

# New Jersey Farm Bureau 2013 Policies

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## **FARM VIABILITY**

The economic pressures now on New Jersey farmers and indeed on farmers throughout the country are significant and constantly increasing. Conditions in marketing structures, worldwide competition and production costs continue to squeeze the farm producer and regulatory intervention is a constant threat.

Farm Viability shall be the overall policy orientation for Farm Bureau as an organization. This should unify ongoing objectives toward a goal of seeking improvements in the profitability of farming operations. This theme also recognizes that there are massive changes underway throughout the industry, some of which may require some re-training and business plan evaluation by farmers. It may also mean a greater emphasis on coordinated action among farmers on economic and financial issues.

Farm Bureau works to protect its membership from those things that can negatively impact farm viability, including: excessive government regulation, burdensome taxes, wildlife damage, and heavy-handed land use regulation.

New Jersey Farm Bureau shall take a leadership role in stressing the importance of farm viability. Building on current and updated policies, New Jersey Farm Bureau will:

- Expand plans for new farm business development plans like new use agriculture and renewable fuels;
- Continue its support of Rutgers School of Environmental and Biological Sciences/NJAES;
- Aggressively explore Internet and e-commerce opportunities; and
- Aggressively pursue the Board of Public Utilities to include renewable fuels under their grant program
- Urge the development of factual and realistic economic and agricultural impact statements, as required by law, for all rule proposals by all New Jersey agencies.

## **RIGHT TO FARM**

Next to the Farmland Assessment Act, the Right to farm Act is the most important state policy to encourage and maintain agriculture in New Jersey. The amendments of 1998 strengthened the Act considerably, and subsequent legal judgments have upheld the power afforded to the County Agriculture Development Boards (CADBs) to adjudicate conflicts involving farm operations. The SADC and New Jersey Farm Bureau continue to encourage each CADB to write letters to the prosecutors of each municipality explaining the legal decisions supporting the CADB's role in Right to Farm conflict resolution. The New Jersey Farm Bureau should act to request a concrete determination from the Attorney General that could be sent to any local judge that ignores the statutory requirement that right to farm conflicts must be taken to the CADBs first.

### **Funding for CADB's**

Even with the updates to the Right to Farm Act many farmers are caught in the cross hairs of nuisance complaints. Those complaints cost the farmer and all municipal property taxpayer's time and money. New Jersey Farm Bureau shall seek amendments to the Right to Farm Act that would require a posting of a bond by those who file a complaint to cover all landowner and farmer's defense costs if farming activities are found by the CADB to be protected under the Right to Farm Act. Such bonds should also cover all costs incurred by township and county

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professionals who might need more technical expertise to deal with such issues than what are available on the CADB's or county planning staffs.

Currently, the SADC is considering rule changes to the Site-Specific Agricultural Management Practice (SSAMP) process that would among other things, require a farmer seeking an SSAMP to put money in escrow to cover professional costs incurred by the CADB during evaluation. This may be appropriate in cases where the farmer is using the CADB process to gain approval for a farm market building. However, when a farmer is seeking protection from a nuisance complaint, the burden should fall upon the other party.

### CADB Volunteers

Discussions in developing the On-Farm Direct Marketing AMP have shown that the primary responsibility for support and implementation of the Right to Farm Act belongs with those who have knowledge of New Jersey Agriculture, the CADBs and SADC. The authority held by CADBs creates a great opportunity for the agricultural community, but also a great responsibility. More than ever, the CADBs need knowledgeable commercial farmers to lend their time and expertise. Volunteers could be drawn from a number of sources including former State Board of Agriculture members, New Jersey Agriculture Leadership Development Program alumni, county boards of agriculture members, etc. Insuring an ample supply of volunteers for the CADBs is a critical first step in making the right to farm program work effectively. Training those volunteers in conflict resolution, hearing procedures and other aspects of the process to make sure they are qualified to carry out their duties is the second step. New Jersey Farm Bureau calls upon the legislature to allocate funding to the SADC for continued and expanded CADB training and educational activities.

A Bill (A-1054) to establish alternate voting members to serve on the CADB's has been proposed in the general assembly. If passed, this bill would further the need for knowledgeable volunteers to serve on CADB's. Farm Bureau must strongly encourage participation on these boards and give the appropriate recognition to those who choose to serve.

### Notice to Neighbors

Right to Farm experience in other states shows that regular notice to all landowners that agriculture is a publicly endorsed land use helps a great deal in educating newcomers to the rights of farmers. A model ordinance about notice or a clause added to the local Right to Farm ordinance could encourage more towns to head off conflicts before they become confrontational. The SADC has a model Right to Farm ordinance that municipalities may use. While the SADC cannot require the model ordinance be used, NJFB urges the SADC to promote and strongly encourage its use by local municipalities to help create more uniform right to farm protection on the local level. Further, NJFB shall encourage the SADC to develop more educational materials to help municipalities gain a better understanding of the Right to Farm Act and the process through which complaints are handled.

### AMP Development

Farm Bureau is actively participating in the SADC working group to develop an on-farm direct marketing AMP. The SADC intends to have this AMP published in the New Jersey Register in early 2013. This AMP, along with AMP's for greenhouses and ag-related farm businesses must be a high priority for the SADC to help reduce and/or resolve Right to Farm conflicts.

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Farm Bureau shall continue to participate in this working group and those for future AMP development.

The On-Farm Direct Marketing AMP did not specifically address some activities, such as weddings and other life celebratory events, that may blur the line when it comes to the relationship to production agriculture. These types of events can be an important tool in marketing the agricultural output of a farm (in the case of wineries, for example) and therefore, some level of them should be able to take place and be protected under the Right to Farm Act. However, there is also the possibility that New Jersey farms, preserved and unpreserved could be turned into wedding facilities where the main objective is not related to the agricultural output of the farm and the activities could reach a threshold where they should require municipal approval.

Through site-specific cases, the SADC has taken the position that weddings and other life celebratory events on farmland do not qualify for Right to Farm protection. Farm Bureau believes that weddings and other life celebratory events may be considered protected under the Right to Farm Act if they are within certain parameters and if there is a relationship to marketing the agricultural output of the farm.

Because of the SADC's current interpretation, legislation is needed to clarify when these types of special events can be protected under the Right to Farm Act. NJFB shall urge the legislature to take action in a way similar to what was done in P.L. 2009, Ch. 213, the law that allowed for renewable energy development on preserved and non-preserved farmland, with one critical difference. Clarifying legislation must allow for a deliberative process by the SADC in cooperation with the agricultural community to adopt an Agricultural Management Practice for such activities, however, there must be a mechanism that allows farms to continue ongoing agritourism activities until new rules are promulgated. This could possibly be done on a case-by-case basis through site-specific AMP's to ensure that such activities are taking place with a relationship to the agricultural output of the farm.

The fruit and vegetable production AMPs should be amended to reference New Jersey Agricultural Experiment Station production guides, so they may be updated annually as the guides are published.

Housing for agricultural labor is essential to many farming operations and the construction of labor facilities must be protected under the Right to Farm. New Jersey Farm Bureau urges the SADC to add, through regulation if needed, agricultural labor housing to its list of protected practices, and an accompanying AMP should be developed.

It is now law that installations of solar, wind or biomass energy generation systems on farms that meet certain criteria are eligible for Right to Farm Protection and Farmland Assessment. The SADC has made some progress by adopting the AMP for solar energy generation and by publishing in the New Jersey Register the rule to allow for solar energy generation on preserved farms; however, farmers wishing to install wind generating facilities on any farm are still waiting for the ability to do so and are losing valuable tax incentive opportunities in the meantime. Farm Bureau urges the SADC to work as quickly as possible to adopt the remaining renewable energy AMP's and guidelines for preserved farms.

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### Conflict Resolution

As Right to Farm conflicts continue to arise, CADBs report concern about inconsistency in how the conflict resolution process is used. They report inconsistency in the decisions made from one part of the state to another and that no information is shared between the CADBs about them. More detailed procedures to handle Right to Farm conflicts being drafted will help CADBs to be more consistent statewide and effective in handling these issues.

