STATE AGRICULTURE DEVELOPMENT COMMITTEE
Department of Agriculture
Market and Warren Streets
1st Floor Auditorium
Trenton, NJ 08625

REGULAR MEETING

July 26, 2012

Chairman Fisher called the meeting to order at 9:07 a.m. Ms. Payne read the notice indicating the meeting was held in compliance with the Open Public Meetings Act.

Roll call indicated the following:

Members Present

Douglas Fisher, Chairperson
Fawn McGee (rep. DEP Commissioner Martin)
Brian Schilling (rep. Executive Dean Goodman)
James Requa (rep. DCA Commissioner Constable)
Ralph Siegel (rep. State Treasurer Sidamon-Eristoff)
James Waltman
Torrey Reade
Jane R. Brodhecker
Alan A. Danser

Members Absent

Denis Germano

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

Others present as recorded on the attendance sheet: Heidi Winzinger, Brian Smith, Timothy Brill, Steve Bruder, Paul Burns, Ed Ireland, Dave Kimmel, Dan Knox, Charles Roohr, Judy Andrejko, Hope Gruzlovic, Bryan Lofberg, Cindy Roberts, Jessica Uttal, Patricia Riccitello and Sandy Giambrone, SADC staff; Barbara Ernst, Cape May CADB; Nicki Goger, New Jersey Farm Bureau; William Millette, Hunterdon County Agriculture Development Board; Dan Pace, Mercer County Agriculture Development Board; Laurie Sobel, Middlesex County Agriculture Development Board; Jennifer Gonzalez, Passaic County Agriculture Development Board.

Minutes

A. SADC Regular Meeting of June 28, 2012 (Open and Closed Session)

It was moved by Ms. Reade and seconded by Mr. Requa to approve the open session minutes and the closed session minutes of the SADC regular meeting of June 28, 2012. The motion was approved. (Mr. Danser and Ms. Brodhecker abstained from the vote.)

REPORT OF THE CHAIRPERSON

- Proposed Solar Rule

Chairman Fisher stated that there was a great effort on the part of SADC staff and the Department regarding the proposed solar rules. There is still a ways to go before final approval of the rules but the proposed rules have addressed much more than what everyone anticipated when the legislation was first passed as to what would be needed to make sure that the rules are consistent and readily understood. Chairman Fisher thanked staff for their efforts in this regard and stated it was a great job. He stated that many people will be looking at this through all the departments of state government. New Jersey is second in the nation in solar installations, and wants that momentum to continue. The Governor just signed a bill that will allow solar projects to advance while at the same time recognizing there are limits to the extent of solar projects on farmland because we don't want productive farmland paved over with just solar installations. It is a very large balancing act, trying to advance an agenda of renewable energy and at the same time protect a limited resource like our farmland.

REPORT OF THE EXECUTIVE DIRECTOR

Ms. Payne discussed the following with the Committee:

- Quaker Valley Farms

Ms. Payne advised that SADC Chief of Agricultural Resources Jeff Everett will be attending the Oral Arguments in the Quaker Valley Farms case up in Somerset County. She noted that staff has been working on that case since 2008, and stated that she would keep the Committee updated as new information is presented.

- FY2012 Projects

Ms. Payne stated that staff will be reporting to the Committee at its September meeting on this issue. The FY2012 numbers were down and the pace of acquisition is slowing throughout the State. There was a recent discussion about this at the GSPT meeting and it is a phenomenon that is occurring in the Green Acres Program as well. There are many reasons for this and she has tasked staff to do a county-by-county review to better understand the causes in each county. She stated that it is everything from the resources available at the county level, to some towns and counties pulling back on their taxes and funds available. SADC funding has an effect on that also. She is trying to determine if the delay is within the SADC office and, if not, what is causing it and how can the SADC help – whether it's rule or statutory changes that are needed or there are other obstacles getting in the way of performance. She stated that SADC staff is extremely dedicated and she truly felt that the delay is not within the SADC. Staff has done everything they can to streamline closings. Ms. Uttal has moved so much through the office in the few months that she has been on board. She stated that she will report back to the Committee going forward but she felt it was time to assess if all the rules and regulations and policies that have applied for the past 28 years are the same that should apply for the next 28 years. SADC staff needs to take a hard look and decide what needs to be changed, if anything. The SADC is in a new fiscal reality as are our partners.

- Garden State Preservation Trust (GSPT)

Ms. Payne stated that the GSTP is meeting next week. Because of changes in IRS rules the GSPT is going to be increasing the scrutiny on recordkeeping and monitoring and compliance. The goal is for the Department of Environmental Protection (DEP), the SADC and the GSPT to enter into a memorandum of understanding (MOU) about what records are being kept and where, and their accessibility. She doesn't think that anything the GSPT is asking for anything that the SADC doesn't already do but is just formalizing that the SADC is the source of those records in the event of an audit. Ms. Payne stated she would report back, probably at the September meeting, to approve that MOU.

- On-Farm Direct Marketing AMP

Ms. Payne stated staff has been having weekly meetings to move that process to conclusion. She felt that staff is hammering out some of the major issues that were received as a result of public comment. The goal is still to meet with the working group in late August with a revised draft and then come back to the Committee in the fall with a rule proposal. This has been consuming much of staff's time in the office of late.

COMMUNICATIONS

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

PUBLIC COMMENT

None

OLD BUSINESS

A. Proposed New Rule: Solar Energy Generation on Preserved Farms (NJAC 2:76-24.1)

Ms. Gruzlovic referred the Committee to the draft proposed new rule for solar energy generation on preserved farms. She stated that at the May meeting the Committee reviewed the draft rule in detail. Today staff would go through the draft rule and touch on the key provisions and highlight some of the changes that have taken place since the last time the Committee reviewed it.

Ms. Gruzlovic reviewed the specifics with the Committee as follows:

The proposed rule was changed from the previous draft to:

- Clarify where appropriate that the concerns regarding the physical impacts of the proposed solar energy facilities relate to the impact on the "premises" as opposed to the "farm," which provides an expedited path to approval for projects on severable and nonseverable exceptions – areas where the Committee typically does not have review authority.

- Amend the definition of net metering to define it in relation to the N.J. Electric Discount and Electric Competition Act and BPU rules in effect at the time of enactment of the solar, wind, biomass law.

- Clarify that certain limits in the rule pertaining to allowable energy generation capacity, occupied area, soil disturbance and impervious cover, are cumulative as they relate to any other solar, wind or biomass energy generation facilities also on the farm. (e.g., if there are both wind and solar energy facilities on a preserved farm, the total occupied area for both facilities combined may not exceed 1 percent of the farm)

- Clarify that the proposed rule allows for the sale of energy directly to the grid as long as the solar facilities do not occupy more than 1 percent of the farm, and proceeds from the sale of the energy offset the farm's energy demand.

- Add language to avoid encumbering preserved farms with long-term obligations related to energy generation that could burden the farm or future owners. Language was added prohibiting preserved farms from being interconnected to off-farm sources of energy demand, and from "daisy-chaining" the farm's energy facilities (interconnecting them in a series) to off-farm energy generation facilities. The proposed rule prohibits easements through the farm (except for severable exception areas) to transmit power generated by an off-farm source or to provide roadways for facilities not located on the farm.

- Add new language to make clear that the law intends to provide opportunity to the farm owner, not an outside party, to engage in solar energy generation and production on the farm. Language was added to prohibit leasing of the land for the purposes of solar energy generation. Leasing of the facilities is prohibited except under a specialized agreement wherein the farm owner purchases the facilities over time. Farm owners may not otherwise lease the facilities to another party or individual. For agreements where the landowner will purchase the facilities over time, there is a 25-year limit on the time period for the farm owner to assume ownership of the facilities. If the farm is sold, the agreement for purchase of the facilities over time will be assigned to any subsequent farm owner.

There was discussion by the Committee regarding the term of agreement whereby a farm owner leases the facilities and will purchase them at the end of the agreement. The proposed rule states that the term shall not exceed 25 years. Mr. Siegel questioned the 25-year limit. He asked if the 25-years would accomplish this goal. Ms. Payne stated that the statute says in order to be eligible, the property owner needs to own the facilities or own the facilities at the end of the installation agreement. She wondered how long an installment agreement could possibly run. If the useful life of the facility is about 25 years, it didn't seem logical to allow the lease to run any longer than that. Mr. Siegel stated he thought the goal was that they were afraid of energy companies leasing property from the landowner. He felt that with a lease purchase of 25 years, the equipment probably wouldn't have any capital value at the end of the term. In effect, that person has leased the property for 25 years, because the farmer at the end of the lease period doesn't own anything. Ms. Payne stated that the Legislature gave no guidance on the leases. Mr. Siegel stated you have operators running around saying "give us 25 acres of your property and we'll pay this amount for it" and they will put up panels. We don't want that on preserved farms. Ms. Payne stated they couldn't put up 25 acres' worth. Mr. Siegel stated whatever the

acreage is, we don't want guys coming up to farmers and saying, give me a piece of your property and you'll be paid this amount every year period. We want it to be a facility that the landowner owns. Ms. Payne responded she agreed and the statute says the facilities are owned by the landowner or will be owned by the landowner upon the conclusion of the term of an agreement with the installer. Chairman Fisher stated that the reason for that, as he recalled, was that they didn't want people to walk away after 25 years and leave all these installations and nothing gets removed. Mr. Siegel stated that 20 years is the decapitalization value of almost any piece of equipment. A business can write off decapitalization value of a piece of equipment over time and by year 20 that equipment has zero value, therefore you cannot write it off any longer. That is where these 20 year rules come from. The federal government will only allow you to deduct the value of a piece of equipment; it has to have value to deduct it. Ms. Reade stated that a lot of farm equipment depreciates in seven years. Mr. Siegel stated that if the Legislature intended to prevent scenarios that exist where an energy producer offers to lease a piece of property from a farmer so that he can put his equipment on there, we don't want that; we want the preserved farmer to be the owner of the gear. He isn't sure that 25 years prevents that. In 25 years the farmer doesn't own anything, there is nothing left to own, so in effect we have not accomplished what we wanted to. Chairman Fisher stated that what he recalls is that ultimately it would end up being the farmer's responsibility to dismantle these installations.

Ms. Reade stated that if you have a capital lease agreement where you have 25 years for the landowner to acquire the project and at the end of the 25 years it is junk and it needs to be taken apart and recycled, then the landowner has never actually owned it during its useful life. It has only been owned by the generating company and the landowner has gotten presumably a 10 percent discount on his power purchase, which is the way these things are often structured. She stated that she agrees with Mr. Siegel that the 25 years may be creating a loophole.

Ms. Gruzlovic stated that in looking at the usable life span of solar facilities, the common numbers were 20 to 25 years but you could get as much as 40 years out of the facilities. The efficiency drops over the years so when staff chose the 25 year period we were not just thinking solar but what would be reasonable for wind, since we'll be mirroring these rules with the wind rules. She stated that we could tighten it up if the Committee wants to. Chairman Fisher stated that there will be a comment period and we'll be hearing from a lot of people, including those making these arrangements, and they are going to tell us why some of these numbers work or don't work for them. Mr. Siegel stated that if the objective is to make sure that the farmer at some point has this listed on his capital inventory as his facility, 25 years may not be the number you want. He stated he may consult some of these energy capital firms. We have them in New Jersey and they can probably tell you what they capitalize on a piece of energy generating equipment

to give some guidelines. His understanding is that with heating and air conditioning units, many schools may buy them by lease purchase and it was a five-year lease purchase. They didn't pay a big capital cost up front and paid for it in five years instead of one year and then they owned it. There is a 20-year life span on those so they are actually going to own something. Most lease purchases, in order to be legal in the public world, at the end of the lease there has to be something that you are purchasing. In the private sector you can do what you want but the government is limited in lease purchases; they cannot do lease purchases that are fraudulent, where at the end of the contract there is nothing left. Mr. Siegel felt that timeframe was past the life span of almost any piece of equipment. Ms. Reade stated that you will probably have to have replaced the inverters at least twice. She stated that usually these are set up so that there is an energy firm that wants to capture the value of the SRECS and sells the energy to the grid. What they do is rent the area from the landowner for a period of 25 years because that is conceded to be the useful life of a solar system, and at the end of that period the system would then belong to the landowner. During the interim the landowner would be receiving only a 10 percent discount off their electric bill, which to her doesn't imply ownership. Mr. Danser stated he didn't think you could do that because that would be leasing the premises. Mr. Siegel stated it seems to make these agreements illegal. Ms. Payne stated that other than the agreement with the installer, that is what the law says. The agreement is with the installer so someone is going to put these solar panels or this wind turbine on your farm. The presumption is you are acquiring ownership of it over time. Ms. Reade felt that seven years would be a reasonable period and then you could depreciate farm ownership of the solar installation over seven years; she didn't think you would have to go 20 years.

Mr. Waltman stated that what you don't want is a solar company coming in and paying the farmer to convert farmland to solar. A power purchase agreement is the opposite. The farmer is paying the solar company to install the facility but he doesn't have the money up front, and he felt the agreements are more like 10-15 years, so over time the farmer is paying the solar company for the power at a rate so that at the end of the day the farmer owns the solar. Ms. Reade stated that her reaction is that in general, the farmer is better off trying to figure out a way to finance the purchase of the facility rather than to sign one of these lease agreements. She stated that personally she felt it should be something where we are not encouraging the kinds of power purchase agreements that Mr. Waltman was describing. She felt they were not good for either the farmer or the land; it's basically a disguised lease with something that winds up not being valuable at the end of the day for the farmer.

Ms. Payne stated that generally what she is hearing from the Committee is concern that this time period is so long that at the end of which there may be no useful life left in the

facility for the farmer. Mr. Siegel commented that the statute says "owned by the landowner or will be owned." To him, for that to be meaningful the limitation on the lease has to be tighter. He would suggest that we should inquire about that.

Mr. Siegel stated that staff has heard the Committee's concerns to look at that 25-year period. The idea is that the Legislature meant something here and he felt they meant that we don't want these facilities that the landowner is not responsible for and never owns.

Ms. Gruzlovic continued the discussion of the draft rule with the Committee. Additional changes would:

- Allow the Committee to delegate review and approval authority to the Executive Director for applications where the CADB or nonprofit have not raised concerns, where the energy facilities will not result in any new impervious cover and the applications are in conformance with all provisions of the rule and law.

- Add a process for revoking or suspending approval for solar energy facilities, or for the farm owner to appeal an SADC decision.

Ms. Payne stated that if the Committee approves this draft as a proposed rule today, staff will send it to the NJ Register. Once it is published, it will be subject to a 45-day public comment period. After staff reviews and provides comments on all the comments, the Committee will make a determination whether there is anything that needs to change as a result of those comments. If those changes are not significant, the Committee could make the changes on adoption. She stated that the earliest she would imagine that this would get published is late September and probably around November would be the deadline for public comments and then the adoption of the rule early next year.

Mr. Siegel stated he would move the rules with the amendment that SADC staff, after further review, may choose to change, or not change, the 25-year number as it sees fit without requiring any need to come back to the Committee.

It was moved by Mr. Siegel and seconded by Mr. Requa to approve the Proposed New Rule: Solar Energy Generation on Preserved Farms (NJAC 2:76-24.1) as presented and discussed for publication in the New Jersey Register and subsequently subject to the public comment process, with the above noted amendment to, at staff's discretion, change the 25-year period should staff have a legitimate need to change the number, without returning to the Committee for approval. The motion was unanimously approved. (A copy of the Proposed New Rule: Solar Energy Generation on Preserved Farms (NJAC 2:76-24.1) is attached to and is a part of these minutes.)

NEW BUSINESS

A. Reorganization

1. Appointment of Vice Chairperson

It was moved by Mr. Schilling and seconded by Ms. Brodhecker to nominate and re-appoint Mr. Danser as Vice Chairperson of the SADC. The motion was unanimously approved.

2. August 2012 through July 2013 SADC Meeting Dates

Ms. Payne referred the Committee to the Regular Meeting Dates for the SADC from August 2012 through July 2013. She stated the list indicates a meeting date for the month of August. That date is being reserved in the event the SADC needs to call a meeting; however, she does not anticipate having an August meeting. She stated that the months of October and November are combined for meeting purposes, and that the Committee will meet the second Thursday in November due to the holiday season. The Committee will meet the second Thursday in December, also due to the holiday season. It is also noted that the April 2013 meeting will be held on a Friday (the 26th), due to Take Your Child to Work day on Thursday the 25th.

It was moved by Mr. Danser and seconded by Mr. Waltman to accept the FY 2013 SADC meeting dates from August 2012 through July 2013. The motion was unanimously approved. (A copy of the SADC Meeting Dates - August 2012 through July 2013 is attached to and is a part of these minutes.)

B. Resolutions for Final Approval – County Planning Incentive Grant Program

Ms. Winzinger referred the Committee to two requests for final approval under the County Planning Incentive Grant program. She reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Ms. Reade and seconded by Mr. Danser to approve Resolution FY2013R7(1) and Resolution FY2013R7(2) granting final approval to the following applications, as presented and discussed, subject to any conditions of said Resolutions:

1. Russell and Laura B. Bowers, SADC # 21-0506-PG (Resolution FY2013R7(1))
   Block 101, Lot 3, Pohatcong Township, Warren County, 50 Net Acres
   State cost share grant of $4,150.00 per acre (63.9% of the purchase price). To account for any potential increase in the final surveyed acreage, a three percent buffer has been applied to the funds encumbered from Warren County's base grant. Therefore, 51.5 acres will be utilized to calculate the SADC grant need.

No competitive grant funds are being utilized for this acquisition. Warren County, in coordination with the New Jersey Conservation Foundation, applied for and was approved to utilize USDA, NRCS FY2012 Farmland Ranch Lands Protection Program grant funding in the amount of $91,205.00 or $1,824.10 per acre (based on 50 acres) to further leverage available county funding. The Owner agreed to the additional restrictions associated with the use of federal funding, including a seven percent impervious cover restriction equal to approximately 3.6 acres of land available for the construction of agricultural infrastructure on the property outside of the exception.

Discussion: It is noted that the property has a one acre nonseverable exception area for an existing horticultural shop and existing duplex residence.

