |
|                 | Cropland Harvested | 72% * | .15 | = | 10.80 |
|                 | Permanent Pasture  | 6% *  | .02 | = | .12   |
|                 | Woodlands          | 6% *  | 0   | = | .00   |

TILLABLE SOILS SCORE: 13.32

|           |     |          |
|-----------|-----|----------|
| FARM USE: | Hay | 90 acres |
|-----------|-----|----------|

**This final approval is subject to the following:**

1. Available funding.
2. The allocation of 0 Residual Dwelling Site Opportunity(ties) on the Premises subject to confirmation of acreage by survey.
3. Compliance with all applicable statutes, rules and policies.
4. Other:
  - a. Pre-existing Nonagricultural Use: No Nonagricultural Uses
  - b. Exceptions:
    - 1st (4.04) acres for duplex & future flexibility  
Exception is not to be severable from Premises
  - 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
5. Review and approval by the Office of the Attorney General for compliance with legal requirements.



**STATE AGRICULTURE DEVELOPMENT COMMITTEE**

**RESOLUTION #FY2016R8(7)**

**Final Approval and Authorization to Execute Closing Documents  
Authorization to Contract for Professional Services  
SADC Easement Purchase**

**On the Property of  
Patti L. Davis and Robina M. Coleman ("Owners")  
a.k.a. Millstream Farm**

**August 27, 2015**

Subject Property: Patti L. Davis and Robina M. Coleman ("Owners")  
Block 53, Lots 27 & 33; Block 47, Lot 18 (the "Property")  
Mannington Township, Salem County  
SADC ID#: 17-0281-DE  
Approximately 169 Gross Acres  
Approximately 142.2 net acres for payment purposes

WHEREAS, on June 25, 2014, the State Agriculture Development Committee ("SADC") received a development easement sale application from, Patti L. Davis and Robina M. Coleman hereinafter "Owners," identified as Block 53, Lots 27 & 33; Block 47, Lot 18, Mannington Township, Salem County, hereinafter "Property," totaling approximately 169 gross easement acres, identified in (Schedule A); and

WHEREAS, at the time of application, it was determined that there were significant areas of riparian, tidelands and boundary water therefore the appraisals were based on an estimated net acres of 142.2; and

WHEREAS, the SADC is authorized under the Garden State Preservation Trust Act, pursuant to N.J.S.A. 13:8C-1 et seq., to purchase development easements directly from landowners; and

WHEREAS, the Property has one (1) single family residential unit, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

WHEREAS, staff evaluated this application for the sale of development easement pursuant to SADC Policy P-14-E, Prioritization criteria, N.J.A.C. 2:76-6.16 and the State Acquisition Selection Criteria approved by the SADC on July 25, 2013, which categorized applications into "Priority", "Alternate" and "Other" groups; and

WHEREAS, SADC staff determined that the Property meets the SADC's "Priority" category for Salem County (minimum acreage of 95 and minimum quality score of

59) because it is 169 acres and has a quality score of 71.10; and

WHEREAS, at the time of application, the Property was devoted to corn, hay and goat production; and

WHEREAS, the Owner has read and signed SADC Guidance Documents regarding Exceptions, Division of the Premises, Division of the Premises for Farms with Non-contiguous Parcels and Non-Agricultural uses; and

WHEREAS, on February 26, 2015 the SADC certified the development easement value of the Property at \$4,525 per acre based on current zoning and environmental conditions as of December, 2014; and

WHEREAS, the certification was conditioned upon an agricultural access easement being obtained and recorded, to allow crossing over the railroad lot now owned by Salem County, between lots 27 & 33, prior to final approval; and

WHEREAS, this agricultural access easement is still in the process of being obtained and is therefore a condition of final approval to be finalized prior to closing; and

WHEREAS, the Owner accepted the SADC's offer to purchase the development easement on the Property for \$4,525 per acre; and

WHEREAS, to proceed with the SADC's purchase of the development easement it is recognized that various professional services will be necessary including but not limited to contracts, survey, title search and insurance and closing documents; and

WHEREAS, contracts and closing documents for the acquisition of the development easement will be prepared and shall be subject to review by the Office of the Attorney General;