In order to better protect New Jersey farmers, NJFB urges the SADC to respond with a quick and strong response to local municipalities whenever Right to Farm complaints are brought to the SADC's attention. In addition, because the conflict resolution process can take an extended period of time, NJFB believes that CADB decisions should stand without prejudice toward or action against the farm operator, while an appeal to the state level is pending.

### Communication and Education

Farm Bureau shall actively distribute information about the Right to Farm to individual farmers via direct mail and fax broadcast to members listing this issue as a "topic of interest" on their membership application. New Jersey Farm Bureau should publish regular updates on proposed AMP's, prominent cases that are pending and new innovations in the scope of this program. The county boards of agriculture should be updated on a regular basis.

Farm Bureau should also provide technical assistance to its members involved in Right to Farm conflicts, especially while local municipalities are still unfamiliar with the statute and its requirements.

New Jersey Farm Bureau also recommends that the New Jersey Department of Agriculture booklet "Fact Sheet for Commercial Farm Buildings" be updated to reflect the Right to Farm's role in farm building construction.

### **FARMLAND ASSESSMENT**

Farmland Assessment taxation, passed in 1964, is probably the most important reason that the loss of farmland in New Jersey slowed dramatically from 1970 to date. Approximately 1.2 million acres receive that assessment now, of which more than 500,000 acres is cropland.

Higher taxes and perceived tax abuses continue to be high priority issues with the public. The need to educate them about Farmland Assessment and its positive effects is greater than ever.

New Jersey Farm Bureau was active through the year in meeting with legislators on Farmland Assessment issues.

Farm Bureau should continue to:

- Support the development of a training program where municipal and county assessors are educated about Farmland Assessment. Such training should be mandatory for all assessors working for a municipality or county that has land assessed as farmland.
- Send out a periodic update to all members on the latest court decisions or other issues about Farmland Assessment. One such decision maintained that local tax assessors must use F.E.A.C. established values, as opposed to market value of the crop, or other personal methodology, when determining an assessment for a farm property. Tax bills

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will be delivered soon and farm operators must appeal by April 1 if they believe the assessment is incorrect.

- Farm Bureau should work with the legislature to prevent any changes to the program that would negatively impact the land dedicated to agriculture or increase taxes already paid by farmers. Any legislative proposals should be carefully reviewed by Farm Bureau staff and other members of the agricultural community.
- Oppose the misapplication of remote imaging technology for the purpose of punitive assessments.
- Oppose the creation of other tax abatement programs that compete with Farmland Assessment by encouraging large property owners to remove their land from agricultural production in favor of a conservation or set-aside program.

The Farmland Assessment Act was amended in 2009 to allow forest stewardship activities to fulfill the farmland assessment criteria, even without tree harvest. Farm Bureau opposed this legislation, and while regulations are currently being developed to implement this amendment, Farm Bureau continues to believe a growth standard of some kind must be established for these forested properties in order to insure that the principle of differential property tax assessment for land dedicated to “agricultural or horticultural production” is maintained. Farm Bureau supports the use of forest stewardship plans by forest landowners, for those who have currently qualified for Farmland Assessment, and also supports the concept of forest owners using government payments to implement those plans as qualified income for Farmland Assessment purposes.

While New Jersey Farm Bureau supports the development and use of renewable energy, the organization does not support broadening of the definition of agricultural production to include the “harvesting of the sun or wind” for power generation.

### Farm Building Taxation

The Farm Building Appraisal Manual, a subset of the Real Property Appraisal Manual for New Jersey Assessors addresses economic obsolescence, functional obsolescence, and depreciation, the key concerns in farm building appraisal. Also, a section on permanent greenhouse structures, formerly found in the commercial building chapter of the appraisal manual, has been moved to the farm building section of the manual.

The use of this manual by assessors began in the 2000 tax year. Any farmer filing an appeal due to a farm building over-assessment should have a copy of the Real Property Appraisal Manual for use in the appeal. This is available for purchase from the Division of Taxation.

Even with the existence of the Farm Building Appraisal Manual, instances of over-taxation are still being reported. Although copies of the manual are available to the public, it is a complex document, designed to be used and interpreted by assessors, not necessarily the general public. New Jersey Farm Bureau contracted a consultant to develop a “primer” to explain the rules of farm building taxation. This document will be available to Farm Bureau members upon request.

### **TAXATION ISSUES**

#### Local Property Taxes

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Because education in the State of New Jersey is funded mainly through the local property tax, the financial burden of education is unfairly placed primarily on property owners. This has become a growing financial hardship for farmland owners.

This method of school funding has also created a social climate that is hostile toward any new growth or development. Many municipalities are making land use and planning decisions based not on what is best for the environment or the community as a whole, but rather, as a means to slow or even stop development, in an effort to hold down school taxes. Many of these land use decisions, like down zoning, drastically diminish a farmland owner's equity.

To help protect the property rights and financial well-being of farmland owners, New Jersey Farm Bureau strongly supports a change in the method by which New Jersey schools are funded. We urge the Governor and Legislature to immediately address this issue.

An area of concern has grown with State institutions, particularly colleges, that have expanded and bought residential units for staff to use as a residence as part of their employment compensation. The concern is that these increasing tax exempt residential buildings are consuming services as any other residence in the community but not contributing to the tax base. The NJFB supports the reexamination of tax exempt status based on "exclusive use" be revised to allow municipalities to assess taxes fairly to all residents in the community.

Farm Bureau should explore the impacts of rising property taxes on farms and seek recommendations to lessen the tax burden on farmers.

### State Taxes

New Jersey imposes taxes on estates valued over \$675,000. With New Jersey's high land values most estates containing farmland would be subject to this tax. New Jersey Farm Bureau supports a complete elimination of the New Jersey Inheritance and Estate taxes. As we work toward complete elimination, NJFB has also been working with legislators to develop legislation to make any heir of farmland eligible for a \$2.5 million reduction in taxable value if the land is kept in agriculture for ten years. This is similar to the federal estate tax provision for farms, except with a much larger reduction to compensate for New Jersey's high land values.

New Jersey Farm Bureau supports the permanent elimination of the federal estate tax and the federal capital gains tax.

New Jersey's land values are among the highest in the nation, and a large percentage of a farmers assets are in the form of land, equipment, and structures, that are largely illiquid. The death taxes represent a regressive tax on assets that were already taxed at least once, and these taxes represent a disincentive to farmers to invest in their businesses to remain competitive in a market where margins are slim at best. The death tax can also make intergenerational transfer of farms difficult or impossible. The New Jersey death tax is among the highest in the nation, and because these regressive taxes effectively assure that New Jersey agriculture will continue its decline:

Let it be resolved that the New Jersey Farm Bureau calls upon the United States Congress to exempt all farms from the federal inheritance or death tax, and furthermore call on the New Jersey legislature to do the same.

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Given the importance of the death tax issue to the New Jersey farm community, New Jersey Farm Bureau should use all available resources to expedite this resolution.

NJFB recognizes that this is a complex issue, and that any changes may require careful negotiation. Until a complete exemption from state and federal estate/inheritance taxes can be achieved for farms, New Jersey Farm Bureau urges its members to take all appropriate estate planning measures.

Currently, farmers who donate food through “gleaning” programs are not eligible for the tax deduction. New Jersey Farm Bureau shall support a modification to the current federal tax deduction for food donations, so that farmers donating their products could qualify.

### General Tax Issues

There is a need to enact legislation in the state to synchronize the deadline dates for the filing of state and federal tax returns by New Jersey farmers. This creates unnecessary complications and expense for those preparing those returns.

### **SALES TAX ISSUES**

The farmer exemption provisions of the sales tax statute are explained in an informational guide developed and recently updated by the New Jersey Department of Agriculture entitled, “Farming and New Jersey Sales and Use Tax.” Farm Bureau will make this document available to its members upon request.

The 2004 revisions to the sales tax code that deemed horse stall rentals as a sales taxable item has created confusion within the training and breeding industry. Because some of the animals are housed for production purposes, many mistakenly thought they were exempt from the need to collect sales tax. This tax directly impacts competitiveness of the racing and training industry here in New Jersey. Farm Bureau should work with the equine industry to clarify the production exemption or work for the repeal of this tax.