2. Gail Cooper, SADC # 10-0313-PG (Resolution FY2013R7(2))
Block 15, Lot 6; Block 16, Lot 16, Holland Township, Hunterdon County, 43 Net Acres
State cost share grant of $4,450.00 per acre (62.68% of the certified market value and purchase price). Approval is subject to access easements for the property, which must be solidified, reviewed and approved by SADC staff, clearly identified on a survey and recorded prior to closing. To account for any potential increase in the final surveyed acreage, a three percent buffer has been applied to the funds encumbered from the County's base grant. Therefore, 44.29 acres will be utilized to calculate the SADC grant need. No competitive grant funds are needed for this property.

Discussion: The property is one of three parcels subdivided in 2009 from a larger parcel, as inherited by three siblings (Gail Cooper, Neil Boss and Edward Boss). The Hunterdon CADB has submitted PIG applications for the adjacent parcels owned by Neil and Edward Boss. The three parcels each utilize existing driveways, which cross existing waterways. The minor subdivision approval for the three parcels stated that access to each "should utilize the shared driveway in existence at the time of the subdivision." It is unclear from current mapping if part of the shared driveway is situated on the property or the neighboring parcel. To ensure viable access relied upon during the appraisal process and for future access post-preservation, any required access easements pertaining to the shared driveway must be solidified, reviewed and approved by SADC staff, clearly identified on the survey and recorded prior to closing. Any access easement required to preserve existing access to the neighboring parcels through the Gail Cooper farm should also be solidified, reviewed and approved by SADC staff, clearly identified on the survey and recorded prior to closing.

Ms. Winzinger mentioned that there was mistake on page two of the draft resolution. The Committee had certified a value of $7,100.00 per acre based on 1/1/04 zoning and $4,000.00 per acre based on current zoning. The resolution indicated that the $7,100.00

per acre was based on current zoning, which is incorrect. Staff will make the necessary correction to the resolution.

The motion was unanimously approved. (A copy of Resolution FY2013R7(1) and Resolution FY2013R7(2) is attached to and is a part of these minutes.)

C. Resolution for Final Approval: Municipal Planning Incentive Grant Program

1. Charles Brown, Holland Township, Hunterdon County

Ms. Winzinger referred the Committee to Resolution FY2013R7(3) for a request for final approval on the Charles Brown Farm in Holland Township, Hunterdon County. She reviewed the specifics with the Committee and stated that staff recommendation is to grant final approval.

It was moved by Ms. Brodhecker and seconded by Mr. Danser to approve Resolution FY2013R7(3) granting final approval to the following landowner, as presented and discussed, and subject to any conditions of said resolution:

1. Charles Brown Farm, SADC # 10-0338-PG
   Block 9, Lot 20.01, and Block 14, Lots 2 and 38, Holland Township, Hunterdon County, 129 acres
   State cost share grant of $3,600.00 per acre for an estimated total of $464,400.00 (66.67% of the certified market value and purchase price).

Discussion: In July 2009 this property was submitted to the County PIG program and the SADC granted preliminary approval in February 2011. After preliminary approval, the Township and the County requested that the application be transferred to Holland Township's Municipal PIG program. After preliminary approval, the landowner requested a five acre severable exception area for, and to be restricted to, one future single family residence. The severable exception located on the southern portion of Lot 38 has access limitations due to a C-1 stream and buffer area. However, SADC staff has been notified that the landowner is aware of these limitations and wished to continue with the current configuration. The landowner has signed acknowledgments that no division of the land shall be permitted without the joint approval, in writing, of the County and the SADC and consistency with the conditions of the Deed of Easement, and that exception areas may not be expanded or relocated after closing.

The motion was unanimously approved. A copy of Resolution FY2013R7(3) is attached to and is a part of these minutes.)

D. Resolutions for Final Approval: State Acquisition Program

Ms. McGee stated that she had emailed Ms. Payne with the last email being from her Assistant Commissioner through the Commissioner asking that the Schaumloeffel agenda item be rescheduled because of an easement issue so that the DEP and SADC could have a chance to meet prior to this discussion. Ms. Payne felt that the SADC needed to hear the discussion to see whether the big issue on the table warrants delaying this agenda item for two months.

Mr. Knox referred the Committee to three resolutions for final approval under the State Acquisition program. The first resolution is for the Robert and Edward Schaumloeffel farm, located in Upper Freehold Township, Monmouth County. This property was the subject of a subdivision application by the landowners. They had received approval for fifty lots, which is how we based the value. A condition of the approval is that there is a conservation easement placed around a stream corridor. The SADC's position is that it will not pay on that area because it does restrict farming. The SADC's position also is that it will preserve the area, which is its normal practice where there is an existing conservation easement; on other projects it has placed its easement on top of those. One of the reasons for that is if the conservation easement or any other kind of easement should ever go away, the land is now preserved. Mr. Knox stated that the landowners are present today should the Committee have any questions. He stated that Mr. Schaumloeffel desires to pass the farm on to his daughter so he is very interested in preserving the farm and wants to do this quickly for family reasons. There are several exceptions on this property – a seven acre severable exception area where Mr. Schaumloeffel's brother owns a house, and a twenty-three acre severable exception that includes Mr. Schaumloeffel's house with the approval of two additional lots on that portion. The SADC would place restrictions so that there would be no more than three housing opportunities on that twenty-three acre exception. There will also be a two acre nonseverable exception, which will remain with the property.

Mr. Knox stated that the issue that Ms. McGee raised deals with the conservation easement. Staff's recommendation is that it would not pay on that area because it limits the farming area but we will preserve it. Green Acres has expressed a concern or a potential concern about placing an easement on top of another easement with the Recreation and Open Space Inventory (ROSI) issues. Ms. Payne stated that the SADC does bump into conservation easements all the time. The SADC's policy is that it takes those into consideration during the appraisal process and the SADC's easement goes over those. When this came up, Monmouth County may have raised the issue with the DEP as to whether the SADC's placement of an easement on top of a pre-existing conservation easement constituted any kind of diversion. Ms. McGee indicated that was only part of the issue. Ms. Payne stated that also the reflection of this conservation area must be showing up on their ROSI. Ms. McGee stated that it is on their inventory but because of

the development approvals sometimes you are getting these stream conservation restrictions put in place without the benefit of public access. The Monmouth County and Upper Freehold Township's Farmland and Open Space Plan has been approved by the SADC, and the county's 1991 Plan that was approved by Green Acres and the SADC shows the Crosswicks Creek corridor as a public access component. So having the ability now, or in five, ten or twenty years to link up basically, what Monmouth County has said is $23 million of the public's investment in creating this public access corridor, just takes this piece out of commission forever. There is no SADC payment but just putting a farmland easement on top of a conservation restriction will deter any public access component and create a gap in this corridor.

Mr. Siegel stated that it is private property now and the concern, which has come up before, is that the farmland easement enshrines it as private property forever. Ms. Payne stated she had not been aware of the public recreation part of this. The landowners and Monmouth County had been in negotiations for some period of time on the county's purchase of this property. That negotiation was not consummated so the landowners came to the SADC and it processed the application. When the SADC certified the value, Monmouth County sent a letter asking the SADC to require the landowner to take some exception areas so that they could provide public access. Those areas that the county requested were in excess of the area subject to the conservation easement. The SADC discussed that request with the landowner and he was adamant that he did not want to provide for public access to the property. That is what the SADC said back to the County. That is where we are today. The County has not said anything else. The SADC is not going to force a landowner to allow public access to their property so here we are at final approval. The issue that is being raised is that if the SADC puts its easement on top of the conservation easement, it will preclude some future landowner from being able to allow public access in the area of the conservation easement. Mr. Waltman stated that in the land conservation easement world, there is a concern that the SADC is not friendly to public access trails. That is a general statement, which may or may not be fair, but that is the concern. He asked if this were covered in a farmland easement, would that preclude a future negotiation. Ms. McGee stated that is the big issue. The opportunity goes away forever. Ms. Payne stated that the difference between this and how we do business normally is that sometimes we'll get an application where either the landowner or the nonprofit – the applicant – is asking for the trail but in this instance we are being asked to take an exception basically that the landowner is not requesting. Mr. Danser stated that happens all the time and he understands the landowners' position and he agrees with it completely. But there are applications that go back to the county and the township, and usually it is for road widening issues and it is still private property, but it just doesn't have the farmland easement on it. If and when the town or county wants to take it, they either have to negotiate the purchase or do it through eminent domain and all the legal channels, but it is not subject to the deed restriction.

Mr. Siegel asked if someone had paid for the conservation easement. Mr. Schaumloeffel stated no. Mr. Knox stated that it was a conservation easement that was a condition of a subdivision approval. There is some question regarding the validity of the conservation easement also that Mr. Schaumloeffel is following and he can address the Committee on this if necessary.

Ms. Payne stated that the SADC's easement would be subordinate to the first easement. When we had the original conversation, she said that the SADC was not trying to assert any superiority in any way to this conservation easement and it would be glad to sign any kind of subordination agreement that recognizes that easement is first in title and is superior, and the SADC's is second in title and inferior, and only if the first easement goes away does the SADC's come into play. The issue today that is being introduced is the desire to reserve a future ability to put recreation here. She thought that was a very dangerous thing for the Committee to entertain – to send a message that if your county or town wants to carve a trail through your farm someday that the SADC is going to defer to that automatically. The Committee has never said that in its history, and if it has concerns or sympathy for this issue then staff will have to work on this some more. But we cannot just say if your county or town wants to carve a trail through your farm, we're just going to take that as an exception today. Ms. Reade asked if the conservation easement allows public access. Mr. Knox responded no. Ms. Reade asked then how does this get introduced as an issue then? Ms. Payne stated they are trying to reserve the ability to acquire additional rights in that area in the future. The conservation easement is for conservation only, not recreation. The county does not want the SADC to place its easement on top of it because that would preclude the county from going back to this property in the future with a new owner, perhaps, and negotiating to acquire additional rights.

Chairman Fisher opened the discussion to the landowners. Lisa Hinch addressed the Committee. Ms. Hinch is the fiancée of the landowner and she is very involved in the farm. She stated that they have sat through enough of these meetings to know that the goal of farmland preservation is to keep these as functioning farms into the future. Now we are talking about putting a walkway in the middle of a working farm, with equipment going. It is a dangerous issue in and of itself. We could not give access to those areas in a safe manner. Mr. Schaumloeffel stated they are spraying constantly and they have pieces of equipment running back and forth; there is no way that he could see that they could possibly give a right of way to that area that they basically got for nothing from him. He should have never deeded it over to them because they never did anything with the subdivision and the only reason they did get it was because his attorney had him sign over the deeds to the county. He stated he shouldn't have done it unless he was going to develop it or convey it to the SADC with an easement on it. Mr. Danser asked if they transferred title, why is it part of this application? Mr. Schaumloeffel stated they didn't transfer title; it's just an easement on it and they still own it.

Ms. Payne stated that the issue is forcing a severable exception over the landowner's objections. That is the issue that is getting raised. Mr. Danser asked if the issue is that or is it the access to it afterward. Apparently it already has the conservation easement. Ms. Payne stated it has the conservation easement on it and the county has a longer-term agenda that it would like to introduce recreation. The landowner objects to that and does not want that to happen. Mr. Danser stated that he is trying to brainstorm a way to satisfy everyone. If you make it a severable exception then it isn't part of this application and we would not put our easement over it. The other question he had for Mr. Stypinski is can we write something that says if the conservation easement is ever vacated, then our easement would take effect? Mr. Stypinski stated that he didn't think so. He would need to look at that issue. Mr. Danser stated that if we could put a subordinate agricultural easement out there, it could say that if for some reason the public easement is ever vacated that the SADC's would take effect. Mr. Knox stated that is what we would be doing; we would be putting the SADC's easement on top of this one but ours is inferior.

Mr. Knox stated that one of the concerns is what if this conservation easement is found to be invalid. If they go to court and it's found that it is invalid, now we have this strip of land that is not preserved and there is a question about access to it. That is why we want to overlay our easement and whatever was recorded first would be superior. Mr. Siegel stated that we have no assurance that this conservation easement is correctly constructed and it may be allowed to be legally invalid; a future owner throws the conservation easement out and now we have an easement on 166 acres of a 196 acre farm. Ms. Hinch stated they would sign something today that would say that the SADC could have that thirty acre donut hole. She stated that if they preserve the 166 acres around this 30 acre conservation easement and for some reason the conservation easement goes away, we could put something in the contract with the SADC that says the SADC has first dibs on the 30 acres. Mr. Schaumloeffel stated he would be more than happy to do that. They feel also that these deeds are invalid that went to the county because his brother never signed them.

Chairman Fisher stated that we have a proposal and we also have an issue that was raised by Ms. McGee. It sounds like there is enough room to work out this issue. Ms. Payne stated that we can work something out on this farm but she wants the Committee to be careful and aware that we don't condition our program and our acquisitions on agreement with the NJ DEP all the time because we don't always agree. She wants to be very careful in what we are doing here and why are we doing it. We have a landowner who has told us point blank that they want nothing to do with recreation on their property and in her 28 years of experience we tend to defer to that. We put options out to the landowner and if the landowner says he doesn't want recreation on his farm, that is usually where the conversation ends. We have to be very careful. Ms. McGee stated that, along with that we reach out to local governments that are spending tremendous amounts of public dollars, and we are looking at the big picture and we are asking towns to look extensively into the planning process. These towns are sitting around tables and

talking about issues, talking to neighbors and people all the way up the line. The SADC is approving these plans so there is a planning process where we are taking all of this information so we're all on the same page. At least we are sharing information. We have to work together. She thinks that if you have a conservation restriction where you are not going to pay any farmland dollars and the concern is maybe in the future the conservation easement goes away, she respects that, but if you are not putting public dollars in and there are public documents that this board has approved that say this is what we are thinking in the future, to cut off that ability to make that happen is short-sighted. Ms. Payne stated she hears that 100 percent and her goal four years ago was to try to develop some rules of engagement so that when our agendas sort of overlap on a piece of property that we could. She stated that didn't go in a very productive direction. She hears what Ms. McGee is saying and she thinks it is an issue for the agencies to deal with. She just wants the Committee to be careful on setting a precedent here on this farm in the absence of any kind of policy context that we are going to force a landowner to take an exception for recreation if they haven't asked for it. Ms. McGee stated it isn't for recreation, it is saying to not put the easement there.

Mr. Waltman stated he is always concerned when there are multiple agencies that seem to be conflicted. He is on this board as a representative of the general public and he knows that one of the things that the public dislikes is when government gives you one answer and another agency gives you another answer and they seem to be fighting. That happens all too often. He would be uncomfortable if there is a past record of local and county-wide planning decisions that have included that corridor as an area for potential public access. He is not saying that the landowner should be forced to put a trail through but if some future landowner is willing, and the county and municipality have said that looks like a good place to put a trail corridor, then he doesn't think this body should do anything to preclude that.

Mr. Siegel asked if we could say that we want the conservation easement divided out and that we would preserve the remaining 166 acres. So instead of three lots we would be carving out the two lots and not touching them. That is the only way to not lay the easement over it. Mr. Danser stated that we can do it, just not put the easement over the whole parcel and we do that all the time. Mr. Knox stated that they can take it as an exception area. Mr. Stypinski stated that you do not want to do a division because it wouldn't meet the criteria for a division. Mr. Siegel asked what about a severable exception for that area? Mr. Knox stated that there would be no access to it. This is a major problem because we shouldn't be giving severable exceptions on a farm where there is no access.

Mr. Requa stated he has a question for Ms. McGee in terms of DEP's official position or recommendation on this matter. He wanted to be clear on that before moving ahead. Ms. McGee stated that she has written to Ms. Payne and she talked to her administration and they asked that this be rescheduled for a later SADC meeting so the agencies could sit

down and discuss the overlapping easement issue. We asked for the ability to have a meeting to discuss this prior to the public meeting so we could have all the information and all the facts, all the right folks, and hopefully come up with a decision. Mr. Danser asked who requested DEP to do that. Ms. McGee stated that because it is in an inventory by default the DEP looks at these things and then Monmouth County asked the DEP to get involved as well. Because it is on the ROSI our program does the reviewing and monitoring of things identified on that inventory. Mr. Danser asked why it was on the ROSI if all it is, is a private conservation easement. Ms. McGee stated because it is a county easement.

Ms. Reade stated she is hearing a lot of concern from the landowner because the proposed conservation use is the grander scheme of the county plans. Is it compatible with the kind of agriculture the owner is conducting? She wants to make sure that this isn't something that can be forced on him. As things currently stand, unless the landowner opens the door to Monmouth County having this be recreational, there is no prospect of that happening, is that correct? Ms. Payne responded that was correct.

Chairman Fisher asked Mr. Schaumloeffel if he would like to address the Committee. Mr. Schaumloeffel stated that first of all they had a signed contract with the county. If they seemed to be so interested in preserving all of these wetlands for the future, they backed out of the deal. Why? It is ridiculous. He doesn't buy them wanting to preserve all of this. They went down and took the money and bought something down the road at Princeton Nurseries. He stated they got a much better deal. Now they want to take and force this on him and he is not really interested in giving up his property for them to have access to the public. Maybe they want to buy it from him. He might consider selling it to them and giving them an easement, but he is going to determine how it is going to go because he doesn't want people running all over his farm, where his ponds are that he needs for irrigation. He would consider possibly the county paying for that easement up to what he wants to give them, and then it has to be fenced off. Mr. Schaumloeffel stated he doesn't want this to drag on for months and months. Ms. McGee stated her understanding is the county would pay for that added benefit of public access. Mr. Schaumloeffel stated not for the public access, but for everything – what he has already deeded over to them by mistake but that is a done deal now. It is conceivable but he would have to talk to his brother and other people about doing that. Ms. McGee stated she could go back to the county today and start that conversation.

Mr. Knox stated that his concern is that this would delay this considerably because it would change the application. Chairman Fisher stated the Committee has a choice. It can either move the resolution and application or not. He asked if there was a motion to move it.

<u>It was moved by Mr. Danser and seconded by Ms. Reade to approve Resolution FY2013R7(4) granting final approval to the Robert and Edward Schaumloeffel</u>

application, known as Block 31, Lots 6, 9, 10, Upper Freehold Township, Monmouth County, as presented and discussed.

Mr. Waltman felt this didn't make sense. Ms. McGee stated she would like the opportunity to have the meeting she asked for.