NOW THEREFORE BE IT RESOLVED that the SADC grants final approval to the Property, for its acquisition of the development easement at a value of \$4,525 per acre for a total of approximately \$643,455 subject to the conditions contained in (Schedule B); and

BE IT FURTHER RESOLVED, the Property has one (1) single family residential unit, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

BE IT FURTHER RESOLVED, that the SADC's purchase price shall be based on the final surveyed acreage of the Property adjusted for proposed road rights of way, other rights of way or easements as determined by the SADC, tidelands claim and streams or water bodies on the boundaries of the Property as identified in Policy P-3-B Supplement; and



BE IT FURTHER RESOLVED, the SADC conditions this approval on an agricultural access easement being obtained and recorded, to allow crossing over the railroad lot now owned by Salem County, between lots 27 & 33, prior to closing and

BE IT FURTHER RESOLVED, that contracts and closing documents shall be prepared subject to review by the Office of the Attorney General; and

BE IT FURTHER RESOLVED, the SADC authorizes Secretary of Agriculture Douglas H. Fisher, Chairperson, SADC or Executive Director Susan E. Payne, to execute an Agreement to Sell Development Easement and all necessary documents to contract for the professional services necessary to acquire said development easement, including but not limited to a survey and title search and to execute all necessary documents required to acquire the development easement on the Property; 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 this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

8/27/15

Date



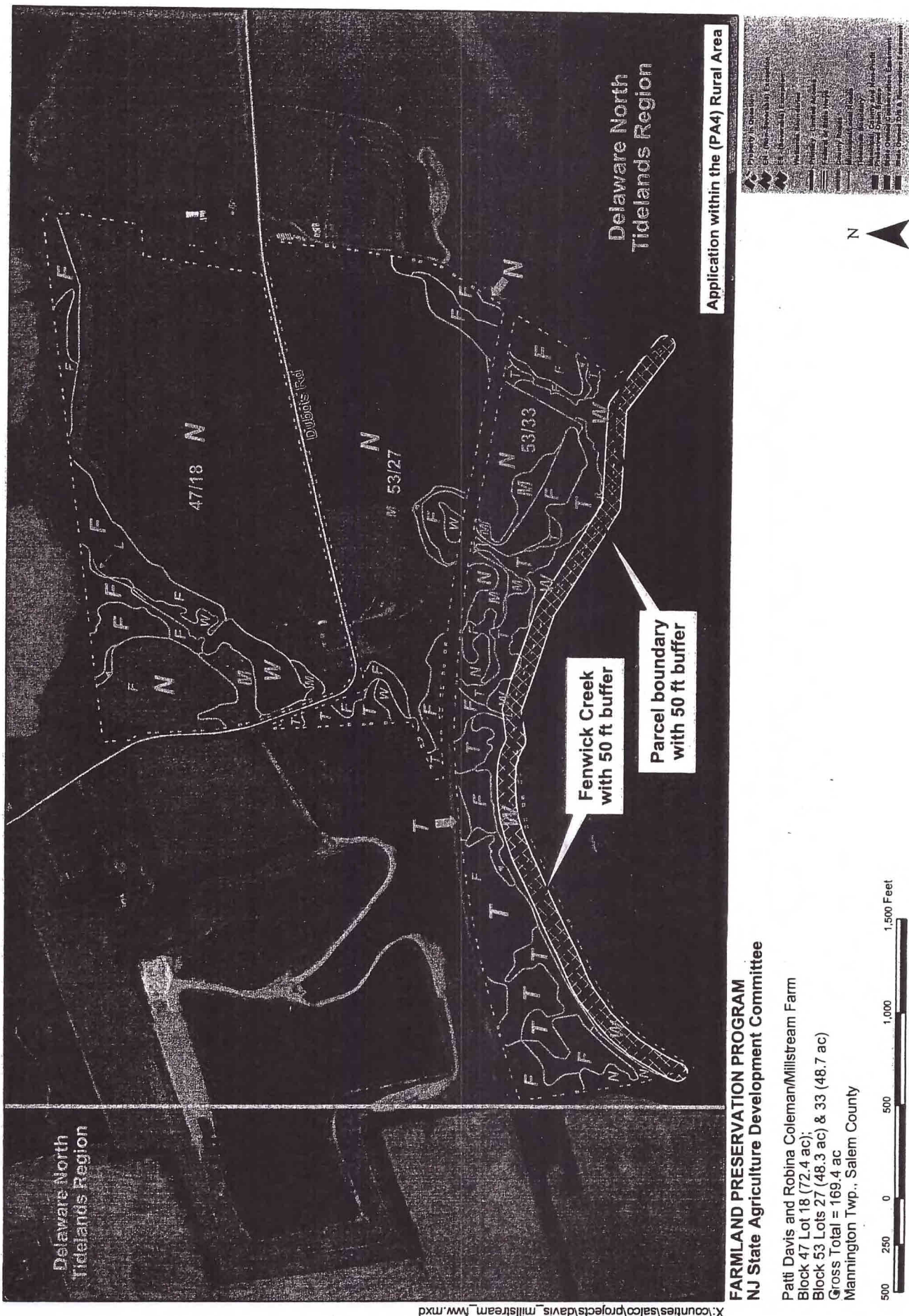
Susan E. Payne, Executive Director  
State Agriculture Development Committee