The provisions of the sales tax statute that apply to landscaping services are explained in an informational guide developed by the New Jersey Department of Agriculture entitled, “Landscaping Services and New Jersey Sales Tax.” Farm Bureau will make this document available to its members upon request.

### **AG RETENTION/FARMLAND PRESERVATION PROGRAM**

The preservation of farmland is a benefit to all residents of the State. Once farmland is preserved, it not only remains actively used for production agriculture, it provides for a local supply of fresh farm products, water recharge, scenic vistas and also remains on the local tax rolls with no taxpayer maintenance costs. To date, the State Agriculture Development Committee (SADC) has preserved over 2,135 farms totaling over 200,000 acres.

In 2009, New Jersey Voters authorized \$400 million in New Jersey General Obligation bonds to give the state’s preservation programs money for new projects in Fiscal Year 2011. \$146 million of the \$400 million bond could go to the SADC to preserve private farmland by the purchase of development rights. In 2011, half of the \$146 million (\$90.6 million) was appropriated to the SADC for farmland preservation programs. These monies have been spent or allocated and the

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SADC has requested an appropriation for the second half of the 2009 bond referendum funds (\$83,123,699 including some re-programmed funds).

In the upcoming year Farm Bureau shall:

- urge the Governor and Legislature to appropriate the remaining bond funds in 2012.
- advocate for a long-term, stable and secure source of funding for farmland preservation and stewardship efforts at a minimum funding allocation of 60% of the total funds going to all preservation programs.
- continue to educate the Legislature and the general public of the importance of preserving farmland. As part of the education effort, Farm Bureau shall commission an updated cost of municipal services study, if one has not been conducted recently.
- continue to monitor the SADC's interpretation of statutes and rules to ensure that flexibility is maintained to ensure future viability.
- aggressively oppose the SADC when it attempts to over-regulate preserved farmland beyond the scope of the deed of easement.
- urge that any current and future farmland preservation funds be used for land acquisition, related administrative costs, and soil and water cost-share conservation programs.
- encourage the SADC to improve communication with the farm community.
- encourage every county and municipality with active agricultural land to participate in the SADC's Comprehensive Farmland Preservation Planning Process. This program allows counties and municipalities to focus preservation efforts on targeted farms and allows for more efficient processing and funding of approved projects.
- urge the SADC to not fund Planning Incentive Grants (PIGs) for municipalities that persist in down-zoning farmland despite its negative effects on the viability of the very farm operations the town is showing their interest in protecting. In addition, municipalities enrolled in PIG programs that demonstrate a lack of support for the business of agriculture should lose their PIG funding.
- support the application of fair and standardized appraisal criteria to all applicants.
- commission a third-party review of the program's appraisals in order to ensure that the appraisal criteria guidelines are being applied uniformly.
- support the creation of a formal way for applicants to challenge the two appraisals the state, county or municipality uses. This is necessary because the SADC does not allow appraisers to use a method that would factor in zoning for cluster housing that might increase the development yield of the farm.
- ensure that the four farmer member positions on the SADC be promptly appointed (within 90 days) when there are vacancies. Farm Bureau shall work to ensure that the State Board of Agriculture selects all of the nominees that are recommended to the Governor for positions on this board and that they meet the criteria set forth in the Right to Farm Act.
- support the development of stronger incentives and more funding for the eight-year program.
- support an amendment to IRS Code 2032A, so that farmers who participate in both the federal farm estate tax program and a state or local farmland preservation program are not penalized financially.
- work to ensure that all farmland purchased through other programs (i.e. Green Acres, Highlands TDR program) is actively farmed.
- urge the SADC to deny state preservation funding to municipalities that preserve farmland in partnership with conservation groups that place burdensome restrictions on the farmland.

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- support an elimination of the capital gains tax on income from the permanent preservation of farmland.
- urge the denial of SADC funding to municipalities that refuse to allow an open bid process in auctions of preserved farmland whereby any farmer has an equal opportunity to bid on the farm.
- continue to monitor and participate in the ongoing debate regarding how to create or provide affordable farmland for New Jersey farmers.
- support a legislative change to the Agriculture Development and Retention Act to require that preserved farms going forward be “actively devoted to a commercial agricultural or horticultural use, including activities related to marketing the output of the farm” not just “available for farming.” While this change may not prevent non-farmers from purchasing preserved farmland, it will increase opportunities for New Jersey farmers to lease and farm the properties as part of their overall farm operations. This change will also help address the issue of preserved farmland laying fallow or growing up in invasive species. A legislative change of this language must include direction to the SADC that their interpretation must allow for flexibility so as not to impede the future viability of the farm or the personal enjoyment of the property by the owner of the preserved land.
- urge the SADC to allocate and distribute farmland preservation funds more equitably to applications in all counties regardless of any economic, political or financial considerations or due to the statewide variation of costs for land acquisition. The timely preservation of open space and farmland is a critical concern in the urban and suburban areas of New Jersey. CADBs have determined their agriculture development areas, ranked their farm preservation applications, targeted the most productive farms for preservation in their respective counties, approved and steadfastly collected their local open space preservation taxes, and planned for the long term viability and profitability of current and new agribusinesses. Yet, to date there is an indication that many farm preservation applications in urban counties are neither being reviewed in a timely manner nor are they being ranked favorably by the SADC.
- urge the SADC to recognize and communicate with those counties and local governments who continue to collect their respective open space and farmland preservation taxes.
- monitor the use of federal program dollars on preserved farmland where it may be taking large amounts of acreage out of agricultural production. Farm Bureau must work with organizations such as the NJ Audubon Society to encourage them to promote such set-aside federal programs only on marginal farmland.
- work with the SADC to educate the non-profit organizations involved in preserving farmland about agriculture in New Jersey. Many of these non-profit organizations are taking preserved farmland out of production because of a misunderstanding of the agricultural practices being used.
- work with SADC staff to ensure that counties and municipalities administer preserved farmland held by government entities or non-profit organizations in ways that are supportive of production agriculture, on the preserved farmland, and do not negatively impact adjacent farmland.
- urge all municipalities and counties, when making land use decisions for infrastructure on preserved farms (ie: bridge and road maintenance), to consider the impact of those decisions on the future viability of the farms in their community.
- New Jersey Farm Bureau shall ensure that the SADC staff utilizes the correct definition of the term “net” when calculating its share of the proceeds from the sale of farm that has been preserved through the non-profit grant program. Currently, the SADC staff are interpreting

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the term “net proceeds” in their own rules to not allow for the deduction of any expenses incurred in the process of placing a deed-restriction on the farm purchased in fee-simple and the selling of that deed-restricted farm. In order for the program to be viable for Non-profit organizations, they must be able to deduct certain expenses incurred in the sale of the deed-restricted farm from the gross proceeds of the sale before reimbursing the SADC its 50% of the net proceeds. Allowable expenses should include the cost of holding a public auction of the deed-restricted farm (including marketing of the auction), retiring debt service and/or outstanding debt to the original land owner, preparation of an approved SADC deed-restriction, audit of the transaction for the SADC. The expenses to be deducted should not include; administrative, legal and operating costs related to the acquisition, salaries and/or wages of employees of the non-profit, real estate taxes. Farm Bureau shall urge the SADC to develop procedures to determine eligible deductions in calculating net proceeds. Farm Bureau shall also urge the SADC to put in place an auditing process to ensure that expenses being deducted from gross proceeds by a non-profit before reimbursement to the state are transparent and legitimate.

