

## RESOLUTION # 7

### 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 gave a presentation on the new proposed rules to the State  
18 Board of Agriculture at the Board's meeting in November 2021, seeking the Board's input on  
19 any remaining concerns; and

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

23           **WHEREAS**, while the standard deed of easement does include language requiring  
24 soil conservation and the continued agricultural use of the land, it must also be  
25 acknowledged that the deed of easement explicitly allows for "the construction of any new

26 buildings for agricultural purposes” and “the right to construct any roadway necessary to  
27 service crops, bogs, agricultural buildings or reservoirs.”

28 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 107<sup>th</sup> State  
29 Agricultural Convention, assembled in Atlantic City, N.J., on February 9-10, 2022, do hereby  
30 strongly urge the SADC to make itself available for all opportunities and forums to present to  
31 agricultural groups, especially county agricultural boards, the new proposed Soil Protection  
32 standards under consideration, both before and after that rule proposal is to be published in  
33 the New Jersey Register, which is anticipated to be shortly after this Convention, and  
34 particularly during the public-comment period after publication, and to acknowledge that the  
35 limitations set forth in the deed of easement are fixed at the time each landowner signs the  
36 deed of easement, and thus cannot be unilaterally amended, and to meet, but not exceed,  
37 the mandate given to it by the courts to address the issue of soil protection on preserved  
38 farms.

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

44 **BE IT FURTHER RESOLVED**, that since the State Agriculture Development  
45 Committee’s website speaks to SADC leading in the preservation of New Jersey farmland  
46 and promoting innovative approaches to maintaining the viability of agriculture, that  
47 agricultural viability should be of the utmost importance and priority for all commodity groups  
48 when addressing all standards, future and existing, within the program.

49 **BE IT FURTHER RESOLVED**, that there needs to be a method to address any  
50 operation that potentially will be impacted, with an emphasis on remediation and accessibility  
51 to the best management practices in order for continued growth in the operation, in order to  
52 continue profitable farming in the state.

53           **BE IT FURTHER RESOLVED**, that all standards should take into consideration the  
54           best ecological standards with regards to soil erosion and the SADC should work closely with  
55           the soil conservation districts so that both are aligned.

56           **BE IT FURTHER RESOLVED**, that we strongly urge the SADC to adopt language in  
57           the Soil Protection Rules that will allow soil disturbance limits to be transferred between  
58           commonly owned preserved properties that supports smart agricultural development prior to  
59           the publishing and adoption of these rules.

60           **BE IT FURTHER RESOLVED**, that the delegates strongly urge the SADC to create and  
61           share with preserved farmland owners the data that illustrates exactly how much disturbance  
62           each preserved farm has prior to publishing and adopting the Soil Protection Rule.