# VOTE WAS RECORDED AS FOLLOWS

|                                                    |        |
|----------------------------------------------------|--------|
| Douglas H. Fisher, Chairperson                     | YES    |
| Renee Jones (rep. DEP Commissioner Martin)         | YES    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |



## Schedule A



**TIDELANDS DISCLAIMER:**  
The linear features depicted on this map were derived from the NJDEP's CD ROM series 1, volume 4, "Tidelands Claims Maps". These linear features are not an official NJDEP determination and should only be used as a general reference. Only NJDEP, Bureau of Tidelands Management, can perform an official determination of Tidelands/Riparian claims.

**DISCLAIMER:** Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user. The configuration and geo-referenced location of points are the responsibility of the user. The data were developed primarily for planning purposes. The geodetic accuracy and precision of the GIS data contained in this map shall not be, nor are intended to be, relied upon in matters requiring delineation 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.

August 8, 2014

# SADC Final Review: Development Easement Purchase

## Patti L. Davis & Robina M. Coleman State Acquisition Easement Purchase - SADC 169 Acres

|          |        |                 |              |
|----------|--------|-----------------|--------------|
| Block 47 | Lot 18 | Mannington Twp. | Salem County |
| Block 53 | Lot 27 | Mannington Twp. | Salem County |
| Block 53 | Lot 33 | Mannington Twp. | Salem County |

|               |             |       |     |   |      |
|---------------|-------------|-------|-----|---|------|
| <b>SOILS:</b> | Other       | 24% * | 0   | = | .00  |
|               | Prime       | 64% * | .15 | = | 9.60 |
|               | Statewide   | 1% *  | .1  | = | .10  |
|               | Unique zero | 11% * | 0   | = | .00  |

**SOIL SCORE: 9.70**

|                        |                    |       |     |   |      |
|------------------------|--------------------|-------|-----|---|------|
| <b>TILLABLE SOILS:</b> | Cropland Harvested | 59% * | .15 | = | 8.85 |
|                        | Permanent Pasture  | 5% *  | .02 | = | .10  |
|                        | Wetlands           | 36% * | 0   | = | .00  |

**TILLABLE SOILS SCORE: 8.95**

|                  |                 |          |          |
|------------------|-----------------|----------|----------|
| <b>FARM USE:</b> | Corn-Cash Grain | 80 acres |          |
|                  | Hay             | 15 acres |          |
|                  | Sheep & Goats   | acres    | 85 goats |

### This final approval is subject to the following:

1. Available funding.
2. The allocation of 0 Residual Dwelling Site Opportunity(ties) on the Premises subject to confirmation of acreage by survey.
3. Compliance with all applicable statutes, rules and policies.
4. Other:
  - a. Pre-existing Nonagricultural Use: No Nonagricultural Uses
  - b. Exceptions: No Exceptions Requested
  - c. Additional Restrictions: No Additional Restrictions
  - d. Additional Conditions:  
A recorded agricultural access easement allowing the crossing of the RR lot, owned by Salem County , from Block 53, Lot 27 to Block 53, Lot 33, must be in place prior to closing.
  - e. Dwelling Units on Premises:  
Standard Single Family
  - f. Agricultural Labor Housing Units on Premises: No Ag Labor Housing
5. Review and approval by the Office of the Attorney General for compliance with legal requirements.





STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2016R8(8)

Final Approval and Authorization to  
Execute Deed of Easement, Project Agreement, and Closing Documents  
Monmouth Conservation Foundation – Conover Farm  
2013 Non Profit Round – SADC #13-0014 NP

August 27, 2015

WHEREAS, on May 21, 2012 the State Agriculture Development Committee ("SADC"), received a non-profit cost share grant application from the Monmouth Conservation Foundation (MCF) for the John Conover ("Owner") farm identified as Block 772, Lot 2, Wall Township, Monmouth County, totaling approximately 14.1 gross acres hereinafter referred to as "the Property (Schedule A); and

WHEREAS, the initial application for the Property included a 1-acre non-severable exception area for a future single family residence, resulting in approximately 13.1 net acres to be preserved; and

WHEREAS, the portion of the Property to be preserved outside of the exception area includes zero (0) single family residential units, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

WHEREAS, at the time of application the property was in Christmas tree production and meets the minimum criteria as set forth in N.J.A.C. 2:76-6.20; and

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

WHEREAS, on September 27, 2012 the SADC granted preliminary approval by Resolution #FY2013R9(26) to the MCF's application and appropriated \$107,500 for the acquisition of a development easement on the John Conover Farm which was the only application Monmouth Conservation Foundation submitted for FY2013; and

WHEREAS, in accordance with N.J.A.C. 2:76-12.2(b) the SADC determined that any farm that has a quality score (as determined by N.J.A.C. 2:76-6.16) greater than or equal to 70% of the county average quality score as determined in the County PIG program be eligible for funding; and

WHEREAS, the Property has a quality score of 57.20 which is greater than 70% of the County average quality score of 48 as determined by the Committee on July 28, 2011; and

WHEREAS, on February 25, 2014 SADC approved an Amended Preliminary Approval which removed the request for a housing opportunity in the non-severable exception and reduced its size from approximately 1-acre to approximately .75 acres and moved the location (Schedule B); and

WHEREAS, on May 28, 2015 the SADC certified the easement value of the Property to be \$19,000 per acre based on current zoning (as of April 18, 2014); and

WHEREAS, based on 13.35 net acres the estimated total purchase easement purchase price is \$253,650 and the SADC 50% cost share would be \$126,825; and

WHEREAS, because MCF is limited to the \$107,500 of FY13 SADC funding available the estimated SADC cost share will be approximately 42.38%, not 50%; and

WHEREAS, on May 29, 2015 the SADC informed the MCF of the certified value and its willingness to provide a cost share not to exceed \$107,500 available in FY13 funding ; and

WHEREAS, the Owner has accepted MCF's offer of \$19,000 per acre for the development easement; and

WHEREAS, on July 22, 2015 Wall Township passed a resolution approving the preservation of the Conover farm and agreeing to provide a financial commitment of approximately \$6,197.57 per acre towards the purchase of the development easement; and

WHEREAS, on July 23, 2015 MCF passed a resolution accepting the SADC's certified easement value of \$19,000 per acre and agreeing to contribute approximately \$2,375 per acre towards the purchase of the development easement; and

WHEREAS, on August 13, 2015 the Monmouth County Board of Chosen Freeholders passed a resolution approving the preservation of the Conover farm and agreeing to contribute approximately \$2,375 per acre towards the purchase of the development easement; and

WHEREAS, the anticipated cost share participation is (based on 13.35 acres):

|                                  |                     |                                             |
|----------------------------------|---------------------|---------------------------------------------|
| Wall Township                    | \$ 82,737.50        | \$6,197.57/acre (32.62% of \$19,000)        |
| Monmouth County                  | \$ 31,706.25        | \$2,375.00/acre (12.50% of \$19,000)        |
| Monmouth Conservation Foundation | \$ 31,706.25        | \$2,375.00/acre (12.50% of \$19,000)        |
| SADC Nonprofit Grant Funds       | <u>\$107,500.00</u> | <u>\$8,052.43/acre (42.38% of \$19,000)</u> |
| Total                            | \$253,650.00        | \$19,000/acre; and                          |