### SADC use of Guidance Documents to Interpret Statutes and Rules

Farm Bureau is greatly concerned that the SADC’s adoption of “Guidance Documents” to interpret the deed of easement on preserved farms threatens the future viability of agriculture and of the farmland preservation program. This is a continuation of SADC staff attempts to make policy recommendations that are too inflexible and rigid to allow for future viability. The Guidance Documents to interpret the deed of easement inappropriately attempt to do so in light of surrounding statutes and regulations that are not referenced within the deed itself. The deed of easement must be interpreted based on a strict analysis of the deed, which is owed to the landowners who signed onto the deed. The only statutes and regulations pertinent to interpreting the deed of easement are those that are specifically referenced within the deed. Farm Bureau understands that the SADC is facing increasing challenges related to permissible uses on preserved farmland. As an alternate approach to the adoption of Guidance Documents, we believe that the SADC ought to partake in a comprehensive education effort to inform owners of preserved farmland about what it means to own a preserved farm. Part of the challenge SADC faces is that the program has been around long enough now that many current owners of preserved farmland took ownership of the property long after the easement language in their deed was negotiated. These landowners and future potential owners need to be educated by the SADC about use restrictions and requirements on a preserved farm.

Farm Bureau opposes the use of guidance documents in the place of formal regulations and clear legislative authority. Farm Bureau shall evaluate the legality of the Guidance Documents to interpret the deed of easements on preserved farmland and consider legal action to ensure that the SADC does not overreach in its oversight of the farmland preservation program.

### Preservation in the Pinelands

New Jersey Farm Bureau should maintain its resolve on the issue of fair compensation for preservation in the Pinelands. Farm Bureau should do this by providing legal advice and financial resources in order to maintain the adopted Pinelands valuation formula. Farm Bureau supports and encourages the Pinelands Commission in its efforts to make funds available for the purchase of farmland preservation easements through the farmland preservation program. Farm Bureau shall monitor the distribution of and ensure the current allocation of the funds under the Garden State Preservation Trust Act and any other future preservation program to

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ensure that it reflects the geographic diversity of the state to the maximum extent practicable and feasible.

### Preservation in the Highlands

Farm Bureau shall work with the legislature to enact a long term, stable source of funding to compensate Highlands landowners. This should include the option of imposing a water fee on the users of Highlands water. Farm Bureau supports putting an emphasis on funding farmland preservation in the Highlands Preservation Area. Any new dollars from a dedicated funding source should be available for any farm seeking preservation in the entire Highlands region.

The Highlands dual-appraisal method has been extended by the legislature until 2014. Farm Bureau shall work with the legislature to extend the dual-appraisal method for Highlands landowners before it lapses. Farm Bureau should ensure that, while the rules and zoning of January 1, 2004 are used to derive one appraisal, the landowner is not denied the benefit of any long-term appreciation of value that land with similar original zoning outside the Highlands would enjoy.

### Eminent Domain to Preserve Land

The farmland preservation program has always been a voluntary program. New Jersey Farm Bureau strongly opposes the use of eminent domain as a means of farmland preservation and urges the State Agriculture Development Committee not to reimburse counties or municipalities for their costs in taking lands in this manner. The CADB should use its preservation funds to help protect landowners from eminent domain.

### Viability of Preserved Farms

There is a concern emerging that with the increase in land preservation, viability issues for New Jersey farms still remain. Therefore, we call upon the SADC and the Administration to consider viability-type incentives for all farm properties.

Further, Farm Bureau urges the SADC to incorporate flexibility and site-specific considerations into any rules governing activities on preserved farmland so as not to be a hindrance to farm viability.

### Farm Markets

Farm Bureau is concerned that there have been cases of SADC staff persons interpreting the Deed of Easement to require 100% of the goods sold in a farm market on a preserved farm to be the output of the commercial farm. This is stricter than the 51% standard for Right to Farm protection, and is an unrealistic barrier to a farm's overall marketing and viability strategy. Farm Bureau urges the SADC to clarify that the standard for goods sold at farm markets on preserved farms is the same standard that is in the Right to Farm Act.

### Early Preserved Farms

The earliest pioneers of the Farmland Preservation program are facing hurdles in maintaining viability because they often do not have any areas excepted out of the deed of easement. Exception areas allow a preserved farm owner to have flexibility in that area of the farm to do activities that may not be allowable on the portions of the farm that fall under the deed of easement. This small number of preserved farms have no exception areas because in the early years of the program, they were discouraged. Farm Bureau shall urge the SADC to consider

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allowing the owners of the earliest preserved farms that were not given the opportunity to take an exception area, the option to buy back a small area of the preserved farm as a non-severable exception area.

### Special Events on Preserved Farmland

One increasingly popular viability option for New Jersey farmers is to partake in on-farm direct marketing and agritourism. This may include such activities as weddings and other life celebratory events that may blur the line when it comes to the relationship to production agriculture. These types of events can be an important tool in marketing the agricultural output of a farm (in the case of wineries, for example) and therefore, they should be able to take place on preserved farmland and be able to receive Right to Farm protection. However, there is also the possibility that New Jersey farms, preserved and unpreserved could be turned into wedding facilities where the main objective is not related to the agricultural output of the farm and the activities could reach a threshold where they should require municipal approval.

Through site-specific cases, the SADC has taken the position that weddings and other life celebratory events on farmland do not qualify for Right to Farm protection and are not allowable under the deed of easement. Farm Bureau believes that weddings and other life celebratory events may be considered acceptable under the deed of easement on preserved farms if there is a relationship to marketing the agricultural output of the farm.

Because of the SADC's current interpretation, legislation is needed to clarify when these types of special events can take place on preserved farmland (and be protected under the Right to Farm Act). NJFB shall urge the legislature to take action in a way similar to what was done in P.L. 2009, Ch. 213, the law that allowed for renewable energy development on preserved and non-preserved farmland, with one critical difference. Clarifying legislation must allow for a deliberative process by the SADC in cooperation with the agricultural community to adopt an Agricultural Management Practice for such activities, however, there must be a mechanism that allows farms to continue ongoing agritourism activities until new rules are promulgated. This could possibly be done on a case-by-case basis through site-specific AMP's to ensure that such activities are taking place with a relationship to the agricultural output of the farm.

### Soil Disturbance on Preserved Farmland

The SADC is currently working with soil conservation professionals to address the issue of the amount and type of soil disturbance allowable under the deed of easement in the farmland preservation program. Farm Bureau shall monitor the SADC's work on this issue and ensure that there is a balance reached that will allow agricultural operations on preserved farmland to remain viable under any new policies that may restrict the amount and type of soil disturbance while protecting the preserved agricultural land so that it may remain available to a variety of future agricultural activities.

### Renewable Energy on Preserved Farmland

It is now law that installations of solar, wind or biomass energy generation systems on preserved and non-preserved farms that meet certain criteria are eligible for Right to Farm Protection and Farmland Assessment. Many preserved farms have rock ledges, unused gravel pits, old barnyards and other areas that are not farmed. In some cases, these unused or underused areas would be more suitable for solar or wind energy installations than other actively farmed portions of the preserved farm. As such, NJFB shall encourage the SADC to

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streamline the approval process for installations sited in these non-farmable areas on preserved farmland.

### **HISTORIC PRESERVATION**

The National Park Service, together with groups interested in Historic Preservation of buildings and landscapes, is intensifying its identification of these sites. In New Jersey, regulation of buildings, structures, landscapes and scenic corridors can develop at the local level through the master plan and ordinance development process. Nomination and listing as “historic” can be at the national and county level. Anything over 50 years old can be deemed “historic.” Anyone can nominate a property without the participation of the owner. New Jersey Farm Bureau supports a change in regulation that would require notification of a landowner prior to nomination of their property for historic status. Landowners should also be made aware if their property is being considered for inclusion in an historic district.

The new focus on historic landscapes and scenic corridors is a concern for agriculture, not only because property values may be affected, but also because farm modernization or change to new crops or technology may be more difficult or impossible.

In 2006 the President signed legislation designating the Crossroads of the American Revolution National Heritage Area in New Jersey. This area includes 213 cities and towns and 14 counties, stretching from Fort Lee in Bergen County to Red Bank Battlefield in Gloucester. One of the major themes is the effect of the Revolution on ordinary people – i. e. farmers. Yet the steering committee was formed without any representatives from the farm community and no contact with the New Jersey Agricultural Society or the Agriculture Museum.