Chairman Fisher asked for a roll call as follows:

Mr. Schaumloeffel stated that he felt there has been plenty of opportunity to have this thing decided as to what they wanted to do. Ms. Hinch stated they have been working with the SADC now for two years. Mr. Schaumloeffel stated it has been two years with the SADC and four years with the county.

Douglas H. Fisher, Chairperson	Yes
Fawn McGee (rep. DEP Commissioner Martin)	Oppose
James Requa (rep. DCA Commissioner Constable)	Oppose
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	Abstain
Brian Schilling (rep. Executive Dean Goodman)	Abstain

Mr. Schilling stated that the application is before the Committee and there is a question about the legitimacy of that conservation easement, correct? Ms. Payne stated that issue has been raised by the property owner to Mr. Knox this week. She has no idea what the legal validity of that claim is. Mr. Knox stated he has looked at the deeds and the deed for that conservation easement and it is only signed by Bob Schaumloeffel and title on that property is to Bob and Ed Schaumloeffel. Mr. Danser asked if it got recorded as such. Mr. Knox responded yes. Mr. Schilling stated that he is struggling with understanding if it is appropriate to hear this today.

Jane R. Brodhecker	Oppose
Alan A. Danser	Yes

Mr. Danser stated that this should have come up before final approval and the county is not here.

James Waltman	Oppose
Denis C. Germano	Absent
Torrey Reade	Yes

Yes Votes: 3 Oppose Votes: 4 Abstain Votes: 2

The motion fails.

Chairman Fisher stated that final approval did not happen today and he is sure there will be more discussions on the issues. Ms. Payne stated that the Committee has denied final approval for this application. She asked if the next step would be that we are giving the landowner the opportunity to determine whether they want to create a deal with the county at this point in time and then come back to us. Mr. Schaumloeffel stated he guesses he has no choice. Ms. Hinch stated that the choice is to go to Toll Brothers and initiate a contract with them for fifty homes. Mr. Schaumloeffel stated he wants to preserve the farm and he wants to give it to his daughter. He has had it up to here with this situation. It has been six years between the SADC and the county. He thought we were going to do this and he is to the point that he is almost ready to go sign with Toll Brothers and walk away.

Mr. Waltman stated that this body could approve paying the exact same amount of money, not a penny less for the exact same amount of acreage, but just not include that conservation easement within the farmland easement. He thought that would be a reasonable conclusion. Mr. Schaumloeffel asked what do they do with the 30 acres? Mr. Waltman stated that would be a severable exception. Mr. Danser asked if a motion could be made to approve this for reconsideration. He would suggest that one of the no-voters come up with the motion so we can keep the door open.

Mr. Waltman motioned to instruct the staff to proactively reach out to the landowners with the goal of renegotiating an agreement to purchase the farmland easement with a severable exception that would provide this landowner and future potential landowners to sell, if they are so inclined, to another body for the purpose of a recreation use that is consistent with the conservation easement. Mr. Schilling felt that Mr. Waltman was on the right track, and just have the severable exception. Mr. Siegel stated that also to make it clear that we are not automatically going to tolerate easement pass-throughs of the preserved farm to reach the severable exception area.

Chairman Fisher asked why couldn't the Committee have granted final approval subject to the same condition? He stated that he believes that this final approval was ready to be voted on today and he thought that there was an expectation that it would be voted on in a way that it would have been executed. At the last hour yesterday, there was this question that DEP brought up as it was brought to their attention by Monmouth County. He stated that it is still the same issue but instead of denying it you could have approved it subject to this very same thing that Mr. Waltman just said. Mr. Knox stated that if the Committee is willing to recognize this stream corridor as a severable exception and if the landowner is willing to accept that condition and there is no change in valuation, then we can move forward. That does not say anything about access coming over here, just the conservation easement that the landowner willingly or not, gave to the county as part of the subdivision, and he is suggesting to move this along.

It was moved by Mr. Siegel to approve the resolution for final approval subject to recognizing the stream corridor as a severable exception if the landowner is willing and there is no change in valuation.

Ms. Payne stated that Mr. Waltman's motion needs to be retracted. Mr. Waltman withdrew his motion. Chairman Fisher stated that for clarity the motion made by Mr. Waltman has been withdrawn; the new motion is to grant final approval conditioned upon the severable exception of the thirty acre conservation easement property.

Mr. Waltman seconded the motion.

Ms. Payne stated that the motion would be subject to the landowner's concurrence. Mr. Knox stated his only concern is if it is determined that the conservation easement is invalid. Mr. Danser stated that then it is a free and clear severable exception. Mr. Schaumloeffel asked if they go ahead and do what staff is now recommending, which is fine, is there still a situation where if they wanted to do something with the county and give them access, and is this is going to be a problem now? Ms. Payne stated it has to be resolved prior to our closing. She stated that it has to be resolved and what the ultimate plan is, whether you're going to take this severable exception just identical to the conservation easement now, that is option A. Option B is that if you want to entertain selling any more interest in that land to the county, it has to be resolved, then the SADC would need to evaluate whether those changes have any impact on the value that it was going to pay. Then we could come back and amend the application if it was necessary. Mr. Schaumloeffel stated let's go ahead and do what everyone is saying. Mr. Waltman stated that when we approve farmland conservation agreements with severable exceptions we typically don't tell the landowner they have to resolve what they are going to do with that severable exception before closing. Mr. Danser stated that the landowner's question was, could he later allow access to it, and Ms. Payne's answer is that if we have closed and we have put our easement on the balance of the property, he then cannot get access across that.

The motion was unanimously approved. (A copy of Resolution FY2013R7(4) as amended, is attached to and is a part of these minutes.)

Chairman Fisher asked for clarification for the benefit of the landowners so everyone knows what just happened. Ms. Payne stated that the originally drafted resolution was denied and then the Committee made a motion to grant the application final approval subject to creating a severable exception over the area that is identified by the conservation easement. That is subject to the SADC needing to confirm that there is no impact on value as a result of that. That is what the action just taken is. Secondarily, if any further conveyances of any other part of the property are contemplated, if that is what the landowner begins to do with the county, the Committee reserves the right to completely readdress the final approval. Again, it would have to evaluate impacts to

value and the like. Mr. Schaumloeffel stated that basically we are severing the 30 acres as an exception. Ms. Payne stated that you are making it capable of being severed. You do not have to sever it today. Mr. Schaumloeffel stated that is fine.

Ms. Payne wanted to say for the record that when we get back to the office and look at the maps, we need to make sure that it doesn't hinder the farm in any other way because she doesn't know where the roads are and the like. We don't want to land lock lands.

Note: Ms. Roberts presented the following two agenda items. (Capozzi and DeEugenio)

It was moved by Ms. Reade and seconded by Mr. Danser to approve Resolution FY2013R7(5) granting final approval to the following application as presented and discussed and subject to any conditions of said resolution:

2. Capozzi Family Foundation, SADC #08-0018-DE (Resolution FY2013R7(5))
Block 7101:
Lot 53, approx. 38 acres (Pinelands Rural Development Area)
Lots 63 and 83, approximately 205 Acres (Pinelands Agricultural Production Area – 7 Pinelands Development Credits)
Franklin Township, Gloucester County
Approximately 243 Net Acres
The acquisition of the development easement at a value of $1,935.00 per acre for land in the Pinelands Rural Development Area (PRD) (approximately $73,530.00) and $2,713.36 per acre for land in the Pinelands Agricultural Production Area (PAP) (approximately $556,238.00 for a total of approximately $629,768.80), subject to the conditions in Schedule "C." Should USDA, NRCS Federal Farm and Ranch Lands Protection Program funding of approximately $233,887.00 not be obtained to offset the SADC funding, the SADC will fund the full easement value. Should the federal funding not be obtained, the impervious cover limitation on the property will change from 6.67% (FRPP) to 10% as per NJAC 2:76-19.13.

Discussion: This property is categorized as a "Priority" farm. It is located within the Pinelands Agriculture Production Area (PAP) (Lots 83 and 63) and the Pinelands Rural Development Area (PDR) (Lot 53). According to a Letter of Interpretation from the Pinelands Commission, the portion of the property located in the PAP (Lots 83 and 63) has been allocated seven Pinelands Development Credits (PDCs). The owner has requested one 1.5 acre nonseverable exception area on Lot 53 for a future single family residence. The future single family residence to be located within the exception area will not require the use of any PDCs because Lot 53 is located within the PRD Area. It is noted that through the sale of the development easement to the SADC, 7 PDCs will be retired. The SADC submitted this property for federal funding to supplement its funding. The USDA, NRCS has determined that this property and the landowner qualify for

federal funds and approved a grant not to exceed fifty percent of the federal appraised current value or an approximate lump sum of $233,887.00 based on the lowest appraised easement value of $1,935.00 per acre. The landowner has agreed to the additional restrictions involved with the federal grant, including an approximate 6.67% maximum impervious coverage restriction (approximately 16.21 acres available for impervious cover) on the lands being preserved outside of the exception area.

The motion was unanimously approved. (A copy of Resolution FY2013R7(5) is attached to and is a part of these minutes.)

Note: Chairman Fisher recused himself from any discussion or action pertaining to the following agenda item (DeEugenio) to avoid the appearance of a conflict of interest. Vice Chairman Danser presided over the meeting.

It was moved by Mr. Siegel and seconded by Mr. Schilling to approve Resolution FY2013R7(6) granting final approval to the following application, as presented and discussed, and subject to any conditions of said resolution:

3. Lewis J. De Eugenio, Jr., (Dubois Farm), SADC #08-0026-DE (Resolution FY2013R7(6))
   Block 40, Lots 1, 22, Elk Township, Gloucester County
   Block 18, Lots 1, 4, Upper Pittsgrove Township, Salem County
   155 Net Acres
   Acquisition of the Development Easement at a value of $4,200.00 per acre for a total of approximately $651,000.00, subject to the conditions contained in Schedule "B," and any other conditions in said resolution.

Discussion: This property is categorized as a "Priority" farm. There is an approximate four acre gravel pit located on the property that will be identified in the Deed of Easement as a pre-existing nonagricultural use. The owner has requested one one-acre nonseverable exception area for a future single family residence. In April 2012 the SADC certified a development easement value on the property based on current zoning and environmental conditions and based on one one-acre nonseverable exception. Subsequently the owner requested a 2.8 acre nonseverable exception for and restricted to the existing single family residence and to provide for future flexibility for a future nonagricultural use. The appraisers were contacted regarding the additional exception area and have no changes in their easement values that were certified to in April 2012.

The motion was approved. (Chairman Fisher recused himself from the vote.) (A copy of Resolution FY2013R7(6) is attached to and is a part of these minutes.)

E. Minimum Standards for Acquisitions

1. County PIG Program

2. State Acquisition Program

Ms. Winzinger referred the Committee to two resolutions regarding minimum standards for acquisitions. She discussed the specifics of the first resolution, FY2013R7(7), Memorializing Standards for Determining Eligible Farms Pursuant to the County Planning Incentive Grant (PIG) Program, with the Committee. She stated that Bergen County, Camden County and Cape May County have no current average quality scores since there were no applications during the past three fiscal years to establish average quality scores. So if those counties had any applications come in they would come to the Committee for review and approval on a case-by-case basis. Ms. Winzinger stated that the minimum standards would be made public and be effective for all the applications that will be coming in for 2013. She stated that staff recommendation is to approve that resolution for the County PIG program.

Ms. Winzinger referred the Committee to Resolution FY2013R7(8), Memorializing Standards for Determining Priority and Alternate Farms Pursuant to the State Acquisition Program. She stated that this would take effect for state acquisitions starting back in the beginning of July 2012. She reviewed the specifics with the Committee and stated that staff recommendation is to approve that resolution for the State Acquisition program.

It was moved by Mr. Siegel and seconded by Mr. Danser to approve Resolution FY2013R7(7), Memorializing Standards for Determining Eligible Farms Pursuant to the County Planning Incentive Grant (PIG) Program, as presented and discussed, subject to any conditions of said resolution, and to approve Resolution FY2013R7(8), Memorializing Standards for Determining Priority and Alternate Farms Pursuant to the State Acquisition Program, as presented and discussed, subject to any conditions of said resolution. The motion was unanimously approved. (Copies of Resolution FY2013R7(7) and Resolution FY2013R7(8) are attached to and are a part of these minutes.)

F. Farmland Stewardship

1. Installation of a Solar Energy Generation Facility, Structures and Equipment on an Existing Structure Located on a Preserved Farm

a. Schultz Family Living Trust, Manalapan Township, Monmouth County

Mr. Roohr referred the Committee to Resolution FY2013R7(9) for a request by the Schultz Family Living Trust for the construction of a photovoltaic solar energy

generation facility on a portion of the roof of an existing house on the property. The property was preserved in March 2007. P.L. 2009, c.213, which was signed into law in January 2010, requires SADC approval before constructing, installing, and operating renewable energy generating facilities, structures and equipment on preserved farms, including areas excepted from the property. The SADC must adopt regulations to implement P.L. 2009, c.213 (NJSA 4:1C-32.4), referred to here as "the Act." The SADC, in conjunction with the Office of the Attorney General, has determined that it may accept and consider applications for the construction of renewable energy generating facilities on preserved farms, prior to the adoption of rules, only in cases where the project will not result in the creation of any new impervious cover and the review is based solely upon criteria listed in subsection (a) of the Act.

Mr. Roohr stated that the owner, Mr. Schultz, had put some solar panels on the roof of his house. When the Monmouth CADB did its annual monitoring inspection this year, they found the panels on the roof of the house. He stated that Mr. Schultz is seeking approval to keep the solar panels on the roof. Mr. Roohr reviewed other specifics of this request with the Committee. He stated that the SADC forwarded a copy of the owner's request to the Monmouth CADB to provide comments concerning the installation of the solar energy generation facility. The Monmouth CADB had cancelled its July meeting but has scheduled discussion of this facility for its August 1, 2012 meeting.

Mr. Roohr stated that because the SADC has no August meeting, staff recommends approval of this facility request be conditioned on the application receiving no negative comments from the Monmouth CADB at its next meeting.

It was moved by Mr. Siegel and seconded by Mr. Waltman to approve Resolution FY2013R7(9) approving a request by the Schultz Family Living Trust for the construction, installation, operation and maintenance of a photovoltaic energy generation facility, structures and equipment consisting of approximately 600 square feet and having a rated capacity of 6 KW of energy to be located on the roof of an existing residence in the location identified in Schedule "B." This approval is conditioned on the application being reviewed by the Monmouth CADB and receiving no negative comments from that Board. Approval is also subject to any conditions of said resolution. The motion was unanimously approved. (A copy of Resolution FY2013R7(9) is attached to and is a part of these minutes.)

PUBLIC COMMENT

Bernard Gutherz from BAM Energy Group, a solar power installation company, stated that he was before the Committee in January regarding a ground-mounted solar energy system his company installed for Laurita Winery in Plumsted Township. The Committee in May found Laurita Winery in violation of N.J.S.A. 4:1C-32.4 for starting the installation of the system prior to the SADC's approval. Given that the Committee has

adopted their draft regulations, Mr. Gutherz sought to obtain some type of guidance for when they can resubmit their application for review. They are over ninety percent complete on that application and, dating back to December 6th, when they first met privately with Ms. Payne, Mr. Roohr and general counsel Smith, they were under the impression then that the regulations would be moving a lot quicker through this process. They have halted all construction on the project and have received a copy of the interconnection denial letter from JCP&L that was submitted from the Attorney General's Office to JCP&L. They have looked back into their JCP&L usage to make sure they still fell within the guidelines that were established through the regulations and that they weren't overproducing based on these activities, and they found that they are still under that limit because it was designed to supply no more than ninety percent of their activities from the outset.

Ms. Payne responded that the SADC approved today for publication a draft rule with the caveat that staff has authority to amend one provision of that draft before it goes to the New Jersey Register. Mr. Smith stated that the proposal deadline date or the next proposal deadline date is a week from tomorrow, Friday August 3rd for publication in the New Jersey Register on September 4th. However, the August 3rd date has a couple of caveats because a letter from the smart growth ombudsman is needed. Ms. Payne stated that would not likely happen in time. Mr. Smith stated that the date after that for proposals is August 16th for publication in the Register on September 17th , with a sixty day comment period. The comment period would end on November 16th. Ms. Payne stated that, based on the publication schedule, the SADC isn't going to be receiving public comments on the rule probably until November or early December, depending on the publication date. The Committee will then will take into consideration all public comments that are made. It will make a decision as to whether it wants to make any changes to the rule before considering it for final adoption. It is when that final rule gets adopted that the Committee will have a firm set of standards that Mr. Gutherz can rely on for purposes of submission of Laurita Winery's application. Prior to that, she would recommend that the SADC does not engage in giving any more guidance or advice because this rule is not nailed down until final adoption. That is what staff has told all the property owners, and they know the agricultural community is anxious for these rules and the SADC has done everything it can to move as fast as possible. As soon as the rules are final everyone will be eligible to make application for approval. Mr. Guntherz stated that what he is hearing is that they are at a complete standstill until that is all finalized. He was just trying to get to where they would be able to get something a bit further, given that they were always under the impression that these regulations would move quicker through the process.

Jennifer Gonzalez from the Passaic CADB stated that she doesn't have the pleasure of coming to the meetings more regularly because unfortunately their farms are not normally suited to the SADC minimum eligibility criteria, but she is very thankful that today in closed session the Committee will be seeing one of their farms that has received

a waiver and is up for certification of value. She thanked the Committee for considering that application. She reiterated how thankful Passaic County is, and that the past six months have been wonderful and the SADC and County staffs now speak on a very frequent basis. They now have two more farms that they hope will be coming up to the SADC in the next few months. She stated that they realize that a lot of the farms in Passaic County are equine operations, horticultural operations and wood lots, operations that don't traditionally fit the farming mold but are critically significant to their economy and agritourism, especially in the Highlands region. She stated that they do appreciate the consideration that the Committee is giving to these farms and hopefully in the future they will have the ability to drawn down some more of their PIG funds.

TIME AND PLACE OF NEXT MEETING

SADC Regular Meeting: Thursday, September 27, 2012, beginning at 9:00 a.m.
Location: Health/Agriculture Building, First Floor Auditorium. Note: There is no August meeting scheduled.

CLOSED SESSION

Chairman Fisher step out of the meeting briefly at this point. Vice Chairman Danser presided over the meeting.