WHEREAS, because it is anticipated MCF will utilize its entire FY2013 appropriation of \$107,500 no additional funds available for ancillary cost reimbursement as per N.J.A.C. 2:76-12.6 and 16.3;

NOW THEREFORE BE IT RESOLVED, that the SADC grants final approval to the Monmouth Conservation Foundation for the Conover farm easement acquisition application subject to compliance with N.J.A.C. 2:76-16; and

BE IT FURTHER RESOLVED, the Property includes (1) one approximately .75-acre non-severable exception, limited to zero residential units; and

BE IT FURTHER RESOLVED, the Property to be preserved outside of the exception area includes zero (0) single family residential units, zero (0) agricultural labor units, and no pre-existing non-agricultural uses; and

BE IT FURTHER RESOLVED, the SADC shall provide a cost share grant not to exceed \$9,500 per acre or \$107,500 available to Monmouth Conservation Foundation for the development easement acquisition on the Conover farm subject to the availability of funds; and

BE IT FURTHER RESOLVED, the application is subject to the conditions contained in (Schedule C); and

BE IT FURTHER RESOLVED that the SADC authorizes staff to proceed with the preparation of a Project Agreement and closing documents prepared in accordance with N.J.A.C. 2:76-16.1; and

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

BE IT FURTHER RESOLVED, that the SADC authorizes Douglas Fisher, Secretary of Agriculture as Chairperson of the SADC or Executive Director Susan E. Payne to execute by signature all documents necessary to provide a grant to the Monmouth Conservation Foundation for the acquisition of a development easement on the Conover farm; 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 this action is not effective until the Governor's review period expires pursuant to N.J.S.A. 4:1C-4f.

8/27/15

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    |
| James Requa (rep. DCA Acting Commissioner Richman) | YES    |
| Ralph Siegel (rep. Acting State Treasurer Romano)  | YES    |
| Brian Schilling (rep. Executive Dean Goodman)      | YES    |
| Jane R. Brodhecker                                 | YES    |
| Alan A. Danser, Vice Chair                         | ABSENT |
| James Waltman                                      | YES    |
| Peter Johnson                                      | YES    |
| Denis C. Germano                                   | ABSENT |

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# Schedule A

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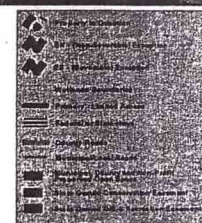
Application within the (PA2) Suburban Area

## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

J. Conover, Jr./Conover Christmas Tree Farm/MCF  
Block 772 Lots P/O 2 (13.3 ac)  
& P/O 2-EN (non-severable exception - 0.7 ac)  
Gross Total = 14.1 ac  
Wall Twp., Monmouth County

250 125 0 250 500 Feet

**DISCLAIMER:** Any use of this product with respect to accuracy and precision shall be the sole responsibility of the user. The configuration and geo-referenced location of parcel polygons in this data layer are approximate and were developed primarily for planning purposes. The geodetic accuracy and precision of the GIS data contained in this file and map shall not be, nor are intended to be, relied upon in matters requiring delineation 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



**Wetlands Legend:**  
F - Freshwater Wetlands  
L - Linear Wetlands  
M - Wetlands Modified for Agriculture  
T - Tidal Wetlands  
N - Non-Wetlands  
B - 300' Buffer  
W - Water

**Sources:**  
NJDEP Freshwater Wetlands Data  
Green Acres Conservation Easement Data  
NJOT/OGIS 2012 Digital Aerial Image

October 25, 2013



# Preserved Farms and Active Applications Within Two Miles

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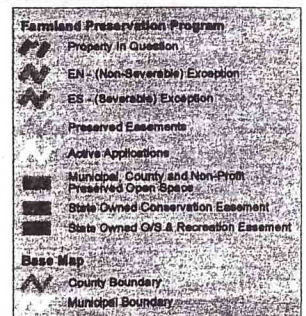