In the coming year, New Jersey Farm Bureau shall:

- Become familiar with New Jersey historic preservation interests and agencies and the goals of their programs, especially the Crossroads of the American Revolution Association and the steering committee for this project.
- Encourage the NJDA, the SADC, the New Jersey Agricultural Society and the Agriculture Museum among other farm groups to follow the progress of this program and actively participate in any designation actions.
- Investigate the takings implications of designation of historic landscapes, “viewsheds,” and scenic corridors.
- Be watchful for adverse actions on the local and municipal level, and be prepared to educate town officials and the public regarding the cultural interpretation of agriculture and the historic role agriculture has and continues to fulfill in New Jersey’s landscape.
- Specifically, potential negative impacts must be identified as such and targeted for corrective educational input.
- Determine whether the Right to Farm Act requirement for an agricultural impact statement applies to these state-supported actions.
- Assert and reinforce the fact that agriculture in practice and agricultural chattel are the present day evidence and artifacts that can aid in the interpretation of agriculture as a cultural resource to the general public.

### **NJALT (NEW JERSEY AGRICULTURAL LAND TRUST)**

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NJALT is now established and formally incorporated in the state of New Jersey as a non-profit corporation with 501(c)(3) designation with the IRS. The purpose of the Trust is to preserve agricultural land through easement and fee-simple purchases. The Farm Bureau Board of Directors provided the seed money and staff assistance to set up NJALT, and appointed six trustees to oversee it as a separate entity. Farm Bureau has always had an interest in seeing farmland preserved for future generations with deed restrictions that allow for continued agricultural viability. NJALT will be able to utilize public open space acquisition dollars as well as funds from charitable foundations and other sources to meet its goals.

New Jersey Farm Bureau shall continue to provide support to NJALT. County Boards of Agriculture are encouraged to seek out representatives from NJALT to help promote awareness of it with local farmers and farm owners.

### **FARMING ON PUBLIC LANDS**

#### State-Owned Land

The NJDA is currently working in conjunction with the DEP to develop a plan that could bring additional state-owned ground into farming. NJDA has proposed to use the Soil Conservation Districts to develop farm plans for these parcels, to insure that the land is being used in both an agronomic and environmentally sound way. New Jersey Farm Bureau commends the NJDA for its leadership role and hard work in this endeavor to help facilitate the farming of state-owned ground.

Experience gained from the situation at Six Mile Run indicates that Farm Bureau should seek state legislation to require all state-owned land that is farmed or can potentially be farmed, be deed-restricted for agriculture until it is needed for the purpose for which it was acquired, and not allow any non-farming operation to take place on that state land. This legislation should seek the transfer of all state land being farmed to the management and/or supervision of the NJDA.

More recently, farmers have reported concerns about farming land that has been purchased by the Green Acres Program. These productive farmlands, once purchased by Green Acres, are placed under increasingly heavy restrictions or gradually taken out of production entirely. Most of the land in question is managed by the DEP's Division of Fish and Wildlife. Division officials maintain that the restrictions are imposed to ensure that the land is being managed for its stated purpose, the development and maintenance of wildlife habitat. Farmers fear that more and more productive, fertile farmland will be lost if this practice continues. In 2010 the Division of Fish and Wildlife began a new lease and bidding process for the lands it manages. For the most part the education and bidding process went off with few problems. New Jersey Farm Bureau will continue to work and monitor the implementation of this new program. The biggest change in this new program from the special use permits is the stabilization of agreements with farmers receiving 5 year leases with the option to renew for another five years.

In the fall of 2002 the Commissioner of DEP and the Secretary of Agriculture agreed to work together on land preservation with Green Acres focusing on urban areas and park land, while directing agricultural lands to the SADC for preservation. This arrangement needs to be continued and endorsed by the current administration in light of the limited funding for preservation.

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For future purchases of active farmland, New Jersey Farm Bureau should seek to have the Farmland Preservation Program be given the opportunity to purchase the land or easements first, before Green Acres offers the land to management elsewhere.

Farm Bureau urges any government agency that receives any federal farm program funds to insure the maximum amount of funds available go to all qualifying New Jersey farmers. Long term leases of farmland are critical for the future viability of New Jersey agriculture. Many farmers prefer to lease because the land is too costly to buy. New and beginning farmers need land to work and a long enough lease to make investments in plant materials (such as grapevines) or certain farming methods (such as organic or low-input farming), cost effective.

Farm Bureau shall:

- Not only work to have more state government land farmed, but also include any other public-owned lands.
- Insist that all land set aside through TDR or cluster development should be farmed or leased long term to someone who will actively farm it.
- Develop a sample ordinance for farming on set aside lands to be available for municipalities.
- Work with the appropriate State agencies to make them aware of the importance of agriculture and to urge them to make state-owned lands that are farmable available to local farmers without excessive regulation or interference with crop decisions.
- Insist on renewable leases to cover at least 5 years and longer when feasible. Very long term, inheritable or transferable leases should be used in New Jersey as they are in other states where appropriate.

### **THE THREAT TO AGRICULTURE FROM INVASIVE AND NOXIOUS SPECIES**

Land upon which farming has stopped, whether row crops, grains or orchards, quickly grows up in volunteer vegetation that can be invasive and even noxious to crop plants. NJ's woodlands too have become infested with invasive, alien plants resistant to deer depredation, some of which have been valuable ornamental species grown in NJ nurseries, especially for use in urban situations.

Weather problems, depressed market conditions and/or other problems have caused the termination of some fruit farm operations in recent years. Fruit orchards, and other open spaces, when neglected or abandoned, can become a significant problem as a source of disease and pests to neighboring farms. The NJDA has organized a New Jersey response to a growing national movement to protect agricultural producers from the biological harm of invasive pests: insects, diseases and weeds that have found new pathways into agricultural and horticultural crops. The increase in global trade is a major contributor to the problem as non-native species are transported by ship or airplane into the American market.

The NJ nursery industry is particularly at risk from invasive species in two respects. First, noxious weeds can spread to nursery stock, increasing the need for costly herbicides or cultivation. Second, parties concerned about the potentially harmful ecological effects of the widely spread nonnative species have developed a very long list of plants that users could be mandated to avoid planting.

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New Jersey Farm Bureau supported formation of an Agricultural Invasive Species Council and the development of a management plan to curtail this problem. This process grew into a more general approach that identified species of concern and methods for control using current and potentially new legislative authority. Unable to agree upon a short list of truly invasive plants, the Council appended a list of over 900 plants – all nonnative to New Jersey – ranked by degree of invasiveness. Despite NJ Farm Bureau and the NJ Department of Agriculture's concerns about this broad-brush approach, the report was delivered to Governor Corzine at the end of his Administration. While it was not approved by the Secretary of Agriculture and has yet to receive attention from the Christie Administration, the list is out there for local governments or the DEP to use in regulations and land use planning.

It should be the focus of an Agricultural Invasive Species Council to address noxious weeds and insects that are true pests and to work with the growing industry on guidelines for phasing out products that are found to be invasive. Farmers participated in and monitored this issue and need to cooperate with its findings and recommendations

Noxious weeds, abandoned orchards, and other neglected public open spaces

New Jersey Farm Bureau should encourage the Department of Agriculture and the State DEP to enforce the laws that are in place to control invasive species that are found growing in the state.

New Jersey Farm Bureau will call upon all public open space program administrators to take account of neglected/abandoned orchards and other neglected properties in the review and consideration of land acquisition projects. Ornamental fruit trees owned by private nonfarm landowners more prevalent now than production orchards pose a similar risk. Care should be taken to avoid having these sites become breeding grounds that harbor pests and diseases.

Additionally, all publicly-owned open space and farmland must be required to be maintained in such a way as to prevent it from harboring insects, noxious weeds and wildlife species that become a nuisance to neighboring properties.

NJFB supports a legislative change that would require municipalities, counties and the state to adopt Best Management Practices (BMP's) such as timely mowing schedules, which would discourage and prevent invasive weeds from growing to a maturity that allow seeds to spread to nearby farm fields when mowed and encourages the promotion of flora that would outcompete those invasive species. Current laws addressing thistle alone are not sufficient to protect farms from other invasive species.