At 12:40 p.m. Mr. Brodhecker moved the following resolution to go into Closed Session. The motion was seconded by Ms. Reade 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 NJ 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

It was moved by Mr. Danser and seconded by Ms. Brodhecker to certify the development easement values for the following applications, as presented and discussed in closed session:

County Planning Incentive Grant Program

1. William Blew, Jr., SADC # 06-0126-PG
   Block 88, Lots 24, 24.04, Hopewell Township, Cumberland County, 25 Acres

2. Jean Edwards, SADC # 06-0130-PG
Block 2602, Lot 14, Upper Deerfield Township, Cumberland County, 40 Acres

3. Robert Hasher, Jr., SADC #06-0127-PG
Block 20, Lot 4, Block 21, Lot 4, Stow Creek Township, Cumberland County, 67 Acres

4. Cynthia Tirelli, SADC #06-0129-PG
Block 501, Lot 4, Upper Deerfield Township, Cumberland County, 47 Acres

5. Dean and Ann Roork, SADC # 06-0128-PG
Block 80, Lots 15, 16, Hopewell Township, Cumberland County, 109 Acres
Certification of value is contingent upon the subject property being subdivided as described in the certification of value report and not subject to any development restrictions prior to closing.

6. Michael and Deidre Rothpletz (Hill & Dale Farm # 1), SADC #10-0319-PG
Block 38, Lot 1.04, Tewksbury Township, Hunterdon County, 91 Acres

7. Doris Snyder, SADC # 10-0327-PG
Block 82, Lot 2, Raritan Township, Hunterdon County, 50 Acres

8. Joel and Rosemary Gross, SADC # 10-0325-PG
Block 5, Lot 4.03, Kingwood Township, Hunterdon County, 58 Acres

9. Frank & Ella Mae Battipaglia (W. Milford Equestrian Farm), SADC#16-0001-PG
Block 15101, Lot 16Q, West Milford Township, Passaic County, 42 Acres

Direct Easement Purchase Program

1. Karmondi Farm LLC, SADC # 10-0198-DE
Block 1, Lot 6.01, Holland Township, Hunterdon County, 77 Acres

2. Scott Robinson, SADC # 17-0233-DE
Block 53, Lots 28, 29.01, 32, Mannington Township, Salem County, 112 Acres

Nonprofit Grant Program

1. NJ Conservation Foundation/Charles and Rebecca Joyce, SADC #17-0015-NP
Block 11, Lots 6, 6.02, Upper Pittsgrove Township, Salem County, 54.34 Acres

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

Right to Farm

a. Proposed Final Decision, OAL Appeal, Ciufo vs. Somerset CADB

Mr. Smith stated that this right to farm case involves the disposition by the Somerset CADB of a complaint filed by Branchburg Township against Mr. Ciufo for the illegal storage of commercial vehicles on the Ciufo farm. The Somerset Board retained jurisdiction of the complaint rather than forwarding it to the SADC because the Board felt that it had the jurisdiction to determine whether or not the activities in dispute actually involved an agricultural operation. It found that the activities in dispute were not agricultural and, therefore, not eligible for right-to-farm protection. That decision was appealed by Mr. Ciufo to the SADC, which forwarded the case to the Office of Administrative Law (OAL) in accordance with the statute and regulations. Motions were filed in the OAL, and the Administrative Law Judge (ALJ) issued an initial decision finding that the Somerset CADB should have forwarded the matter to the SADC at the very beginning of the case.

Mr. Smith stated that in the Final Decision the SADC states that it affirms the ALJ determination that the matter before the Somerset CADB was a complaint against a commercial farmer. However, the Final Decision rejects the ALJ's initial decision that the complaint should have been forwarded to the SADC because the disputed activities, in the SADC's opinion, do not involve agricultural operations and therefore need not be forwarded to the Agency based on the text of the right to farm statute and SADC regulations. Ms. Payne clarified that the SADC is not taking a position with respect to whether the CADB made the right call on these not being agricultural activities. The SADC is taking the position that the CADB has the right to make that determination. Mr. Smith stated that what Ms. Payne said was accurate. He stated that finally, this matter will be remanded to the OAL to determine whether or not the CADB's decision was proper to begin with regarding their finding that the activities were nonagricultural in nature. As the decision says and the order of remand says, the SADC is taking no position on the ultimate issues of the case, and that is whether or not these vehicles are actually related to Mr. Ciufo's agricultural activity. Ms. Payne stated that there is a draft Final Decision for the Committee's consideration, part of which is an accompanying Remand of the matter to the OAL. She asked for a motion to approve the Draft final Decision and Remand documents.

It was moved by Mr. Siegel and seconded by Mr. Danser to approve the SADC's Final Decision and Order of Remand, in the matter of Frank Ciufo, Petitioner vs. the Somerset County Agriculture Development Board, Respondent, as presented and discussed. The

motion was unanimously approved. (A copy of the Final Decision and Order of Remand is attached to and is a part of these minutes.)

b. Proposed Resolution Re: Application for Emergent Relief, Feinburg vs. Hunterdon CADB (Stonybrook Meadows Farm)

Mr. Smith stated that this is based on an application filed by a neighbor of the farm market in East Amwell Township, Hunterdon County, which was the subject of two site-specific agricultural management practice (SSAMP) applications. The neighbor sought to enjoin the hearing by the Hunterdon CADB on the second SSAMP request. That second SSAMP request sought the Hunterdon CADB's approval of a 250 square foot farm market on the Stonybrook Meadows Farm. The resolution before the Committee today states that no legal or factual showing was made to justify the Agency's stepping in and enjoining the Hunterdon CADB's hearing of the second SSAMP and, therefore, the neighbor's application for emergent relief is denied. The Hunterdon CADB had a hearing on July 12th but the resolution denies the application for emergent relief.

It was moved by Mr. Danser and seconded by Ms. Reade to approve Resolution FY2013R7(10) denying the July 3, 2012 request for emergent relief by Edward and Linda Feinberg, to enjoin the July 12, 2012 Hunterdon County Agriculture Development Board Hearing on the Request by Stonybrook Meadow, LLC for a Site-Specific Agricultural Management Practice Determination, as presented and discussed in closed session. The motion was unanimously approved. (A copy of Resolution FY2013R7(10) is attached to and is a part of these minutes.)

ADJOURNMENT

There being no further business, it was moved by Mr. Siegel and seconded by Mr. Danser and unanimously approved to adjourn the meeting at 1:22 p.m.

Respectfully Submitted,

Susan E. Payne, Executive Director
State Agriculture Development Committee

Attachments

S:\minutes\2012\REG July 26 2012.docx

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2013R7(1)

FINAL REVIEW AND APPROVAL OF A PLANNING INCENTIVE GRANT TO

WARREN COUNTY
for the
PURCHASE OF A DEVELOPMENT EASEMENT
SADC FY2011 Funding

On the Property of
Russell and Laura B. Bowers ("Owner")
Pohatcong Township, Warren County

N.J.A.C. 2:76-17 et seq.
SADC ID# 21-0506-PG

July 26, 2012

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, the SADC granted final approval to Warren County's PIG plan on July 24, 2008; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.7, Warren County received SADC approval of its FY2013 PIG Plan application annual update on May 24, 2012; and

WHEREAS, on May 9, 2011 the SADC received an application for the sale of a development easement from Warren County for the subject farm identified as Block 101, Lot 3, Pohatcong Township, Warren County, totaling approximately 50 net acres hereinafter referred to as "Property" and as identified on the attached map Schedule A; and

WHEREAS, the Property is located in Warren County's South Project Area; and

WHEREAS, the Property has a one-acre non-severable exception area for an existing horticultural shop and existing duplex residence; and

WHEREAS, the Property has a rank score of 64.56 which exceeds 43, which is 70% of the County's average quality score as determined by the SADC July 24, 2010; and

WHEREAS, the Property has 43% soils designated as "Prime," and 56% soils designated as "Statewide", with approximately 69% of the farm currently in field crop production such as corn and soybeans; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(b) on October 17, 2011 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 March 22, 2012 the SADC certified a development easement value of $6,500 per acre based on zoning and environmental regulations in place as of 1/1/04 and $900 per acre based on zoning and environmental regulations in place as of the current valuation date 1/9/12; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.12, the landowner offered to sell the development easement to the County for $6,500 per acre and the County has agreed to purchase the development easement for this amount; and

WHEREAS, the County has requested to encumber an additional 3% buffer for possible final surveyed acreage increases, therefore, 51.5 acres will be utilized to calculate the grant need; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13, on June 19, 2012 the Pohatcong Township Committee approved the Owner's application for the sale of development easement, but is not participating financially in the easement purchase; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13 on June 21, 2012 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 27, 2012, the Board of Chosen Freeholders of the County of Warren passed a resolution granting final approval and a commitment of funding for $2,350/acre per acre to cover the entire local cost share; and

WHEREAS, on June 21, 2012 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. 2:76-17.8, on April 20, 2011 the SADC established FY11 funding allocations to provide eligible counties with a base grant of $1,500,000 with the ability to obtain an additional competitive grant not to exceed $3,000,000 to purchase development easements on eligible farms, subject to available funds; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.14, the Warren County Agriculture Development Board is requesting $213,725 from its base grant, leaving a cumulative balance of $731,631.40 (Schedule B); and

WHEREAS, no competitive grant funding is needed for the SADC cost share grant on this Property, therefore the entire estimated SADC grant need will be encumbered from the County's base grant; and

WHEREAS, Warren County, in coordination with the New Jersey Conservation Foundation (NJCF), applied and was approved to utilize USDA, NRCS, FY12 Farm and Ranch Lands Protection Program (FRPP) grant funding in the amount of $91,205 or $1,824.10 per acre (based on 50 acres) to further leverage available County funding for farmland preservation; and

WHEREAS, the Owner agreed to the additional restrictions associated with the use of FRPP grant funding, including a 7% impervious cover restriction equal to approximately 3.6 acres of land available for the construction of agricultural infrastructure on the Property outside of the exception area; and

WHEREAS, the County intends to use the FRPP grant in the amount of $1,824.10 per acre to reduce the local cost share of $2,350 per acre to $ 525.90; and

Cost share breakdown prior to FRPP Grant based on 51.5 acres:

	Total	
SADC	$213,725	($4,150/acre)
Warren County	$121,025	($2,350/acre)
Total Easement Purchase	**$334,750**	

Estimated Cost share breakdown if the $91,205 FRPP Grant is finalized and applied:

	Total	FRPP $	New Cost Share
SADC	$213,725 ($4,150/acre)	$ 0	$213,725 ($4,150/acre)
Warren County	$121,025 ($2,350/acre)	$91,205	$ 29,820 ($ 525.90/acre)
FRPP Grant			$ 91,205 ($1,824.10/acre)
TOTAL	$334,750	$91,205	$334,750 ($6,500/acre)

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 51.5 acres, at a State cost share of $4,150 per acre (63.9% of purchase price) pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C; and

BE IT FURTHER RESOLVED, that if additional base grant funds are needed due to an increase in acreage the grant may be adjusted so long as it does not impact any other applications' encumbrance; 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 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 premises 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 of the premises as identified in Policy P-3-B Supplement and for residual dwelling site opportunities allocated pursuant to Policy P-19-A; 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 the SADC's final approval is conditioned upon the Governor's review pursuant to N.J.S.A. 4:1C-4.

7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

x:/counties/warco/projects/bowers_fww.mxd

FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Russell and Laura Beverly Bowers
Block 101 Lots P/O 3 (47.3 ac)
& P/O 3-EN (non-severable exception - 1.1 ac)
Gross Total = 48.4 ac
Pohatcong Twp., Warren County

250 125 0 250 500 Feet

N

Property in Question
EN-X (Non-Severable) Exception
SES-X (Severable) Exception
Wetlands Boundaries
300 ft Buffered Wetlands
Municipal, County and Non-Profit Preserved Open Space
State Owned Conservation Easement
State Owned C/S & Recreation Easement

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
NJOIT/OGIS 2007/2008 Digital Aerial Imagery

June 10, 2011

Schedule B

Warren County

New Jersey Farmland Preservation Program
Preservation Program
County Planning Incentive Grant - N.J.A.C. 2:76-17 et seq.

SADC FY2011 Funding

Farm	Municipality	App Acres	Plus 3 Percent Acres	Base Grant 1,500,000 Encumbered at Final	Base Grant Balance	FREE Fed Other Grant	Competitive Grant 3,000,000 Encumbered at Final	Competitive Grant Balance	Cap Total	Cum Expend	Cum Encumbered	Balance subject to availability & approval
Drake et al	Allamuchy	202.000	208.0600	582,568.00	945,356.40				4,500,000.00	0.00	768,368.60	3,731,631.40
Bowers, Russell	Pohatcong	50.000	51.5000	213,725.00	731,631.40	91,285.00						
Carson, Dan and Whitney	Frelinghuysen	285.290										
Gardner Richard	Franklin	108.000										
Pruden, Timothy	Hope	160.000										
Dirisio, Irma	Mansfield	66.830										
McConnell	Oxford	56.000										
McCullough Road Land	Washington	39.000										
Steckel	Harmony	60.000										
On hold												
Dalrymple, Brent (hold)	White	41.5										
Withdrawn												
Wohlers, Frank & Janet	Blairstown	56.000	57.6800									
Total Final Approval	**1**	**202.00**	**0.00**				0.00					
Total Pending Approval	**6**	**676.12**	**0.00**									
Total Pending w/o Funding												
Shortfall												
Total Encumbered	**1**	202.000	208.060	768,368.60			0.00				768,368.60	
Closed/Expended										0.00		
Total	**1**	**202**	**208**									
Reprogram Out												

Schedule B

SADC Final Review: Development Easement Purchase

Schedule C

Bowers, Russell & Laura B
21- 0506-PG
FY 2011 County PIG Program
50 Acres

Block 101 Lot 3 Pohatcong Twp. Warren County

SOILS:

Other	1% *	0	=	.00
Prime	43% *	.15	=	6.45
Statewide	56% *	.1	=	5.60

SOIL SCORE: 12.05

TILLABLE SOILS:

Cropland Harvested	69% *	.15	=	10.35
Other	9.3% *	0	=	.00
Permanent Pasture	19.7% *	.02	=	.39
Woodlands	2% *	0	=	.00

TILLABLE SOILS SCORE: 10.74

FARM USE:

Soybeans-Cash Grain	40 acres
Christmas Trees	1 acres
Ornament Nursery Products	1 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 one (1) acres for Retail Horticulture shop and existing Duplex residence
      Exception is not to be severed from Premises
      Right to Farm language is to be included in Deed of Easement
      Exception is to be restricted to one single family residential unit(s) or restricted to a duplex
   c. Additional Restrictions:
      1. FY12 FRPP funding via NJCF
      2. 7% impervious cover max (approx 3.5 acres) pursuant to Federal Farm and Ranch Land Protection Program
   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. 4:1C-11 et seq., P.L. 1983, c.32, and N.J.A.C. 2:76-7.14.
7. Review and approval by the SADC legal counsel for compliance with legal requirements.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2013R7(2)

FINAL REVIEW AND APPROVAL OF A COUNTY PLANNING INCENTIVE GRANT TO

HUNTERDON COUNTY
for the
PURCHASE OF A DEVELOPMENT EASEMENT
SADC FY2011 Funding

On the Property of
Gail Cooper ("Owner")
Holland Township, Hunterdon County

N.J.A.C. 2:76-17 et seq.
SADC ID# 10-0313-PG

July 26, 2012

WHEREAS, on December 17, 2007, the State Agriculture Development Committee ("SADC") received a Planning Incentive Grant ("PIG") plan application from Hunterdon 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, the County received SADC approval of their annual PIG plan update for FY2012 on April 28, 2011; and

WHEREAS, on November 8, 2011, the SADC received an application for the sale of a development easement from Hunterdon County for the Cooper Farm identified as Block 15, Lot 6 and Block 16, Lot 16 Holland Township, Hunterdon County, totaling approximately 43 net acres hereinafter referred to as "Property" and as identified on the attached map (Schedule A); and

WHEREAS, the Property is located in Hunterdon County's West Project Area; and

WHEREAS, the Property has approximately 46% Prime soils and 15% soils of Statewide importance and at the time of application the farm was in wheat and hay production; and

WHEREAS, the Property has one, 3-acre nonseverable exception around the existing single family residence; and

WHEREAS, the Property has no residences or pre-existing non-agricultural uses on the Property to be preserved outside of the exception area; and

WHEREAS, the Property is one of three parcels subdivided in 2009 from a larger parcel as inherited by three siblings (Gail Cooper, Neil Boss and Edward Boss); and

WHEREAS, Hunterdon CADB has submitted PIG applications for the adjacent parcels owned by Neil and Edward Boss; and

WHEAREAS, the Gail Cooper, Neil Boss and Edward Boss farms each utilize existing driveways which cross existing waterways (Schedule B) ; and

WHEREAS, the minor subdivision approval for the three parcels stated that access to each "should utilize the shared driveway in existence at the time of the subdivision"; and

WHEREAS, it is unclear from current mapping if part of the shared driveway is situated on the Property or the neighboring parcel; and

WHEREAS, to ensure viable access relied upon during the appraisal process and for future access post-preservation, any required access easements pertaining to the shared driveway must be solidified, reviewed and approved by SADC staff, clearly identified on the survey and recorded prior to closing; and

WHEREAS, any access easement required to preserve existing access to the neighboring parcels (Neil Boss and Edward Boss farm applications) through the Gail Cooper farm should also be solidified, reviewed and approved by SADC staff, clearly identified on the survey and recorded prior to closing; and

WHEREAS, the Property has a rank score of 64.96 which exceeds 45, which is 70% of the County's average quality score as determined by the SADC on July 28, 2011; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(b) on February 16, 2011 it was determined that the application for the sale of a development easement was complete and accurate and satisfied the criteria contained in N.J.A.C. 2:76-17.9(a); and

WHEREAS, pursuant to N.J.A.C. 2:76-17.11, on January 26, 2012, the SADC certified a development easement value of $7,100/acre based on January 1, 2004 zoning and environmental regulations and $4,000 / acre based on current zoning and environmental regulations; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.12, Hunterdon County accepted the owner's offer of $7,100 per acre for the development easement for the Property; and

WHEREAS, pursuant to N.J.A.C. 2:76-17.13(d), the County prioritized its farms and the ranking and submitted the ranking to the SADC on March 22, 2012 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, to date Hunterdon County has encumbered $538,690 of FY2011 base grant funding and has $961,310 available (Schedule C); and

WHEREAS, the County has requested to encumber an additional 3% buffer for possible final surveyed acreage increases, therefore, 44.29 acres will be utilized to calculate the SADC grant need; and

WHEREAS, the estimated cost share breakdown is as follows (based on 44.29 acres):

	Cost Share	
SADC	$197,090.50	($ 4,450 per acre or 62.68%)
Holland Twp.	$ 58,684.25	($ 1,325 per acre or 18.66%)
Hunterdon County	$ 58,684.25	($ 1,325 per acre or 18.66%)
	$314,459	($7,100 per acre) ; and

WHEREAS, pursuant to N.J.A.C. 2:76-17A.13, the Holland Township Committee approved the application and its funding commitment for 18.66% of the easement purchase ($1,325 per acre) on the Cooper Farm on April 4, 2012, and the Hunterdon County Agriculture Development Board approved the application on March 8, 2012 and secured a commitment of funding for 18.66% of the easement purchase ($1,325 per acre) from the Hunterdon County Board of Chosen Freeholders for the required local match on March 20, 2012; and

WHEREAS, the Hunterdon County Agriculture Development Board is requesting $197,090.50 from its base grant, leaving a cumulative base grant balance of $764,219.50 (Schedule B); and

WHEREAS, no competitive grant funding is needed for the SADC cost share grant on this Property, therefore the entire estimated SADC grant need will be encumbered from the County's base grant; 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 Hunterdon County for the purchase of a development easement on the Cooper farm, comprising approximately 44.29 acres, at a State cost share of $4,450 per acre (62.68% of certified market value and purchase price) pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in (Schedule D); and

BE IT FURTHER RESOLVED, requires access easements for the Property must be solidified, reviewed and approved by SADC staff, clearly identified on the survey and recorded prior to closing; and

BE IT FURTHER RESOLVED, that to account for any potential increase in the final surveyed acreage, a 3% acreage buffer has been applied to the funds encumbered from the

County's base grant: and

BE IT FURTHER RESOLVED, that if additional base grant funds are needed due to an increase in acreage the grant may be adjusted so long as it does not impact any other applications' encumbrance; 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 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 premises 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 of the premises as identified in Policy P-3-B Supplement and for residual dwelling site opportunities allocated pursuant to Policy P-19-A; 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 the SADC's final approval is conditioned upon the Governor's review pursuant to N.J.S.A. 4:1C-4.

