

RESOLUTION # 4

SOIL DISTURBANCE ON PRESERVED FARMLAND

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

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

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

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

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

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

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

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

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

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

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