The NJDA currently has the authority to control any disease or pest threat if determined by the State Board of Agriculture that it is dangerous to plants or humans. An example of this would be the authority used to control the Asian Longhorn Beetle and the spotted wing drosophila. Farm Bureau shall seek legislation to insure that the authority to enforce proper land maintenance related to plants, animals, and diseases rests with the NJDA.

Farm Bureau should also seek legislation that would shift the removal expense to the public or private owner of the property. It should also research other means of control such as model ordinances that help local health departments control such noxious species as poison ivy.

### **NURSERY AND PLANT INSPECTIONS**

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Part of New Jersey regulations include that all nursery stock be subject to inspection to confirm it is free of disease and insect pest organisms. Such pests could be damaging to the nursery industry and to NJ communities. It was deemed important that the Department of Agriculture be knowledgeable of all plant material as it is moved around the state and country. All plants eligible for sale were to be inspected. A nursery certificate is provided to all nursery stock and displayed for all consumers to view.

Regular filing of documents to secure the certification and appropriate fees are part of the process; there should be no exceptions to this regulatory process. It seems the enforcement of this law is not working. Overnight “nurseries” spring up just before major holidays, selling trees, plants and plant products competing directly with established nurseries that are playing by the rules and have completed amongst other things: application for a Certificate of Occupancy for the business, parking facility with adequate space and safety, sign permit, business permit, Insurance (liability, fire, etc), State tax designation, Municipal tax on occupied land for commercial use, Agricultural Certificate for plant material, Agricultural Certificate for new plants shipped in, as well as bathroom facilities for employees and customers.

Farm Bureau along with the New Jersey Nursery and Landscape Association, should seek a hearing through the Department of Agriculture on the impacts of these temporary businesses, excluding non-profit organizations, on the nursery industry as well examining the risks to plant health for New Jersey growers from these establishments.

### **AG ENTERPRISE DISTRICTS**

The Agricultural Enterprise District is a tool for preservation of farmland and protection and enhancement of farm viability developed through a joint effort of the Cumberland County Board of Agriculture and Agricultural Development Board with wide application in other parts of the state. Modeled after the very productive Urban Enterprise Zones in Cumberland County, the program would be designed and managed at the county level to meet the needs of farmers in that county. Incentives would be jointly developed between farmer groups; counties and municipalities would encourage farmers to restrict voluntarily their ability to develop their land for a period of 8 or 20 years.

The concept was endorsed by the State Board of Agriculture and most of the CADB's as an idea worthy of further investigation and consideration. No more work has been done up to now but the concept is discussed when towns and farmers wrestle with maintaining land values and rural character simultaneously.

New Jersey Farm Bureau should work toward development of a statewide Agricultural Enterprise District concept and have it implemented through the State Agricultural Development Committee. Care should be taken in considering proposed incentives so that benefits in this program do not interfere with other agricultural policies being sought for farmers statewide regardless of their interest in farmland preservation. The benefits of Agricultural Enterprise Districts can be one more set of tools to use in enhancing agricultural viability, strengthening Right to Farm, and offsetting losses which State Plan local implementation may bring to farm landowners.

### **CONSERVATION PLANNING FOR AGRICULTURE AND THE ENVIRONMENT**

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During the past several years there has been a dramatic increase in regulation by rules and ordinances that adversely impact agriculture. This has caused great concern and frustration in the agricultural community, and may be contributing to a faster conversion of land out of agricultural uses.

While the NJDA has often offered constructive and reasonable comments to the NJ DEP during its rule-making process to protect agriculture against the adoption of unnecessary regulations while still ensuring protection of the environment, these comments are too often disregarded.

Because of this flood of environmental regulations, farmers are concerned that the DEP advocates for the retention of open spaces, but not necessarily for the continued viability of agriculture as an industry. Agricultural producers are left to worry that the DEP does not respect the input of agriculture as an industry – neither the Department of Agriculture’s input nor the input from industry representatives and commodity groups.

In light of these serious concerns, New Jersey Farm Bureau urges the New Jersey Secretary of Agriculture to take an even bolder and more public approach to advocating on behalf of the industry of agriculture with the Governor, his cabinet and with members of the New Jersey Legislature.

In addition, New Jersey Farm Bureau calls upon the New Jersey Department of Environmental Protection to adopt an overall policy direction that would allow for a permit-by-rule procedure for agricultural operations, whereby the natural resource concerns that are being addressed in specific regulations are addressed through the development and implementation of a Farm Conservation Plan. New Jersey Farm Bureau urges the Legislature and regulatory agencies to recognize a separate and distinct review protocol for commercial agriculture. Additionally, conservation practices designed and implemented for agriculture shall be in accordance with science-based, USDA-NRCS Field Office Technical Guide (FOTG).

New Jersey Farm Bureau shall urge the Governor and Legislature to ensure that a permit-by-rule approach is implemented to protect environmentally responsible farm operations from overly burdensome regulations that currently threaten the continued viability of these farms, and New Jersey’s efforts to retain farmland and a thriving agricultural industry.

### **PINELANDS**

It is critical that New Jersey Farm Bureau continues an ongoing dialogue with the Pinelands Commission Chairman and the current commission members, stressing the need to treat farmland owners in the Pinelands with respect and in a way that protects their equity.

In 2009 the Pinelands Commission was considering a plan to create 2000 new PDC rights (500 Pinelands Development Credits, 4 rights = 1 credit) and allocate them to the Forest Areas. Caution should be exercised so as not to diminish the value of the existing PDCs by diluting the sending area supply with a wholesale addition of newly created PDCs from these Forest Areas.

Development credits from the existing pool of PDCs should be more fully utilized while finding a way to provide compensation to Forest Area landowners.

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There have been four special rounds within the preservation program since the implementation of the Pinelands formula in an attempt to compensate landowners through these special rounds. It is important that Farm Bureau continues its support for funding of farms in the Pinelands. Farm Bureau should ensure that the SADC evaluate Pinelands appraisals in a manner that is similar to preservation applications outside the Pinelands region. With the increase in **changing** PDC values farmers will be appraised on the formula and the PDC value to determine the best value for the landowner. New Jersey Farm Bureau may need to evaluate the base price for the formula to reflect the current values of PDC's.

As PDC values increased, more farmers elected to retire their credits. There are special cost share and other programs for farms that are enrolled in the preservation program and for farms that retire TDR credits. These benefits are currently not available for farms preserved through the retirement of PDC's. Farm Bureau should seek to work with those program administrators to amend statutes or rules to include farms preserved through the PDC program.

The Pinelands Commission is in the process of reviewing the CMP. Farm Bureau should oppose any CMP amendments that would diminish the demand for PDCs, work with Pinelands Commission members when necessary to help stimulate private-sector interest in Pinelands Development Credits (PDC's) and closely review potential CMP amendments that suggest such benefits. Furthermore, any discussion concerning amending the CMP to reflect a change in the PDC concept should not occur until farmer representation is restored to the Pinelands Commission.

There was a decision by the Pinelands Development Credit Bank Board that allowed for the donation of PDCs for a low-income senior housing development project. The project would require 8.75 credits and between the town and the builder 5 credits would be purchased leaving a need for 3.75 credits. The PDC Bank Board was petitioned for the donation of the remaining credits due to the claims the project would not be feasible with the full purchase of credits needed. The board donated 3.75 credits to help complete the project. The PDC Bank Board based its approval on the fact that the board believed the decision would not significantly impair the private market values and that it was a low-income project. NJFB feels that this decision to donate 3.75 PDCs was not only rushed to accommodate the time-sensitive construction process, but it raises questionable precedents for the future. NJFB should oppose any future donation requests made to the PDC Bank Board regardless of the projected use.

The Pinelands Agricultural Advisory Committee has been reestablished to provide input on current and proposed Pinelands policies that could impact agriculture and forestry as well as PDC values in the Pinelands. The Pinelands Commission's Ag Advisory Committee must be supported by the commission and engaged in the discussion whenever agricultural policies are being considered, developed or amended, that could impact agriculture.

Farm Bureau shall monitor the distribution of funds under the Garden State Preservation Trust Act to insure that it reflects the geographic diversity of the state to the maximum extent practicable and feasible.