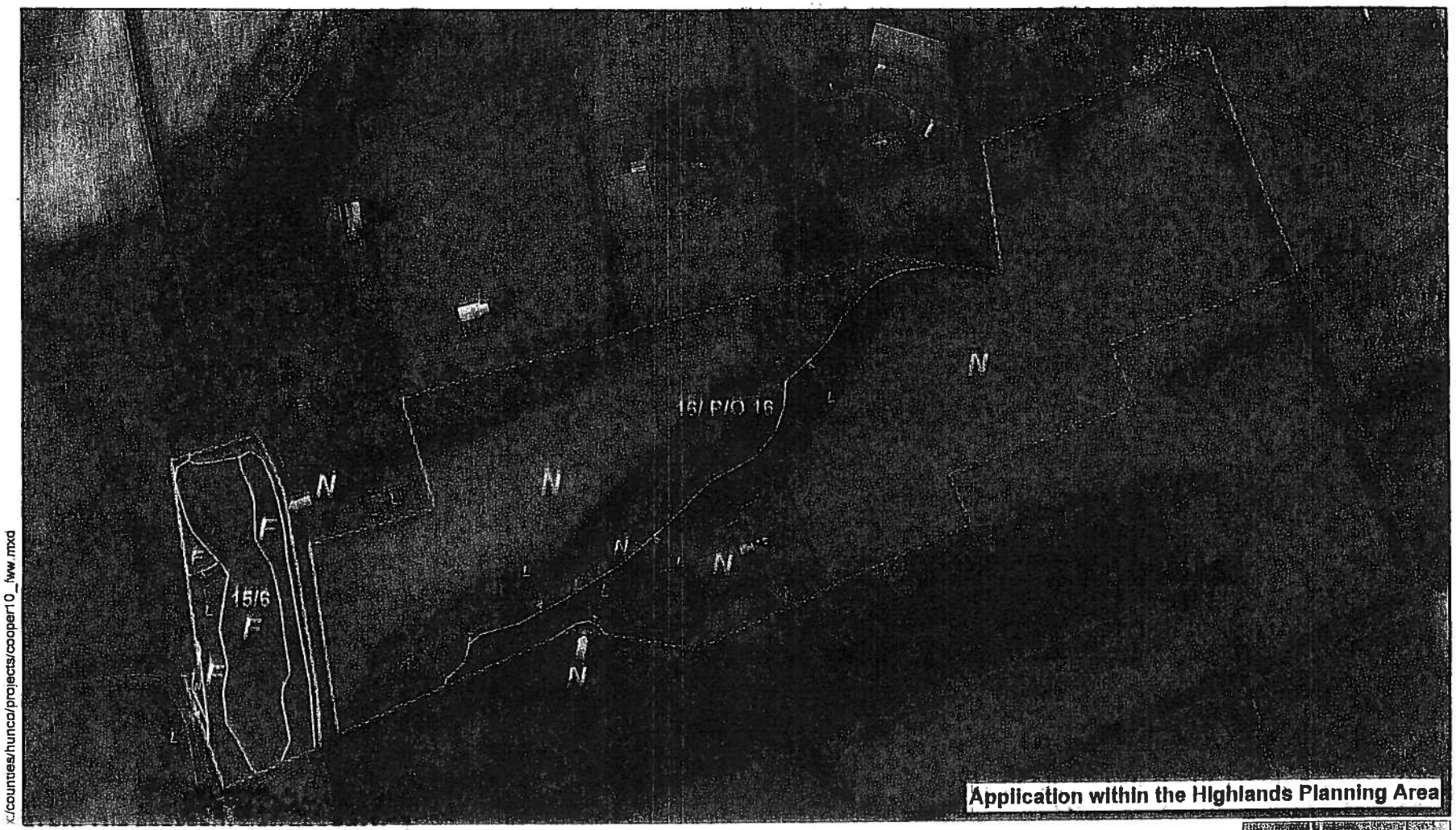
7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

Wetlands



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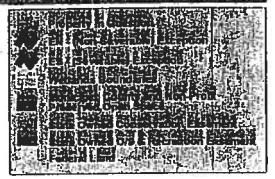
FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Gail L. Cooper
Block 15 Lot 6 (5.5 ac); Block 16 Lots P/O 16 (37.7 ac)
and P/O 16-EN (non-severable exception - 3.0 ac)
Gross Total = 46.2 ac
Holland Twp., Hunterdon County

500 250 0 500 1,000 Feet

N

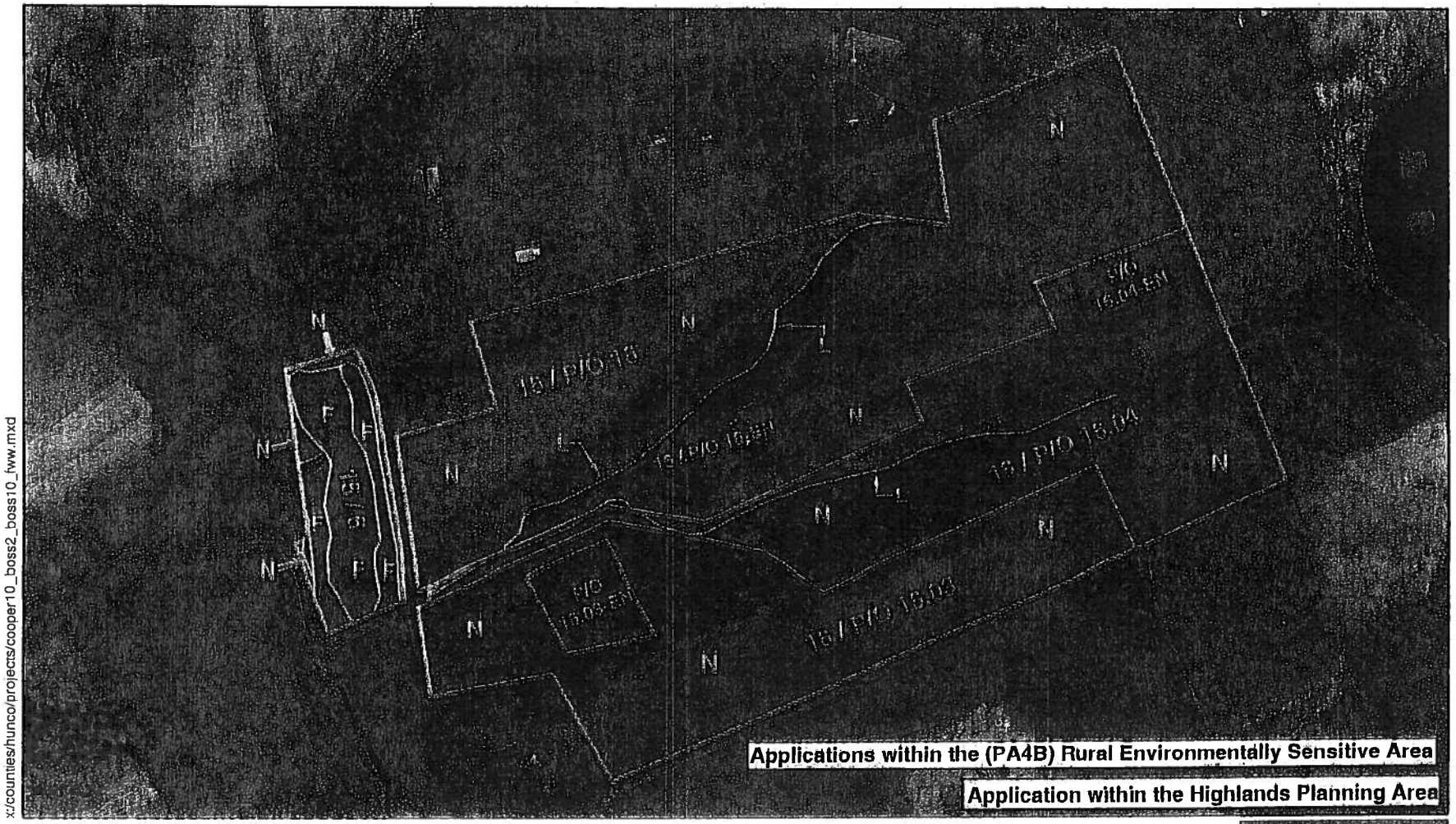


Wetlands Legend:
F - Freshwater Wetlands
L - Linear Wetlands
M - Wetlands Modified for Agriculture
T - Tidal Wetlands
N - Non-Wetlands
B - 300' Buffer
W - Water

Sources:
NJDEP Freshwater Wetlands Data
Green Acres Conservation Easement Data
NJOIT/OGIS 2007/2008 DigitalAerial Image

December 17, 2010

Wetlands



x:/counties/hunco/projects/cooper10_boss2_boss10_fww.mxd

FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Gail L. Cooper - Block 15 Lot 6 (5.5 ac); Block 16 Lots P/O 16 (37.7 ac)
and P/O 16-EN (non-severable exception - 3.0 ac)
Gross Total = 46.2 ac
Edward Boss - Block 16 Lots P/O 16.04 (21.46 ac)
& P/O 16.04-EN (non-severable exception – 1.64 ac)
Gross Total = 23.1 ac
Neil Boss - Block 16 Lots P/O 16.03 (20.6 ac) & P/O 16.03-EN (non-severable exception - 2.0 ac)
Gross Total = 22.6 ac
Holland Twp., Hunterdon County

500 250 0 500 1,000 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.

N

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
NJOIT/OGIS 2007/2008 Digital Aerial Image

Date: 5/11/2012

Hunterdo mty

New Jersey Farm Preservation Program

Preservation Program

County Planning Incentive Grant - N.J.A.C. 2:76-17 et seq.

2009 bond fun

FY2011 Fur
opriated 8.0

Farm	Municipality	App. No Buffer Acres	App. Plus 0 Percent Acres	SADC Certified Per Acre	SADC Grant Per Acre	Easement Consideration	SADC Cost Share	1,500,000 Base Grant Encumbered at Final	PV Encumbered	Expend	Balance
Rothpletz #2	Tewksbury	43.000	44.290	15,000	9,000.00	664,350.00	398,610.00	398,610.00			1,101,390.00
Peterson, Linda	Franklin	34.000	35.020	6,200	4,000.00	210,800.00	136,000.00	140,080.00			961,310.00
Cooper,Gail	Holland	43.000	44.290	7,100	4,450.00	314,459.00	197,090.50	197,090.50			764,219.50
Boss, Edward	Holland	21.000	*estimate*	*9,000*	*$5,400.00*	189,000.00	113,400.00				
Readington Toll #2	Readington	82.000	*estimate*	*9,000*	*$5,400.00*	738,000.00	442,800.00				
Gross, Joel and Rosemary	Kingwood	58.000	*estimate*	*9,000*	*$5,400.00*	522,000.00	313,200.00				
Snyder, Doris	Raritan	50.000									
Boss, Neil	Holland	21.000									
Helmer	Kingwood	50.000									
Hill & Dale #1	Tewksbury	91.000									
Zander I	Alexandria	30.000									
Zander II	Kingwood	28.000									
did not qualify:											
Papazian, Aram	Alexandria	48.000		*9,000*	*$5,400.00*		259,200.00				
Associated Tree Movers	Alexandria	48.000		*9,000*	*$5,400.00*		259,200.00				
moved to Mun PIG Program											
Brown, Charles	Holland	134.000		*9,000*	*$5,400.00*	1,206,000.00	723,600.00				
on hold:											
Readington Twp./Readington PropertiesLLC	Readington	51.000	ada issue	*9,000*	*$5,400.00*	459,000.00	275,400.00				
KJA Holdings/Alexis	Holland	68.000		*9,000*	*$5,400.00*	612,000.00	367,200.00				

State Agriculture Development Committee
SADC Final Review: Development Easement Purchase

Cooper, Gail L.
10- 0313-PG
FY 2010 County PIG Program
43 Acres

Block 15	Lot 6	Holland Twp.	Hunterdon County
Block 16	Lot 16	Holland Twp.	Hunterdon County

SOILS:	Other	39% *	0	=	.00	
	Prime	46% *	.15	=	6.90	
	Statewide	15% *	.1	=	1.50	
				SOIL SCORE:		**8.40**
TILLABLE SOILS:	Cropland Harvested	60% *	.15	=	9.00	
	Permanent Pasture	13% *	.02	=	.26	
	Wetlands	11% *	0	=	.00	
	Woodlands	16% *	0	=	.00	
				TILLABLE SOILS SCORE:		**9.26**

FARM USE:	Wheat-Cash Grain	11 acres
	Hay	13 acres

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

1. Available funding.
2. The allocation, not to exceed 0 Residual Dwelling Site Opportunities on the Premises subject to confirmation of acreage by survey.
3. Compliance with all applicable statutes, rules and policies.
5. Other:
   a. Pre-existing Nonagricultural Use: No Nonagricultural Uses
   b. Exceptions:
      1st three (3) acres for Area around house
      Exception is not to be severed from Premises
      Exception is to be restricted to one single family residential unit(s)
   c. Additional Restrictions: No Additional Restrictions
   d. Additional Conditions:
      Gail Cooper, Edward Boss & Neil Boss applications share a common driveway which crosses a C-1 stream. The Gail Cooper farm is the first of the three to receive SADC Final Approval. The survey of the Gail Cooper farm will reveal which property the shared driveway resides upon.

      Unrestricted access easements to solidify the viable access to each farm will need to be created, approved by the SADC, identified on the surveys and recorded prior to closing.

   e. Dwelling Units on Premises:
      No Structures On Premise
   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. 4:1C-11 et seq., P.L. 1983, c.31, and N.J.A.C. 2:76-7.14.
7. Review and approval by the SADC legal counsel for compliance with legal requirements.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2013R7(3)

FINAL REVIEW AND APPROVAL OF A MUNICIPAL PLANNING INCENTIVE GRANT TO

HOLLAND TOWNSHIP
for the
PURCHASE OF A DEVELOPMENT EASEMENT

On the Property of
Charles Brown
Holland Township, Hunterdon County

N.J.A.C. 2:76-17A. et seq.
SADC ID# 10-0338-PG

July 26, 2012

WHEREAS, on December 6, 2010, the State Agriculture Development Committee ("SADC") received a Planning Incentive Grant ("PIG") plan application from Holland Township, which included the Charles Brown Farm, identified as Block 9, Lot 20.01, and Block 14, Lots 2 and 38, Holland Township, Hunterdon County, totaling approximately 129 acres hereinafter referred to as "Property" and as identified on the attached map Schedule A; and

WHEREAS, on July 13, 2009 the Charles Brown Farm application was submitted to the County PIG program and pursuant to N.J.A.C. 2:76-17.9(b), the SADC granted preliminary approval of the "Property" on February 16, 2011; and

WHEREAS, after Preliminary approval Holland Township and the Hunterdon County Agricultural Development Board (CADB) requested that the application be transferred to Holland Township Municipal PIG program; and

WHEREAS, pursuant to N.J.A.C. 2:76-17A.7, the SADC granted final approval of Holland Township's PIG plan on May 27, 2010; and

WHEREAS, the Property is in the Highlands Planning Area; and

WHEREAS, the Property's agricultural production at the time of application is ornamental nursery products; and

WHEREAS, after preliminary approval the landowner requested a 5-acre severable exception area for, and to be restricted to, one future single-family residence; and

WHEREAS, the severable exception located on the southern portion of Lot 38 has access limitations due to a C-1 stream and buffer area, however, SADC staff has been notified that the landowner is aware of these limitations and wished to continue with the current configuration; and

WHEREAS, on November 17, 2011 the SADC granted the application revised preliminary approval; and

WHEREAS, the landowners have also signed acknowledgments that they understand no division of the land shall be permitted without the joint approval in writing of the County and the SADC, pursuant to N.J.A.C. 2.76-6.15 and the conditions of the Deed of Easement and that exception areas may not be expanded or relocated after closing; and

WHEREAS, the Property is eligible for, and has been allocated, one Residual Dwelling Site Opportunity (RDSO); and

WHEREAS, pursuant to N.J.A.C. 2:76-17A.11, the SADC certified a value of $5,400 / acre based on zoning and environmental regulations in place as of 1/1/04 and $5,200 / acre based on the "current value" date of December 1, 2011 for the development easement for the Property on May 24, 2012; and

WHEREAS, to date, Holland Township has expended $576,272.40 of its SADC grant funds leaving a cumulative balance of $673,727.60 (Schedule B); and

WHEREAS, Holland Township has no other projects pending against this balance at this time; and

WHEREAS, pursuant to N.J.A.C. 2:76-17A.13, by resolution the Holland Township Committee approved the application and its funding commitment for up to 20% of the easement purchase (estimated $900) on the Property on July 12, 2012, and the Hunterdon County Agriculture Development Board approved the application and secured a commitment of funding for up to 20% of the easement purchase (estimated $900) from the Hunterdon County Board of Chosen Freeholders for the required local match on July 12, 2012; and

WHEREAS, the estimated cost share break down is as follows:

SADC	$464,400	($3,600/acre or 66.67%)
Holland Twp &		
Hunterdon County	$232,200	($1,800/acre or 33.33%)
Total	$696,600	($5,400/acre)

WHEREAS, pursuant to N.J.A.C. 2:76-17A.15, the County shall hold the development easement since the County is providing funding for the preservation of the farm; and

WHEREAS, pursuant to N.J.A.C. 2:76-17A.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; and

WHEREAS, pursuant to N.J.A.C. 2:76-6.11, the SADC shall provide a cost share grant to the

Township for up to 50% of the eligible ancillary costs for the purchase of a development easement which will be deducted from its PIG appropriation and subject to the availability of funds.

