

RESOLUTION # 33

SOIL PROTECTION ON FARMLAND

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

5 **WHEREAS**, the State Agriculture Development Committee (SADC) previously
6 presented a draft rule regarding soil disturbance on preserved farms that was met with
7 serious concern by Convention delegates, who directed the Department and State Board to
8 form an ad hoc sub-committee on the issue, with the focus on how a rule on soil disturbance
9 could impact the state's agricultural industries; and

10 **WHEREAS**, that sub-committee created a set of recommendations to the SADC to
11 guide the development of any future attempt to address the issue of soil disturbance, with the
12 primary focus being on the concept that the purchase of the "development rights" of a
13 preserved farm does not include purchasing the "agricultural development rights"; and

14 **WHEREAS**, in the wake of that sub-committee's work, SADC has revisited the issue
15 with an eye toward "soil protection," and has compiled new recommendations for a draft rule;
16 and

17 **WHEREAS**, the SADC's authority to assert if and/or when instances of excessive soil
18 disturbance have occurred on deed-restricted farmland, was the subject of a case before the
19 State Supreme Court, with the Court ruling in favor of the SADC; and

20 **WHEREAS**, while the standard deed of easement does include language requiring
21 soil conservation and the continued agricultural use of the land, it must also be
22 acknowledged that the deed of easement explicitly allows for "the construction of any new
23 buildings for agricultural purposes" and "the right to construct any roadway necessary to
24 service crops, bogs, agricultural buildings or reservoirs."

25 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 106th State
26 Agricultural Convention, assembled through a virtual platform hosted in Trenton, New
27 Jersey, in accordance with COVID-19 pandemic recommendations, on February 17, 2021,
28 do hereby strongly urge the SADC to make itself available for all opportunities and forums to
29 present to agricultural groups, especially county agricultural boards, the new proposed Soil
30 Protection standards under consideration and to acknowledge that the limitations set forth in
31 the deed of easement are fixed at the time each landowner signs the deed of easement, and
32 thus cannot be unilaterally amended, and to meet, but not exceed, the mandate given to it by
33 the courts to address the issue of soil protection on preserved farms.

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