Funds allocated for Pinelands purchases shall only be used for farms within the Pinelands region, while there are active applications pending

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With the ever-changing dynamics of agriculture, it is important that the Pinelands Commission support the Right to Farm within the Pinelands. Agriculture is an indigenous industry to be protected by the Comprehensive Management Plan and New Jersey Farm Bureau shall ensure that the Pinelands Commission is aware of that protected status. Due to the diversity of crops and labor intensive crops grown in the Pinelands it is important that growers have the ability to expand all aspects of their business such as labor camps, packing facilities and supporting structures without onerous restrictions eg: having to purchase a PDC credit or surrendering the same. It is important that the Pinelands Commission understands and supports the continuation and growth of agriculture within the Pinelands boundaries.

Farm Bureau will also encourage the inclusion of farmland within the Forest Area into the appropriate designation under the Pinelands Plan that will entitle them to allocation of Pinelands Development Credits and the accompanying share of open space trust fund grants. The New Jersey Pinelands Commission has proposed the reclassification of Pinelands Management Areas and wetland boundaries based on new environmental mapping. Major changes include taking thousands of acres from rural development areas and rezoning them as forest area. New Jersey Farm Bureau should oppose any amendment to the Pinelands Management Areas that would further erode property values and hinder agricultural activity.

A recent issue facing landowners in the Pinelands is the possible identification of Threatened and Endangered Species habitat on their property, which could require a comprehensive survey to be done on the whole property before any development is conducted. These studies can be very expensive and have been required on the whole property even if only a portion is going to be utilized. The alternative offered to this major study is to place a conservation easement on the remainder of the property rendering it useless for the future.

New Jersey Farm Bureau shall oppose the unnecessary use of Threatened and Endangered Species surveys as a way to force landowners into restrictive comprehensive conservation easements. Farm Bureau shall investigate the list of animals on the Threatened and Endangered Species list, to see if any species should be removed from the list.

The State Ethics Commission ruled that some Pinelands Commission members recuse themselves from all discussions concerning landowner and agricultural issues because of a perception of conflict of interest. The Pinelands Protection Act requires these interests to be represented and that agriculture be promoted and enhanced. Further, all discussion by the Pinelands Commission concerning landowner and farm interests should be suspended until full ag-representation is restored.

Farm Bureau should work to see that legislation to permit members of the Pinelands Commission to participate in discussion and vote on amendments to the comprehensive management plan becomes law.

The current Pinelands Comprehensive Management Plan (CMP) does not allow equine activity in the preservation district. The CMP only allows berry agriculture and horticulture of native plants and other agriculture activities compatible with existing soil and water conditions that support traditional Pinelands berry agriculture. Equine farms that existed prior to the act are allowed, but any new equine activity is not considered agriculture. NJFB should support an amendment to include equine agriculture in the preservation district.

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The current permit application process in the Pinelands does not include a public notice requirement. Currently applicants must submit a certificate of filing to the commission before filing for a permit with the municipality. The permit application process for development, or other permitted activities, has no requirement for public notification. NJFB should support the requirement for a public notification in the local paper.

### HIGHLANDS

The Highlands Water Protection and Planning Act passed 8 years ago continues to drive land use planning and development in the 859,358 acre Region. Governor Christie appointed new council members who are asking the important questions of towns coming before the Council to gain the benefits of Plan Conformance and of applicants with redevelopment and other projects.

The environmental supporters of the Highlands Act and Regional Master Plan continue to protest that the water resources are still not adequately protected even though development demand has virtually disappeared. Landowners still get only promises of “just compensation” although a share of what farmland preservation funds were available could have been spent on Highlands farmland. There is more and more evidence that land values have dropped perhaps as much as 75%. Pre-Highlands values as a base for negotiation will only be possible for a short time longer, until mid-2014, so would be of no help so long as there is no money for farmland easement purchase.

Many of the 88 municipalities and 7 counties in the Highlands Region may have taxed themselves to build up funding for farmland and open space preservation. If they could make this money available for easement purchase, Highlands landowners would not have to wait longer for either a permanent funding source for land preservation or a successful TDR program.

Farm Bureau’s efforts to deal with the Highlands effects on members and support the maximum in benefits wherever possible have been focused in three directions:

1. The Farm Bureau Highlands Ag Advisory Committee
2. The Farm Bureau suit questioning the scientific basis for the exorbitantly large lot zoning decreed by the DEP Highlands rules, derived from questionable use of the nitrate dilution model method of determining average septic density for new development.
3. Steady monitoring of meetings and actions of the Highlands Council (HLC) and the Highlands Development Credit Bank and filing of comments where needed on petitions for Plan Conformance and project reviews.

### Highlands Agricultural Advisory Committee (HAAC)

In 2006, Farm Bureau sought to reorganize its outreach effort by forming the Highlands Agricultural Advisory Committee to maximize communication and transfer of information between impacted agricultural landowners, Farm Bureau staff and the Highlands Council. Membership of the HAAC ~~was should be~~ determined by Farm Bureau in coordination with the county boards of agriculture in the Highlands Region and ~~should consist~~ **consisted** of up to two

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farmer landowner members from each county board of agriculture. At least one member from each county shall own land within the Highlands Preservation Area, where possible.

*The HAAC* met while the Regional Master Plan (RMP) was being developed on a regular basis, be supported by Farm Bureau staff facilitating communication between county boards of agriculture, affected landowners, the Highlands Council and other Highlands regulatory agencies. With the new makeup of the Highlands Council, many of which are not very familiar with the facts about the Highlands agricultural industry, this body could provide useful contact with local farmland owners as the Council makes its decisions.

### Challenge to the NJDEP Highlands septic density rules

Farm Bureau filed a challenge to the DEP Highlands Water Protection and Planning Act Rules for the Preservation Area in the Appellate Division of the Superior Court of New Jersey shortly after they were adopted. The methods used to determine the unprecedented large lot sizes involve using a formula, the Nitrate Dilution Model, that raises serious scientific questions according to our expert witnesses. DEP demonstrated that they chose the most restrictive numbers possible for the model equation so as to arrive at the zoning of 1/25A in open land and 1/88A in forested land.

The issues raised on the appeal include; the interim rules are beyond the scope of the authority delegated to the NJDEP by the Legislature under the Highlands Act; the interim rules are arbitrary, capricious and unreasonable; the rules lack a rational scientific or technical basis; and the interim rules undermine the Legislature's explicit findings and purposes with regard to the enhancement of farmland preservation and the preservation of New Jersey's agricultural industry.

The Appellate Division of the New Jersey Superior Court heard Farm Bureau's appeal in the spring and came down with a decision on July 22, 2008. The decision called for a special evidentiary hearing regarding the validity of the septic density standards enforced in the DEP rule for the Highlands Preservation Area. The special evidentiary hearing demonstrated the extent to which recommendations on setting septic densities based on more rational, science-based criteria were rejected by DEP in order to achieve the largest lot sizes possible.

Progress before the Appellate Court was delayed at the request of the new DEP Commissioner Robert Martin who said our question about the use of the nitrate dilution model to determine lot sizes was among a number of issues that warranted study by his special Science Advisory Committee. No answer has come even yet, a concern because municipalities seeking Highlands Plan Conformance and others developing wastewater management plans continue to use this flawed methodology.

Farm Bureau continues seek progress on the appeal and will keep the membership informed. If Farm Bureau efforts do result in a more reasonable and defensible method of setting lot sizes, and therefore land values, Farm Bureau shall make every effort to ensure that conforming municipalities reflect these lot sizes in their land development ordinances instead of the unacceptably large sizes.

Priorities of the newly constituted Highlands Council

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Regular attendance at meetings of the Highlands Council reveals that the new members appear to have a vision of a Highlands balanced between economic vitality and protection of the Highlands natural resources. Members continue to express concern about the lack of compensation for Highlands landowners forced to pay the price of protecting water resources. They seem to be prompting the staff to make discussion and resolution of this major flaw a high priority. Furthermore, Governor Christie at a recent town meeting in a Highlands community stated that he was looking to the HLC to provide him with ideas on how to resolve this major flaw.