NOW THEREFORE BE IT RESOLVED, that the SADC grants final approval to provide a cost share grant to Holland Township for the purchase of a development easement on the Charles Brown Farm by Hunterdon County, comprising approximately 129 acres, at a State cost share of $3,600 per acre for an estimated total of $464,400 (66.67% of certified market value and purchase price) pursuant to N.J.A.C. 2:76-6.11 and the conditions contained in Schedule C; 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 premises 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 of the premises as identified in Policy P-3-B Supplement and for residual dwelling site opportunities allocated pursuant to Policy P-19-A; and

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

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

7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

Wetlands

Schedule IT

Application within the Highlands Planning Area

x:/counties/hunco/projects/brown10_fww_new.mxd

FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Charles Brown
Block 9 Lot 20.01 (58.6 ac)
Block 14 Lot 2 (35.2 ac), P/O Lot 38 (36.0 ac)
& P/O Lot 38-ES (severable exception - 4.0 ac)
Gross Total = 133.7 ac
Holland Twp., Hunterdon County

500 250 0 500 1,000 Feet

N

Property in Question
EN - (Non-Severable) Exception
ES - (Severable) Exception
Wetlands Boundaries
300 ft Buffered Wetlands
Municipal, County and Non-Profit Preserved Open Space
State Owned Conservation Easement
State Owned CPS & Recreation Easement
Federal Land

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
NJOIT/OGIS 2007/2008 Digital Aerial Image

September 21, 2011

Municipal Planning Incentive Grant
Holland Township, Hunterdon County

Farm	Acres	Pay Acres	Closed	SADC Certified Per Acre	SADC Cost Basis	SADC Cost Share	Cum Approp	Cum Expend	Balance
							1,250,000.00	576,272.40	673,727.60
Boss	130.971	130.971	12/07/11	7,000.00		576,272.40			
C. Brown	129.000			5,400.00	696,600.00	464,400.00			
Total Pending	129.000		1			464,400.00			
Total Encumbered									
Closed/Expen	130.971							576,272.40	673,727.60
Total									

State Agriculture Development Committee
SADC Final Review: Development Easement Purchase

Brown, Charles
10- 0338-PG
FY 2009 PIG EP - Municipal 2007 Rule
129 Acres

Block 9	Lot 20.01	Holland Twp.	Hunterdon County
Block 14	Lot 2	Holland Twp.	Hunterdon County
Block 14	Lot 38	Holland Twp.	Hunterdon County

SOILS:	Other	73% *	0	=	.00	
	Prime	27% *	.15	=	4.05	
				SOIL SCORE:		4.05
TILLABLE SOILS:	Cropland Harvested	64% *	.15	=	9.60	
	Other	2% *	0	=	.00	
	Wetlands	7% *	0	=	.00	
	Woodlands	27% *	0	=	.00	
				TILLABLE SOILS SCORE:		9.60

FARM USE: Ornament Nursery Products 86 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 1 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 to give to grandaughter
      Exception is severable
      Right to Farm language is to be included in Deed of Future Lot
      Exception is to be restricted to one 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.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2013R7(4)

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

On the Property of
Robert & Edward Schaumloeffel
July 26, 2012

Subject Property: Hidden Lakes Farm
Block 31, Lots 6, 9 & 10
Upper Freehold Twp., Monmouth County
SADC ID#: 13-0064-DE
Gross Acres: Approximately 228
Less: 23 Acre Severable Exception
7 Acre Severable Exception
2 Acre Nonseverable Exception
30 Acre Severable Exception (conservation easement area)
Net Preserved Acres: Approximately 166

WHEREAS, on April 21, 2010, the State Agriculture Development Committee ("SADC") received a development easement sale application from Robert and Edward Schaumloeffel hereinafter "Owner," identified as Block 31, Lots 6, 9 & 10 Upper Freehold Twp., Monmouth County, hereinafter "Property," totaling approximately 196 net acres, identified in 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, 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 28, 2011 which categorized applications into "Priority", "Alternate" and "Other" groups; and

WHEREAS, the Property has a quality score of 65.68 which exceeds the Priority Quality score for Monmouth County of 62, and the Property's 196 acres exceeds the Priority acreage for Monmouth County of 35 acres, and therefore the Property is categorized as a Priority farm; and

WHEREAS, the Property is currently devoted to a nursery operation production and has 43.86% prime soils; and

WHEREAS, there are three agriculture labor trailers on the Property outside of the exception areas, which are occupied by workers employed on the farm; and

WHEREAS, the Owner has requested one 2-acre non-severable exception area for a future single family residence, a 7-acre severable exception area for one single family residence and a 23-acre severable exception area for three single family residences and containing the nursery operation's business center; and

WHEREAS, approximately 30 acres of the Property are encumbered with a conservation easement that was conveyed to Monmouth County as part of the Property's final subdivision approval; and

WHEREAS, since the conservation easement restricts farming activities, the SADC will not pay for this acreage, however, it is standard practice for the farmland Deed of Easement to overlay any areas encumbered by existing easements to protect against potential future removal of the conservation easement; and

WHEREAS, Green Acres staff has expressed concern regarding potential legal ramifications of this conservation easement overlap in light of Green Acres' regulations governing the local government Recreation and Open Space Inventory (ROSI) process; and

WHEREAS, at the July 26, 2012 SADC meeting the Committee agreed that final approval shall be conditioned upon recognizing a severable exception around the 30 acre Conservation Easement area as shown on Schedule A, leaving a net preserved area of approximately 166 acres; and

WHEREAS, on May 24, 2012, the SADC certified the development easement value of the Property at $17,300 per acre based on current zoning and environmental conditions; and

WHEREAS, on June 19, 2012 the Owner accepted the SADC's offer to purchase the development easement on the Property at $17,300 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 to the Hidden Lakes Farm application, for the direct acquisition of the development easement at a value of $17,300 per acre for a total of approximately $2,871,800 (based on 166 unencumbered acres) subject to the conditions contained in Schedule B; and

BE IT FURTHER RESOLVED, that the SADC's cost share 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, and streams or water bodies on the boundaries of the Property 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 on the Property; 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.

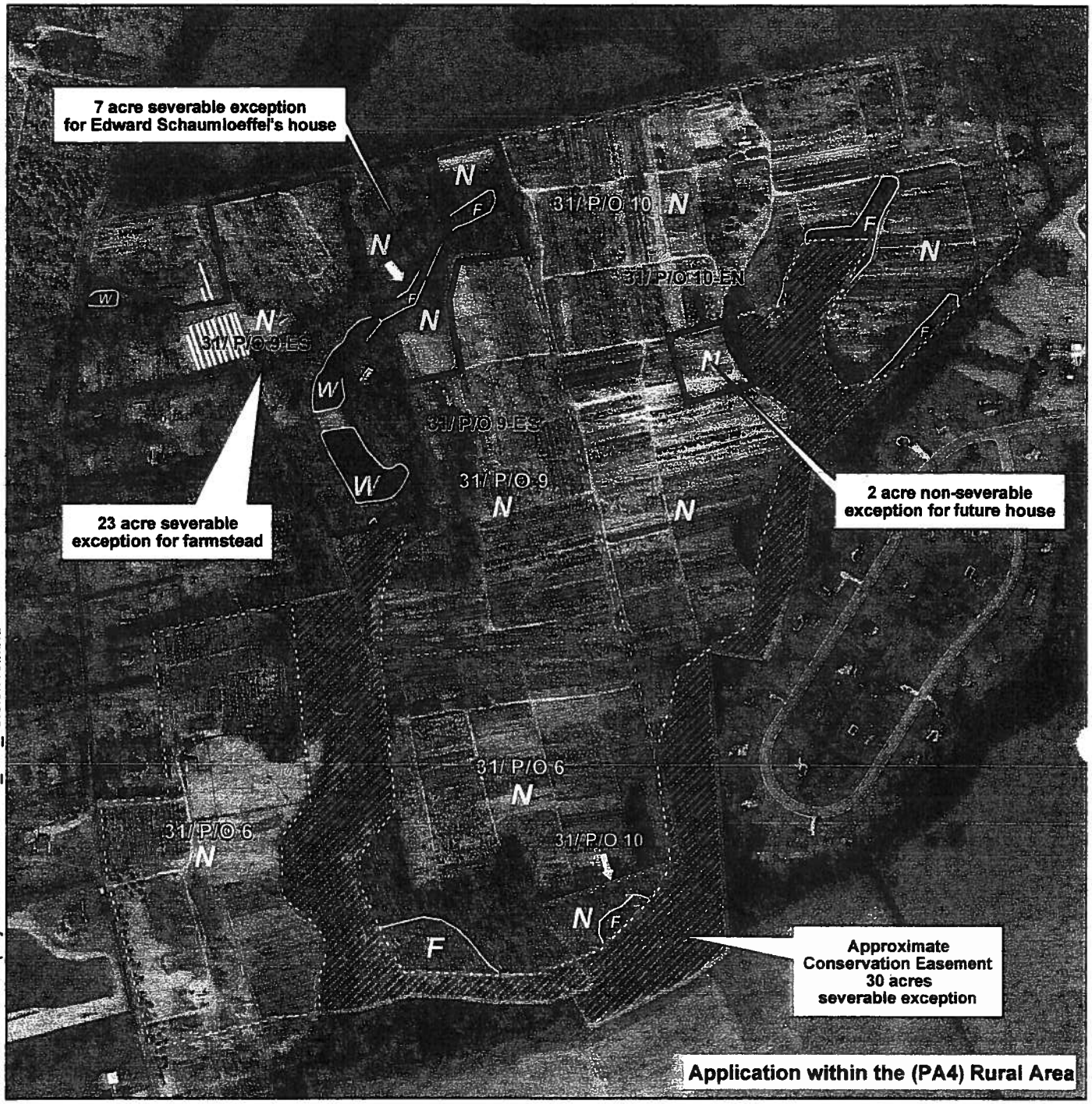
7-26-12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

Schedule A



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FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Robert Schaumloeffel (# 4)
Block 31 Lots P/O 6 (62.2 ac)
P/O 9 (26.6 ac)
& P/O 9-ES (severable exceptions - 23.6 & 7.5 ac)
P/O 10 (69.2 ac)
& P/O 10-EN (non-severable exception - 2.0 ac)
Gross Total = 191.2 ac
Upper Freehold Twp., Monmouth County

500 250 0 500 1,000 1,500 Feet

N

- Property In Question
- EN - (Non-Severable) Exception
- ES - (Severable) Exception
- Wetlands Boundaries
- Conservation Easement
- Municipal, County and Non-Profit Preserved Open Space
- State Owned Conservation Easement
- State Owned O/S & Recreation Easement

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

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Sources:
NJDEP Freshwater Wetlands Data
Green Acres Conservation Easement Data
NJOIT/OGIS 2007/2008 Digital Aerial Image

July 9, 2012

Schedule B

State Agriculture Development Committee
SADC Final Review: Development Easement Purchase

Hidden Lakes Farm
State Acquisition
Easement Purchase - SADC
166 Acres

Block 31	Lot 6	Upper Freehold Twp.	Monmouth County
Block 31	Lot 9	Upper Freehold Twp.	Monmouth County
Block 31	Lot 10	Upper Freehold Twp.	Monmouth County

SOILS:

Other	27.76% *	0	=	.00
Prime	43.86% *	.15	=	6.58
Statewide	28.38% *	.1	=	2.84

SOIL SCORE: 9.42

TILLABLE SOILS:

Cropland Harvested	64% *	.15	=	9.60
Woodlands	36% *	0	=	.00

TILLABLE SOILS SCORE: 9.60

FARM USE: Horticulture Specialties 180 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 (23) acres for future flexibility; contains one house and 2 housing lots to be subdivided off
      Exception is severable
      Right to Farm language is to be included in Deed of Future Lot
      2nd two (2) acres for future house
      Exception is not to be severable from Premises
      Right to Farm language is to be included in Deed of Easement
      Exception is to be restricted to one single family residential unit
      3rd seven (7) acres for for subdivision of existing house
      Exception is severable
      Right to Farm language is to be included in Deed of Future Lot
      Exception is to be restricted to one single family residential unit
      4th (30) acres for around conservation easement
      Exception is severable
      Right to Farm language is to be included in Deed of Future Lot
   c. Additional Restrictions: No Additonal Restrictions
   d. Additional Conditions: No Additional Conditions
   e. Dwelling Units on Premises: No Dwelling Units
   f. Agricultural Labor Housing Units on Premises:
      Manufactured without Foundation - three ag. labor trailers, workers employed on farm

5. Review and approval by the Office of the Attorney General for compliance with legal requirements.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2013R7(5)

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

On the Property of
Capozzi Family Foundation
July 26, 2012

Owner: Capozzi Family Foundation
Property: Block 7101:
Lot 53 approximately 38 acres (Pinelands Rural Development Area)
Lots 63 & 83; approximately 205 acres
(Pinelands Agricultural Production Area - 7 Pineland Development Credits)
Franklin Township, Gloucester County
SADC ID# 08-0018-DE
Approximately 243 Net Acres

WHEREAS, on September 30, 2011, the State Agriculture Development Committee ("SADC") received a development easement sale application from Capozzi Family Foundation, hereinafter "Owner," identified as Block 7101, Lots 53, 63, and 83 Franklin Township, Gloucester County, hereinafter "Property," totaling approximately 243 net 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, 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 28, 2011 which categorized applications into "Priority", "Alternate" and "Other" groups; and

WHEREAS, the Property has a quality score of 67.76 which exceeds the Priority Quality score for Gloucester County of 55, and the Property's 245 gross acres exceeds the Priority acreage for Gloucester County of 52 acres, and therefore the Property is categorized a Priority farm; and

WHEREAS, the Property is currently devoted to nursery and vegetable production and has 57.95% prime soils; and

WHEREAS, the Property is located within the Pinelands Agriculture Production (PAP) Area (Lots 83 & 63) and Pinelands Rural Development (PRD) Area (Lot 53); and

WHEREAS, the Owner has requested one 1.5-acre non-severable exception area on Lot 53 for a future single family residence; and

WHEREAS, according to a Letter of Interpretation from the Pinelands Commission, the portion of the Property located in the Pinelands Agriculture Production Area (Lots 83 & 63) has been allocated 7 Pinelands Development Credits (PDCs); and

WHEREAS, the future single family residence to be located within the exception area on Lot 53 will not require the use of any PDCs because Lot 53 is located within the PRD Area; and

WHEREAS, on April 27, 2012, the SADC certified the development easement value of the entire Property at $1,935 per acre based on current zoning and environmental conditions; and

WHEREAS, as per N.J.A.C. 2:76-19 the portion of the Property located in the PAP Area is eligible for valuation based upon the Pinelands Formula; and

WHEREAS, the Formula takes into consideration the PDCs for a particular parcel and the presence of important agricultural and environmental features. The Formula provides for certain base values to be adjusted upward in varying percentages depending on factors such as site-specific environmental quality, access to highways, septic suitability and agricultural viability; and

WHEREAS, through the sale of the development easement to the SADC, the 7 PDCs will be retired; and

WHEREAS, as per N.J.A.C. 2:76-19.13 a landowner may choose to receive a higher base value pursuant to N.J.A.C. 2:76-19.4(c) by placing a deed restriction on his or her property that limits impervious coverage on the property to 10% of the total property acreage; and

WHEREAS, on June 27, 2012, the Owner accepted the SADC's offer to purchase the development easement on the Property at the certified easement value of $1,935 per acre for land in the PRD (approximately 38 acres) and the higher of the two Formula values of $2,713.36 per acre for land in the PAP (approximately 205 acres) (Schedule B); and

WHEREAS, the SADC submitted the Property for a United States Department of Agriculture, Natural Resources Conservation Service Federal Farm and Ranch Lands Protection Program (FRPP) grant to supplement the SADC funding ; and

WHEREAS, the NRCS has been determined that the Property and the Landowner qualify for FRPP grant funds and approved a grant not to exceed 50% of the federal appraised current value or an approximate lump sum of $233,887 based on the lowest appraised easement value of $1,935 per acre; and

WHEREAS, the landowner has agreed to the additional restrictions involved with the FRPP grant, including an approximate 6.67% maximum impervious coverage restriction (approximately 16.21 acres available for impervious cover) on the lands being preserved outside of the exception area; 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 Capozzi Foundation application, for the acquisition of the development easement at a value of $1,935 per acre for land in the PRD (approximately $73,530) and $2,713.36 per acre for land in the PAP (approximately $556,238.80 for a total of approximately $629,768.80 subject to the conditions (Schedule C); and

