

## RESOLUTION # 4

### SOIL DISTURBANCE ON PRESERVED FARMLAND

1           **WHEREAS**, the Agricultural Retention and Development Act (ARDA) was written  
2           and enacted in order to strengthen and support the agricultural and horticultural industry  
3           in New Jersey, both through the preservation of the land base and by encouraging a  
4           positive agricultural business climate; and

5           **WHEREAS**, at the 2015 State Agricultural Convention, the State Agriculture  
6           Development Committee (SADC) presented a draft rule regarding soil disturbance on  
7           preserved farms that was met with serious concern by Convention delegates; and

8           **WHEREAS**, the delegates directed the Department and State Board to form an  
9           ad hoc sub-committee on the issue, with the focus to be on how a rule on soil  
10          disturbance could impact the state's agricultural industries; and

11          **WHEREAS**, that sub-committee was formed and worked throughout the majority  
12          of 2015 to create a set of recommendations to the SADC to guide the development of  
13          any future attempt to address the issue of soil disturbance, with primary focus being on  
14          the concept that the purchase of the "development rights" of a preserved farms does not  
15          include purchasing the "agricultural development rights"; and

16          **WHEREAS**, that sub-committee met in mid-2016 to again discuss the need for  
17          "guidance" for farmers of preserved lands in order to avoid future lawsuits regarding  
18          issues of soil disturbance; and

19          **WHEREAS**, the State Agriculture Development Committee already has the ability  
20          and authority to assert if and/or when instances of excessive soil disturbance have  
21          occurred on deed-restricted farmland, as evidenced by a case currently on appeal; and

22          **WHEREAS**, while the standard deed of easement does include language  
23          requiring soil conservation and the continued agricultural use of the land, it must also be

24 acknowledged that the deed of easement explicitly allows for “the construction of any  
25 new buildings for agricultural purposes” and “the right to construct any roadway  
26 necessary to service crops, bogs, agricultural buildings or reservoirs”.

27 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 102<sup>nd</sup>  
28 State Agricultural Convention, assembled in Atlantic City, New Jersey, on February 8-9,  
29 2017, do hereby commend the ad hoc Soil Disturbance Committee for its work regarding  
30 the prior proposed soil disturbance rule and its commitment to remain available for  
31 discussions if future proposed rules address the issue of soil disturbance.

32 **BE IT FURTHER RESOLVED**, that we urge the SADC to adhere to the explicit  
33 language of the entire deed of easement when seeking to reconcile the competing  
34 statutory goals embodied in the language of documents guiding the preservation  
35 program regarding the protection of the land base and the encouragement of a positive  
36 agricultural business climate.

37 **BE IT FURTHER RESOLVED**, that we urge the SADC to acknowledge that the  
38 limitations set forth in the deed of easement are fixed at the time each landowner signs  
39 the deed of easement, and may not be unilaterally amended by regulations adopted by  
40 the SADC.