Application within the (PA2) Suburban Area

## FARMLAND PRESERVATION PROGRAM NJ State Agriculture Development Committee

J. Conover, Jr./Conover Christmas Tree Farm/MCF  
Block 772 Lots P/O 2 (13.3 ac)  
& P/O 2-EN (non-severable exception - 0.7 ac)  
Gross Total = 14.1 ac  
Wall Twp., Monmouth County

2,000 1,000 0 2,000 4,000 6,000 Feet



### NOTE:

The parcel location and boundaries shown on this map are approximate and should not be construed to be a land survey as defined by the New Jersey Board of Professional Engineers and Land Surveyors

Sources:  
NJ Farmland Preservation Program  
Green Acres Conservation Easement Data  
NJOT/OGIS 2012 Digital Aerial Image

October 25, 2013



STATE AGRICULTURE DEVELOPMENT COMMITTEE  
AMENDED PRELIMINARY APPROVAL (Internal)

**Subject Property:** Monmouth Conservation Foundation/John Conover Farm  
Block 772, Lot 2  
Wall Township, Monmouth County  
Approximately 13 Acres SADC ID# 13-0014-NP

**Requested Amendment:**

- remove the request for a housing opportunity on the farm
- recognize a .75 acre nonseverable exception around the existing Christmas Tree marketing area
- increase the size of the application by approximately 0.4 acres

**Discussion:**

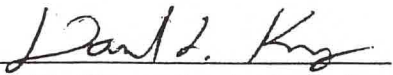
- On May 21, 2012, pursuant to N.J.A.C. 2:76-13, the State Agriculture Development Committee ("SADC") received a Nonprofit Grant Easement Application from the Monmouth Conservation Foundation ("MCF") for the John Conover farm identified as Block 772, Lot 2, Wall Township, Monmouth County totaling approximately 13 net easement acres (Schedule A).
- The application included a 1-acre non-severable exception for a future single family residence and improvements, to be restricted to one single family residence
- On September 27, 2012 the SADC granted preliminary approval to the MCF/Conover application (Schedule B).
- On June 5, 2013 MCF submitted two appraisals of the Conover farm to the SADC for review and certification.
- During the review of the appraisals it was determined that without a variance being granted the property could only be developed for one housing opportunity and therefore since the landowner was already retaining one housing opportunity within the exception area, there was no additional development potential and the application would not comply with N.J.A.C. 2:76-6.20(a)2iii(1).
- MCF has submitted an amendment to the application to remove the request for a housing opportunity on the exception area ; to have a .75 acre nonseverable exception around the existing Christmas Tree marketing area; and to increase the size of the application by approximately 0.4 acres (Schedule C).
- The change in the application now establishes development potential in order to comply with N.J.A.C. 2:76-6.20(a)2iii(1).

**Recommendation:**

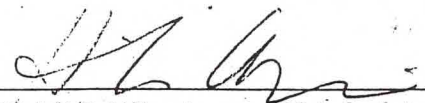
- Staff's recommendation is to grant amended preliminary approval to the MCF/Conover application and to advise MCF that it can proceed with appraisals.

**Authorization:** The Chairperson and the Executive Director have joint authority to grant approvals to amend applications, preliminary and final approvals and certifications of values. This authorization is limited to amendments that, in the judgment of the Chairperson, do not significantly alter the original Committee approvals or certifications.

**Staff Review:**

  
Daniel L. Knox, Agriculture Resource Specialist

Date: 2-20-14

  
Heidi J. Winzinger, Chief of Acquisition

Date: 2.21.14

The amendment is approved in accordance with SADC staff recommendations.

**Authorized Signatures:**

  
Susan E. Payne, Executive Director, SADC

Date: 2/24/14

  
Douglas H. Fisher, Chairman, SADC

Date: 2/25/14

**ATTACHMENTS:** Aerial  
Preliminary approval resolution  
Aerial of revised application

**File Closure (initial and date)**

- ☐ Oracle Updated
- ☐ File Updated

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