BE IT FURTHER RESOLVED, should the FRPP funding of approximately $233,887 not be obtained to offset the SADC funding the SADC will fund the full easement value; and

BE IT FURTHER RESOLVED, should the FRPP funding not be obtained the impervious cover limitation on the Property will change from the FRPP 6.67% to 10% as per N.J.A.C. 2:76-19.13; and

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

7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

S:\DIRECT EASEMENT PURCHASE\All Counties\GLOUCESTER\Capozzi\final approval resolution.doc

Schedule A

x:/counties/gloco/projects/Capozzi11fww.mxd

FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Capozzi Family Foundation
Block 7101 P/O Lot 53 (35.94 ac), P/O Lot 53-EN (non-severable exception - 1.5 ac)
Lot 63 (95.14 ac) & Lot 83 (114.18 ac)
Gross Total = 246.76 ac
Franklin Twp., Gloucester County

N

500 250 0 500 1,000 Feet

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
NJOIT/OGIS 2007/2008 Digital Aerial Image

Date: 8/9/2011

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 geodectic 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

Pinelands Formula			
Subject Farm: Capozzi Farm			
LOI # 1991-0211.002 dated March 17, 2011:			
Block 7101 Lots 63 &83 (205.6 Acres): 7 PDC	114 acres of Uplands (5.85 PDC), 15.62 acres wet in ag. Prod. (.8 PDC)		
	75.98 acres other wet (.39 PDC)		
Agricultural Production Area -2 PDC/39 acres of upland			
or other wetland in prod. & .2 PDC other wetland			
Based on the Pinelands LOI	Based on GIS Mapping		
Uplands: 114 acres (55%)	Total Uplands- buffer + non-wet: 146.42 acres (69.54%)		
Wetland in Production: 15.62 acres (8%)	Total Wetland in Production (mod ag): 4.57 (2.17%)		
Other Wet:75.98 (37%)	Other Wet: 59.65 (28.29%)		
Total Land: 205.6	Total Land: 210.55		
Base Value Calculation			
(choose one)	no imp. Cover		If Imp. Cover is used
Per Acre Value	$1,600		$1,600
Per Acre Value	$1,800	If 10% impervious cover option is taken	$1,800
upland (upland & wetland in active production)	$1,008	$1,600 base x 83%	$1,134
wetland	$59	$160/$180 base x 37%	$67
adjusted base value for uplands and wetlands	$1,067		$1,201
2:76-19.5 adjustments			
2:76-19.6 Regional Environmental Quality Area	$160	Southern Env. Qual. Area - 15%	$180
2:76-19.7 - Site Specific Env. Quaulity Factors	$267	<0-.5 miles from Pineland Boundary & 2-4 from Town 25%	$300
2:76-19.8 - Scenic Corridor & Access Markets	$267	0-.5 from State Hwy & County Rd. - 25%	$300
2:76-19.8(b) Road Frontage	$21	500' frontage (adjacent lot):2.43:1 -2%	$24
2:76-19.9-On-Site Septic Suitability	$75	<53.55% with no or only slight limits - 7%	$84
2:76-19.10-Agricultural Viability	$213	50.48% Prime, 7.31% Statewide, 1.8% Unique -20% adjustment	$240
2:76-19.10(b)-contigous to preserved land	$128	within one mile of preserved land - 12%	$144
2:76-19.11 (a) water bodies	$0	no "significant" lake on property - 0%	$0
2:76-19.11(b) streams	$213	stream on property - 20%	$240
Formula Value	$2,411.87		$2,713.36
Final Valuation			
Formula Value Per Acre	$2,411.87	before housing adjustment	$2,713.36
Net Acreage	205.60		205.60
Pre-Adjust Consideration	$495,880.88	per acre price prior to adjustments	$557,865.99
Houses	0	on or off exception areas	0
	$0.00	# of houses x 4.875	$0.00
Total Deduction for Houses	$0.00		$0.00
Final Consideration	$495,880.88		$557,865.99
Net Acreage	205.60		205.60
Final Per Acre Value	$2,411.87		$2,713.36

State Agriculture Development Committee
SADC Final Review: Development Easement Purchase

Capozzi Family Foundation
State Acquisition
Easement Purchase - SADC
245 Acres

Block 7101	Lot 53	Franklin Twp.	Gloucester County
Block 7101	Lot 63	Franklin Twp.	Gloucester County
Block 7101	Lot 83	Franklin Twp.	Gloucester County

SOILS:

Other	5.34% *	0	=	.00	
Prime	57.95% *	.15	=	8.69	
Statewide	2.78% *	.1	=	.28	
Unique zero	33.93% *	0	=	.00	
			SOIL SCORE:		**8.97**

TILLABLE SOILS:

Cropland Harvested	65% *	.15	=	9.75	
Woodlands	35% *	0	=	.00	
			TILLABLE SOILS SCORE:		**9.75**

FARM USE:

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 (1.5) acres for future single family residence
      Exception is not to be severable from Premises
      Exception is to be restricted to one single family residential unit
   c. Additional Restrictions:
      6.67% impervious cover max (approx. 16.5 acres) pursuant to Federal Farm and Ranch Land Protection Program
   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
5. Review and approval by the Office of the Attorney General for compliance with legal requirements.

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2013R7(6)

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

On the Property of
Lewis J. DeEugenio, Jr.
July 26, 2012

Subject Property: Dubois Farm
Block 40, Lots 1 & 22
Elk Twp., Gloucester County
Block 18, Lots 1 & 4
Upper Pittsgrove Twp., Salem County
SADC ID # 08-0026-DE
Approximately 155 Net Acres

WHEREAS, on December 30, 2011, the State Agriculture Development Committee ("SADC") received a development easement sale application from Lewis J. DeEugenio, hereinafter "Owner," identified as Block 40, Lots 1 & 22, Elk Twp., Gloucester County, Block 18, Lots 1 & 4, Upper Pittsgrove Twp., Salem County, hereinafter "Property," totaling approximately 155 net acres, identified in 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, 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 28, 2011 which categorized applications into "Priority", "Alternate" and "Other" groups; and

WHEREAS, the Property has a quality score of 75.93 which exceeds the Priority Quality score for Gloucester County of 55, and the Property's 155 acres exceeds the Priority acreage for Gloucester County of 52 acres, and therefore the Property is categorized a Priority farm; and

WHEREAS, the Property is currently devoted to corn-cash grain (117 acres) production and has 25.27% prime soils; and

WHEREAS, there is an approximate 4-acre gravel pit located on the Premises that will be identified in the Deed of Easement as a pre-existing non-agricultural use; and

WHEREAS, the Owner has requested one 1-acre non-severable exception area on the Property for a future single family residence; and

WHEREAS, on April 27, 2012, the SADC certified the development easement value of the Property at $4,200 per acre based on current zoning and environmental conditions and based on one 1-acre non-severable exception; and

WHEREAS, subsequently the Owner requested a 2.8-acre non-severable exception for and restricted to the existing single family residence and to provide for future flexibility for a future non-agricultural use; and

WHEREAS, the appraisers were contacted in regards to the additional exception area and have no change in easement value, therefore, the $4,200 per acre easement value remains unchanged; and

WHEREAS, on May 22, 2012, the Owner accepted the SADC's offer to purchase the development easement on the Property at $4,200 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 Dubois Farm application, for the acquisition of the development easement at a value of $4,200 per acre for a total of approximately $651,000 subject to the conditions contained in Schedule B; and

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

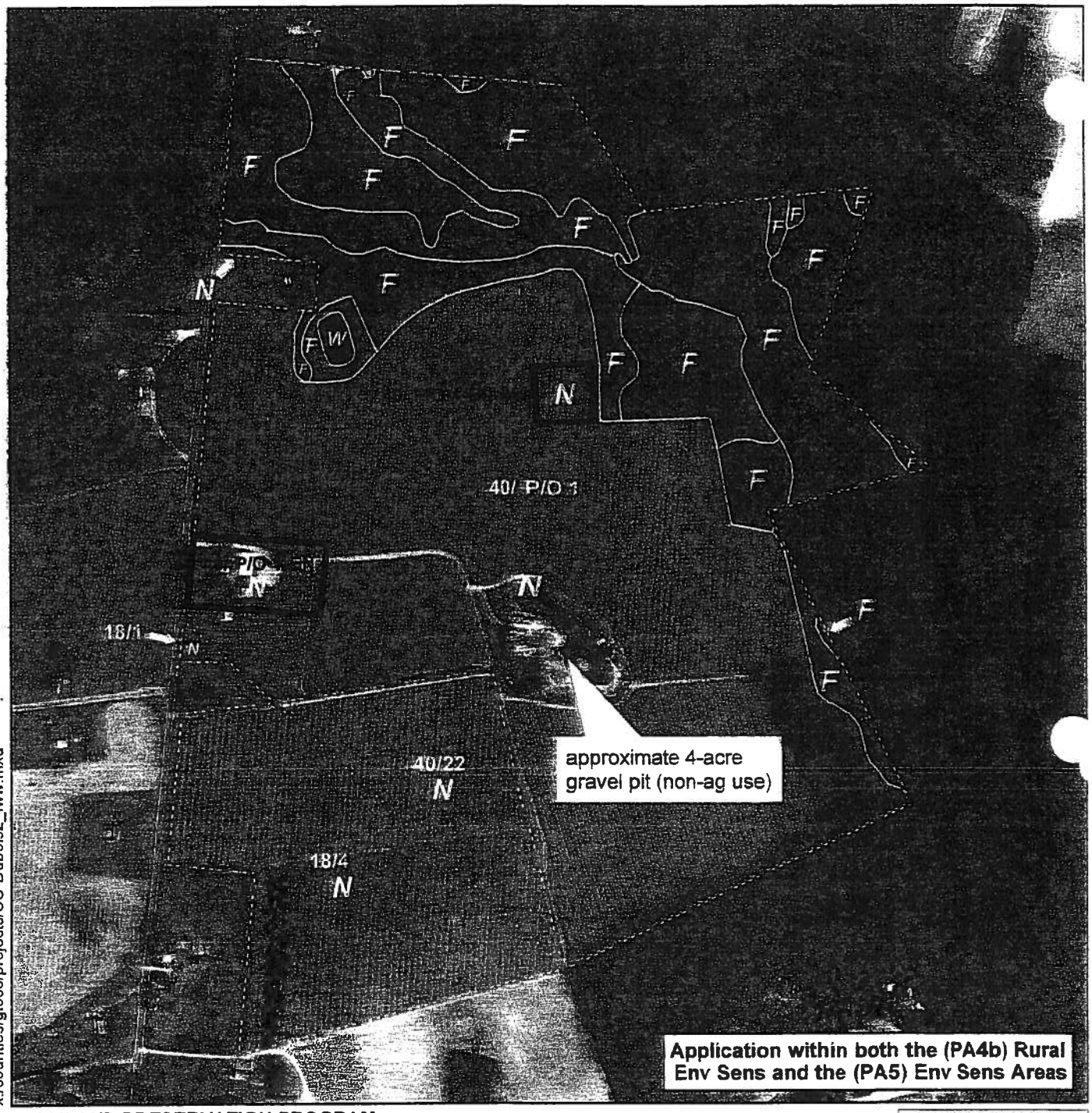
7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS

Douglas Fisher, Chairperson	RECUSED
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

Schedule A



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FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Dubois Farm/Lewis DeEugenio, Jr/Summit City
Block 40 Lots P/O 1 (123.4 ac);
P/O 1-EN (non-severable exceptions - 2.8 & 1.0 ac) & 22 (10.0 ac)
Elk Twp., Gloucester County
Block 18 Lots 1 (0.3 ac) & 4 (21.0 ac)
Upper Pittsgrove Twp., Salem County
Gross Total - 158.5 ac

500 250 0 500 1,000 Feet

N

Property in Question
EN = (Non-Severable) Exception
ES = (Severable) Exception
Municipal/County and Non-Profit Preserved Open Space
State-Owned Conservation Easement
State-Owned Off-S-Recreation Easement

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 D.
DVRPC 2010 Digital Aerial Image

June 11, 2012

State Agriculture Development Committee

SADC Final Review: Development Easement Purchase

Dubois Farm
State Acquisition
Easement Purchase - SADC
155 Acres

Block 40	Lot 1	Elk Twp.	Gloucester County
Block 40	Lot 22	Elk Twp.	Gloucester County
Block 18	Lot 4	Upper Pittsgrove Twp.	Salem County
Block 18	Lot 1	Upper Pittsgrove Twp.	Salem County

SOILS:

Prime	25.27% *	.15	=	3.79
Statewide	74.73% *	.1	=	7.47

SOIL SCORE: 11.26

TILLABLE SOILS:

Cropland Harvested	75% *	.15	=	11.25
Wetlands	25% *	0	=	.00

TILLABLE SOILS SCORE: 11.25

FARM USE:

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:
      gravel pit (4 acres)
   b. Exceptions:
      1st one (1) acres for future SFR
      Exception is not to be severable from Premises
      2nd (2.8) acres for existing SFR
      Exception is not to be severable from Premises
   c. Additional Restrictions: No Additonal Restrictions
   d. Additional Conditions: No Additional Conditions
   e. Dwelling Units on Premises:
      No Structures On Premise
   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 #FY2013R7(7)

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

July 26, 2012

WHEREAS, pursuant to N.J.A.C. 2:76-17.9(a)7 and 17.2 (County Planning Incentive Grant Program) the SADC is responsible for establishing the standards for determining an "eligible farm" by determining minimum score requirements in the County planning incentive grant program; and

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

WHEREAS, since there were no applications during the past three fiscal years to establish average quality scores in Bergen and Camden Counties, the SADC will consider and approve farms in these counties on a case by case basis;

WHEREAS, for all Counties besides Bergen and Camden Counties, if a farm fails to meet the minimum score requirements and the County wishes to preserve the farm using Committee funds, the County may request a waiver of the minimum score criterion pursuant to N.J.A.C. 2:76-17.9(a)7 for applications submitted under the county planning incentive grant program; and

NOW THEREFORE BE IT RESOLVED, that the SADC adopts the Average Quality Scores for each county as identified on the attached Schedule "A" for planning incentive grant applications; and

BE IT FURTHER RESOLVED, that the SADC adopts the 70 percent average quality score values for determining an "eligible farm" pursuant to N.J.A.C. 2:76-17.2 with the exception of Bergen and Camden Counties which have no minimum score; and

BE IT FURTHER RESOLVED, that the 70 percent of average quality scores for determining an "eligible farm" pursuant to N.J.A.C. 2:76-17.2 shall be effective as of January 1, 2013, and shall apply to an application for the sale of a development easement that is approved by the SADC pursuant to N.J.A.C. 2:76-17.9 prior to December 31, 2013.

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

7/26/12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

Schedule A
Eligible Farm Standards
PIG
July 26, 2012

SADC County PIG "Eligible" Farm Standard
Effective 1.01.13 - 12.31.13

SADC Minimum Standards for "Eligible" Farm

	2009 Average Quality Score	FY 2010 Average Quality Score	FY2011 Average Quality Score	FY2012 Average Quality Score	*2013 Average Quality Score	70% of Average Quality Score
Atlantic	47.61	47.94	52.61	****	64.91	45
Bergen	35.91	20.57	****	****		
Burlington	64.12	63.49	65.06	64.91	67.48	47
Camden		****	****	****		
Cape May	51.6	51.32	54.69	45.77		
Cumberlan	60.56	60.83	61.55	59.53	58.97	41
Gloucester	53.22	58.11	59.69	62.14	62.61	43
Hunterdon	57.6	61.26	62.64	65.52	64.22	44
Mercer	70.66	72.05	77.19	72.42	68.52	47
Middlesex	53.25	58.02	59.49	63.03	62.48	43
Monmouth	69.01	69.56	71.75	68.95	72.12	50
Morris	63.55	61.45	60.01	60.42	54.21	37
Ocean	46.85	48.58	56.69	61.39	69.36	48
Passaic		****	****	****	33.66	23
Salem	68.61	71.13	69.77	69.77	61.95	43
Somerset	67.31	66.98	66.93	67.09	72.19	50
Sussex	50.39	48.2	51.24	57.02	54.33	38
Warren	55.52	56.66	57.51	61.57	60.57	42

*** Based on preliminary or Green Light quality scores for County '09, '10, and '11 Fiscal Years**
N.J.A.C. 2:76-17.9 (a) and 17.2 (County Planning Incentive Grant Program)
These standards are effective January 1, 2012 through December 31, 2012
**** all numbers are rounded down to the nearest whole number**
N.J.A.C. 2:76-17.9 -7: any farm not meeting this standard may seek a waiver

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION #FY2013R7(8)

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

July 26, 2012

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

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

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

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

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

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

WHEREAS, the average farm size in a county shall be based on the average farm size of farms using the 2007 US Census data;

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

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

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

BE IT FURTHER RESOLVED, the individual scores pursuant to N.J.A.C. 2:76-8 and 11 shall be effective as of July 1, 2012, for all applications that have not which have not had option agreements authorized by that date; and

BE IT FURTHER RESOLVED, the standards established in this resolution and Schedule A shall remain in effect through June 30, 2013.

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

7|26|12
Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

SADC Minimum Standards - State Acquisition Program

"Priority" "Alternate" "Other" Prioritization System

For applications with appraisals authorized

July 1, 2012 through June 30, 2013

	2009 Average Quality Score	FY 2010 Average Quality Score	FY2011 Average Quality Score	FY2012 Average Quality Score	**FY2013 Average Quality Score	Average Acres 2007 Census	*Priority* ***75% of Average Census Acres	*Priority* ***90% of Average Quality Score	*Alternate* **55% of Average Census Acres	*Alternate* **70% of Average Qaulity Score
Atlantic	47.61	47.94	52.61	****	64.91	61	45	58	33	45
Bergen	35.91	20.57	****	****	****	13	9	****	7	****
Burlington	64.12	63.49	65.06	64.91	67.48	93	69	60	51	47
Camden		****	****	****	****	39	29	****	21	****
Cape May	51.6	51.32	54.69	45.77	****	40	30	****	22	****
Cumberland	60.56	60.83	61.55	59.53	58.97	113	84	53	62	41
Gloucester	53.22	58.11	59.69	62.14	62.61	70	52	56	38	43
Hunterdon	57.6	61.26	62.64	65.52	64.22	62	46	57	34	44
Mercer	70.66	72.05	77.19	72.42	68.52	70	52	61	38	47
Middlesex	53.25	58.02	59.49	63.03	62.48	79	59	56	43	43
Monmouth	69.01	69.56	71.75	68.95	72.12	47	35	64	25	50
Morris	63.55	61.45	60.01	60.42	54.21	40	30	48	22	37
Ocean	46.85	48.58	56.69	61.39	69.36	39	29	62	21	48
Passaic		****	****	****	33.66	19	14	30	10	23
Salem	68.61	71.13	69.77	69.77	61.95	127	95	55	69	43
Somerset	67.31	66.98	66.93	67.09	72.19	74	55	64	40	50
Sussex	50.39	48.2	51.24	57.02	54.33	62	46	48	34	38
Warren	55.52	56.66	57.51	61.57	60.57	80	60	54	44	42

** Based on County EP or PIG farms with preliminary approval fy '10, '11, and '12 Fiscal Years
2007 US Ag.Census Date used

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

**** Independent review and approval by SADC

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2013R7(9)

Schultz Farm

July 26, 2012

Installation of a Solar Energy Generation Facility, Structures and Equipment on an Existing Structure Located on a Preserved Farm

Subject Property: Schultz Farm
Block 67, Lot 23
Manalapan Township, Monmouth County
31.31-Acres

WHEREAS, the Schultz Family Living Trust, hereinafter, Owner, is the record owner of Block 67, Lot 23 in Manalapan Township, Monmouth County, by Deed dated July 29, 1996, and recorded in the Monmouth County Clerk's Office, in Deed Book 5538, Page 934, totaling approximately 31.31 acres, hereinafter referred to as "Premises" (as shown on Schedule "A"); and

WHEREAS, the development easement on the Premises was conveyed to the County of Monmouth on March 22, 2007, pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:11 et seq., P.L. 1983, c. 32, as a Deed of Easement, recorded in Deed Book 8639, Page 7077; and

WHEREAS, P.L. 2009, c.213 signed into law on January 16, 2010, requires the State Agriculture Development Committee (SADC) approval before constructing, installing, and operating renewable energy generating facilities, structures and equipment on preserved farms, including areas excepted from the Premises; and

WHEREAS, the SADC must adopt regulations to implement P.L. 2009, c.213 (N.J.S.A. 4:1C-32.4) hereinafter, referred to as "the Act"; and

WHEREAS, the SADC, in conjunction with the Office of the Attorney General, has determined that it may accept and consider applications for the construction of renewable energy generating facilities on preserved farms, prior to the adoption of rules, only in cases where the project will not result in the creation of any new impervious cover and the review is based solely upon criteria listed in subsection (a) of the Act; and

WHEREAS, subsection (a) of the Act states that the owner of a preserved farm may construct, install and operate renewable energy generation facilities on preserved farms for the purpose of generating power or heat, provided the systems:

(1) do not interfere significantly with the use of the land for agricultural or horticultural production, as determined by the committee;

(2) are owned by the landowner, or will be owned by the landowner upon the conclusion of the term of an agreement with the installer of the biomass, solar, or wind energy generation facilities, structures, or equipment by which the landowner uses the income or credits realized from the biomass, solar, or wind energy generation to purchase the facilities, structures, or equipment;

(3) are used to provide power or heat to the farm, either directly or indirectly, or to reduce, through net metering or similar programs and systems, energy costs on the farm; and

(4) are limited (a) in annual energy generation capacity to the previous calendar year's energy demand plus 10 percent, in addition to what is allowed under subsection b. of this section, or alternatively at the option of the landowner (b) to occupying no more than one percent of the area of the entire farm including both the preserved portion and any portion excluded from preservation.

(5) The person who owns the farm and the energy generation facilities, structures, and equipment may only sell energy through net metering or as otherwise permitted under an agreement allowed pursuant to paragraph (2) of this subsection.

WHEREAS, the Owner submitted an "Application for Energy Generation Facilities on Existing Buildings or Structures on Preserved Farmland" pursuant to N.J.S.A. 4:1C-32.4; and

WHEREAS, the Owner is seeking SADC approval for the construction of a photovoltaic solar energy generation facility on a portion of the roof of the existing house on the Premises; and

WHEREAS, the agricultural operation consists mixed fresh market melons and vegetables and the electrical energy demand of the farm is generated from service to the equipment barn and the house on the farm; and

WHEREAS, the farm's energy demand for the previous calendar year is 7.41 kilowatts (kW) as confirmed by the Owner's submission of 12 months of utility bills; and

WHEREAS, there are no other renewable energy generation facilities existing on the Premises; or

WHEREAS, the rated capacity of the proposed solar energy generation facility is 6 kW; and

WHEREAS, the solar energy generation facility will be owned by the Owner; and

WHEREAS, the Owner provided evidence confirming that the solar energy generation facility will provide power to the farm directly through net metering to reduce energy costs on the farm; and

WHEREAS, the Owner provided evidence that the annual solar energy generation does not exceed the previous calendar year's energy demand; and

WHEREAS, as a result of the panels being installed on the roof of a structure no new impervious cover or soil disturbance will result from the installation of the solar energy generation facilities, structures and equipment; and

WHEREAS, pursuant to N.J.S.A. 4:1C-32.4, the SADC forwarded a copy of the Owner's application to the Monmouth County Agriculture Development Board, to provide comments concerning the installation, construction, operation and maintenance of the solar energy generation facility, structures and equipment; and

WHEREAS, the Monmouth CADB cancelled its July meeting but has scheduled discussion of the solar energy generation facility for its August 1, 2012 meeting; and

WHEREAS, because the SADC has no August meeting staff recommends an approval of this renewable energy generation facility request be conditioned on the application receiving no negative comments from the Monmouth CADB at its next meeting; and

NOW THEREFORE BE IT RESOLVED, that the SADC finds that the Owner has complied with all of the provisions of N.J.S.A. 4:1C-32.4 concerning the installation of a photovoltaic solar energy generation facility, structures and equipment on the Premises; and

BE IT FURTHER RESOLVED, that the SADC approves of the construction, installation, operation and maintenance of the photovoltaic energy generation facility, structures and equipment consisting of approximately 600 square feet and having a rated capacity of 6 kW of energy to be located on the roof of the existing residence in the location identified in Schedule "B", and as described further herein; and

BE IT FURTHER RESOLVED, that this approval is conditioned on the application being reviewed by the Monmouth CADB and receiving no negative comments from that Board; 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.

7/26/12
DATE

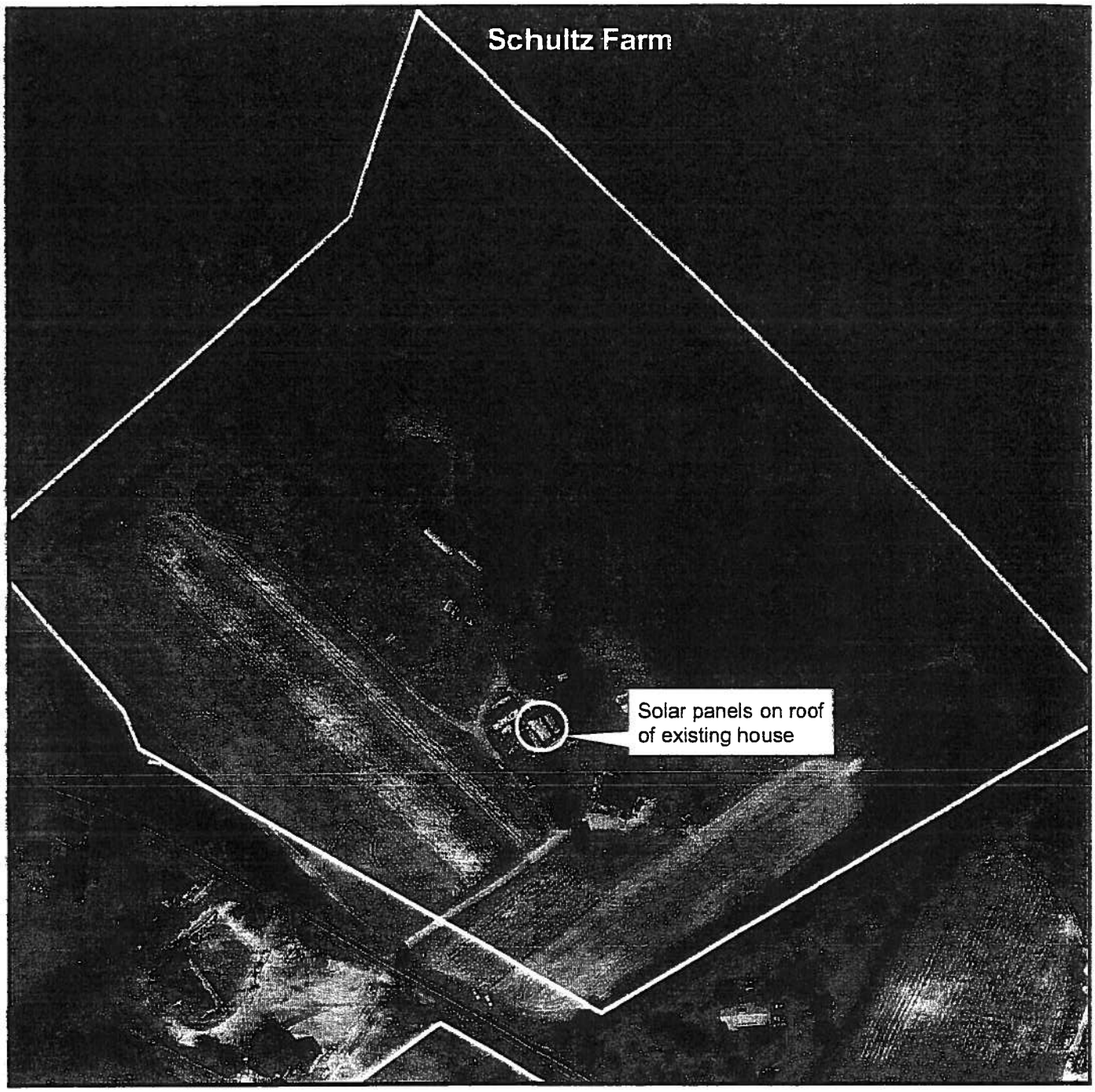
Susan E. Payne, Executive Director
State Agriculture Development Committee

VOTE WAS RECORDED AS FOLLOWS:

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES

S:\PLANINCENTGRANT\MONMOUTH\Manalapan Twp\Schultz\Stewardship-Post Closing\Solar Resolution.doc

Schedule A



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FARMLAND PRESERVATION PROGRAM
NJ State Agriculture Development Committee

Schultz Farm
Block 67, Lot 23
Manalapan Township, Monmouth County

N

0 95 190 380 570 760 Feet

month/day/year

Farmland Preservation Program

- PRESERVED EASEMENT
- EXCEPTION AREA
- PRESERVED EASEMENT / NR
- EXCEPTION AREA / NR
- FINAL APPROVAL
- PRELIMINARY APPROVAL
- ACTIVE APPLICATION
- 8 YEAR PRESERVED
- TARGETED FARM
- INACTIVE APPLICATION
- NO CORRESPONDING DATA

State Planning Areas

- (PA1) METRO
- (PA2) SUBURBAN
- (PA3) FRINGE
- (PA4) RURAL
- (PA4b) RURAL ENV SENS
- (PA5) ENV SENS
- (PA5b) ENV. SENSITIVE BARRIER IS
- (P10) PINELANDS
- PARK
- MILITARY
- NEW JERSEY MEADOWLANDS
- WATER
- ELLIS ISLAND- NJ
- ELLIS ISLAND- NY

Base Map

- County Boundaries
- Municipal Boundaries
- Highlands Planning Area
- Highlands Preservation Area
- Pinelands Area
- Green Acres Preserved Easements

STATE AGRICULTURE DEVELOPMENT COMMITTEE

RESOLUTION FY2012R7(10)

DENIAL OF EMERGENT APPLICATION
BY EDWARD AND LINDA FEINBERG TO ENJOIN THE JULY 12, 2012
HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD HEARING ON
THE REQUEST BY STONYBROOK MEADOW, LLC FOR A SITE SPECIFIC
AGRICULTURAL MANAGEMENT PRACTICE DETERMINATION

JULY 26, 2012

WHEREAS, by resolution adopted on May 10, 2012, the Hunterdon County Agriculture Development Board (HCADB or Board) granted and denied certain site specific agricultural management practice (SSAMP) requests by Stonybrook Meadows, LLC (Stonybrook) , operator of a farm on Block 41, Lot 40.05, East Amwell Township; and

WHEREAS one aspect of the HCADB's approved SSAMP is the denial of a request to expand the existing farm market and storage facility for farm products (the "farm market") from 250 square feet to 900 square feet; and

WHEREAS, the resolution was appealed by Stonybrook and by Edward and Linda Feinberg (Feinberg) to the State Agriculture Development Committee (SADC or Committee), and

WHEREAS, on June 11, 2012, the SADC forwarded the Stonybrook and Feinberg appeals to the Office of Administrative Law (OAL) in accordance with N.J.S.A. 4:1C-10.2; and

WHEREAS, on or about June 26, 2012, Stonybrook applied to the HCADB for a second SSAMP with respect to the operation of the existing 250 square foot farm market and

WHEREAS, on July 3, 2012, the SADC received an application for emergency relief by Feinberg to enjoin the HCADB from hearing Stonybrook's second SSAMP request for the farm market at the Board's July 12, 2012 meeting; and

WHEREAS, the application for emergency relief to enjoin the HCADB from hearing the second SSAMP request appears to be based on the assertion that the board's earlier denial of expansion of the farm market, set forth in Paragraph 1E. of the HCADB resolution's findings of fact, is an issue already before the OAL by virtue of the SADC's forwarding the appeals of the first SSAMP to the OAL; and

WHEREAS, Feinberg's application to enjoin the HCADB hearing was filed with the SADC pursuant to N.J.A.C. 1:1-12.6(b) of the "Uniform Administrative Procedure Rules", which provides that "[a]pplications for emergency relief shall be made directly to the agency head and may not be made to the Office of Administrative Law."; and

WHEREAS, SADC staff received and reviewed the following documents in respect to Feinberg's application:

07/03/12 brief and exhibits filed by Jeffrey P. Blumstein, Esq., attorney for Feinberg;
08/09/12 brief filed by Anthony P. Sposaro, Esq., attorney for Stonybrook
07/10/12 reply letter brief filed by Jeffrey P. Blumstein, Esq.
07/11/12 letter and exhibit from Jeffrey P. Blumstein, Esq.

and;

WHEREAS, by letter dated July 11, 2012, SADC Executive Director Susan E. Payne advised Mr. Blumstein that the "agency head" for the purpose of an application for emergent relief pursuant to N.J.A.C. 1:1-12.6(b) is defined in N.J.A.C. 1:1-2.1 as "the person or body authorized by law to render final decisions in contested cases" in the OAL; and

WHEREAS, because the SADC is the body authorized by law to render final decisions in contested cases in the OAL, the July 11, 2012 letter advised Mr. Blumstein that the Executive Director had no authority to consider the request for emergent relief and that the next SADC meeting was on July 26, 2012, two (2) weeks after the HCADB was scheduled to meet on Stonybrook's SSAMP request for the farm market; and

WHEREAS, by email dated July 13, 2012, the SADC was notified by Mr. Sposaro, counsel for Stonybrook, that the HCADB had heard and granted his client's SSAMP request at the July 12 Board meeting and that the Feinberg application for emergent relief had been rendered moot; and

WHEREAS, by email dated July 13, 2012, the SADC was notified by Mr. Blumstein that Feinberg did not consider the application for emergent relief to be moot and that his client continued to request an SADC decision on the application at the Committee's July 26, 2012 meeting; and

WHEREAS, the emergent relief rule, N.J.A.C. 1:1-12.6(b), must be read in the context of N.J.A.C. 1:1-12.6(a), which provides:

> Where authorized by law and where irreparable harm will result without an expedited decision granting or prohibiting some action or relief connected with a contested case, emergency relief pending a final decision on the whole contested case may be ordered upon application of a party.

and;

WHEREAS, Feinberg made no showing in the July 3, 2012 emergent relief application and subsequent submissions to the SADC that irreparable harm will result without an expedited decision being issued, and

WHEREAS, in the July 3, 2012 emergent relief application and subsequent submissions to the SADC, Feinberg failed to address whether Feinberg's potential appeal to the SADC of the HCADB's grant of the SSAMP request by Stonybrook, pursuant to N.J.S.A. 4:1C-10.2 and N.J.A.C. 2:76-2.3(f), had any bearing on the application; and

WHEREAS, the July 3, 2012 emergent relief application to the SADC and the subsequent submissions on behalf of Feinberg failed to provide any facts or legal arguments addressing the other requirements of N.J.A.C. 1:1-12.6(a), including whether the SADC was authorized by law to enjoin the HCADB hearing,

NOW, THEREFORE, BE IT RESOLVED that the Committee hereby denies the July 3, 2012 request for emergent relief because Feinberg made no showing in the emergent relief application and subsequent submissions to the SADC:

that irreparable harm will result without an expedited decision being issued;

whether a potential appeal to the SADC by Feinberg of the HCADB's grant of the second SSAMP request by Stonybrook, pursuant to N.J.S.A. 4:1C-10.2 and N.J.A.C. 2:76-2.3(f), would have any bearing on the emergent relief application, and/or

that addressed the other requirements of N.J.A.C. 1:1-12.6(a), including whether the SADC was authorized by law to enjoin the HCADB hearing.

7/26/12
DATE

Susan E. Payne, Executive Director
State Agriculture Development Committee

THE VOTE WAS RECORDED AS FOLLOWS

Douglas Fisher, Chairperson	YES
Fawn McGee (rep. DEP Commissioner Martin)	YES
James Requa (rep. DCA Commissioner Constable)	YES
Brian Schilling (rep. Executive Dean Goodman)	YES
Ralph Siegel (rep. State Treasurer Sidamon-Erstoff)	YES
Jane R. Brodhecker	YES
Alan A. Danser	YES
Denis Germano	ABSENT
Torrey Reade	YES
James Waltman	YES