This provides a unique opportunity for NJ Farm Bureau who denied approval of the RMP because no compensation had been effected to move some of its Highlands policy agenda forward:

New Jersey Farm Bureau shall request that the Highlands Council address the property rights and equity loss impact upon those thousands of citizens restricted by the constraints imposed upon land use in the Preservation Area. Farm Bureau shall further request that the Council, in coordination with the State Legislature, develop and implement appropriate programs to restore lost equity and the equal protection rights guaranteed by the constitution to all citizens and property owners in the United States of America, including those in the Highlands Preservation Area.

The Highlands Council must investigate the availability of farmland preservation funds at the county and local levels that could be spent to compensate Highlands landowners and identify any regulatory or statutory barriers to making these open space tax dollars available. It must work to remove these barriers so that funds will be spent to alleviate the hardship many Highlands landowners are facing instead of waiting for a successful transfer of development credit market or a permanent land conservation funding source.

Furthermore, Farm Bureau shall urge the Highlands Council to conduct a study to determine the extent of the personal, financial and related losses suffered by the over eleven thousand Preservation Area property owners and to develop recommendations and programs to correct these extreme inequities.

### Compensation

Most members of the HLC are expressing concern about the lack of compensation for Highlands landowners promised by the Legislature to pass the Highlands Act. Even Gov. Christie challenged the HLC to “send him something” to deal with this issue at a Town Meeting held in the Highlands recently. This Council has not made this concern clear to the Legislature unlike the Council members and staff previously. The time is right for Farm Bureau to help the HLC discover ways they can stress the importance of compensation to the citizens of the Highlands, to find new sources of funding, and to match action to words. It continues to be greatly unfair that the Highlands residents must pay the price of protecting water used by non-Highlands communities who often don't pay for it in any way.

New Jersey Farm Bureau withheld support of the Highlands bill and of the RMP mainly because they lacked an adequate funding source to provide the promised “fair compensation” and to pay for expected land acquisitions. New Jersey Farm Bureau continues to work with the Legislature on establishing new legislation that would generate funds to pay for expected land purchases by

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the state in the Highlands region, and for compensating landowners for their loss of equity when they make a private sale of their property.

Any new funding for open space and farmland preservation programs must follow the provisions set forth in the Highlands Act that require appraisals to be done under current as well as pre-Highlands Act conditions (Jan. 1, 2004) with the higher of the two values used as the basis for compensation. Working together the NJ Farm Bureau and the NJ Department of Agriculture were successful in having that dual appraisal process continued ~~for another 5 years~~ **until 2014**.

While Highlands landowners, especially those in the Preservation Area, lost most of the value of their land, those State residents outside of the Highlands region who benefit from the Act have been allowed to continue to use the water and related natural resources being protected for them without any such constraint or cost. The HLC and other agencies state publicly their support for some form of water charge to make users of Highlands water pay the cost of providing the “fair compensation” to Highlands landowners promised by the Legislature. They should take action to make this happen.

Highlands landowners still see no fulfillment of the promise the Legislature made to provide “fair compensation” for the land values to be lost as the Highlands Act is enforced. The Highlands Act does provide for three methods of preserving land equity but none of them are effectively making up for the lost value of the land, the major financial asset of many Highlands landowners.

- Exemptions 1 and 2 were created to enable Highlands landowners of record March 4, 2004 to build one new residence on a previously undeveloped lot. If for themselves or family members neither the DEP Highlands rules, the RMP, nor municipal ordinances could be used to prevent this development. Some Highlands landowners may have used this exemption but the fact that only one unit may be built despite the size of the lot has caused hesitation in implementation. For Exemption 2 all the DEP rules and the RMP standards would apply, including the extremely large lot sizes determined by the flawed septic density method.
- The Dual Appraisal Method - in appraising the value of Highlands Development Credits would allow pre-Highlands zoning and DEP regulation to be used in comparison with current undoubtedly lower “fair market values”. This also would provide more equitable compensation for easements purchased through the state farmland preservation program. But this method will disappear in 2014 and unless the Governor and/or Legislature determine more funding for land preservation soon, this equity protection tool will also be of little value.

The HLC along with Farm Bureau must investigate the availability of farmland preservation funds collected through taxes at the county and municipal level and work the Legislature to remove regulatory or statutory barriers to spending this money to compensate Highlands landowners, even absent state funds to reimburse them.

- The Highlands TDR Program is being hindered by the fact that although the Highlands Act required the Council to map areas that had the infrastructure to become Receiving Areas, no municipality is required to create one, ~~This is~~ in sharp contrast to the Pinelands

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PDC Program where growth areas were designated and mapped from the beginning. A number of Highlands communities have received grants to assess the feasibility of developing a TDR program, but none have reported any progress so far. Recently Highlands Council members have closely questioned municipalities coming before them for Plan Conformance to what extent they have investigated the potential in their town to develop a Receiving Zone. Plan Conformance has even been denied by the HLC if a town does not want to even consider the possibility of creating a Receiving Area.

The Highlands Development Credit Bank with \$10 million in start-up funds is meeting twice a year to decide which petitions for credit purchase the Bank should fund. This is the only avenue for implementing TDR since no municipality in the entire state has been willing to develop a TDR Receiving Zone despite prodding by newly appointed Council members.

Initially only an extenuating financial hardship would make a landowner eligible to apply to the Bank to sell Highlands Development Credits (HDC) but few landowners could qualify for purchase offers. So the criteria for consideration were made broader to create 5 criteria in total under any one of which a Highlands landowner could qualify to have his HDCs bought by the Bank. Three deal with commercial properties that just missed out being qualifying for exemptions that would have allowed ongoing development to go forward. The fourth is eligibility because of "extenuating financial circumstances" as approved by the HLC. The last and most recently added criterion is for land located in the Special Environmental Zone or mapped as High Value Agricultural Priority parcels where landowners have been unsuccessful in applications to other land conservation programs for acquisition or purchase of development rights.

Four rounds of petitions have been invited and processed but there have been few actual closings and payments so far. Offers for the 5th round were determined at the November 2012 Bank Board meeting. Of the \$10 million made available to the Bank for this purchase, most has already been allocated but could be available if some of the other applications from the first rounds are withdrawn.

Recent Highlands Bank research shows that so far the average price of a Highlands Development Credit for a residential property is \$7950 per acre, not too different from the SADC average.

The Transfer of Development Rights (TDR) program element of the RMP and the activities of the newly formed Highlands TDR Bank Board will also need to be closely monitored in order to maintain the goal of compensating landowners fairly. The Bank Board appears to have a limited role in reviewing applications, determining whether they qualify as a "hardship", and assigning priority to individual applications. The expertise of the first members of the Highlands Development Credit Bank appears of little value in the process or the decision making. This is a concern that should be expressed and addressed as the program continues.

Another concern was the requirement that as the sale of credits is finalized, the landowner must file a conservation easement for the property with the deed that only

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restricts the use that has been transferred (i.e. if development rights are transferred – only non–agricultural development rights should be restricted. If the Council wishes to restrict the use of the land to protect natural resources, it should be the landowner’s choice and they should be paid for the transfer of those uses, as is the practice in New York and Maryland.

Concentrated efforts by NJ Farm Bureau, the NJ Department of Agriculture, and some members of the Highlands Bank Board persuaded the HLC to adopt deed restriction documents for agricultural land that attempt to meet that criterion described above. Only nonfarm development opportunities are prohibited. Farmland owners who agree to forego use of their residential exceptions to build one single family house will receive extra Highland Development Credits (HDCs). But agricultural or horticultural use and development can proceed as the favored land use.

In sum, none of the equity protection methods provided by the Highlands Act and the RMP have been at all effective in giving Highlands landowners any hope of the “fair compensation” the NJ Legislature assured them would be coming.

In the coming year NJ Farm Bureau shall:

- Urge the HLC to accept the Governor’s challenge to send him ideas for compensation, helping him fulfill the Legislative promise.
- Extend the deadline for using the Dual Appraisal method since for most of the time of this extension little or no preservation funding has been available for Highlands landowners to take advantage of.
- Fund the HDC Bank annually so that it always has money to buy HDC credits since without mandatory Receiving Areas there is no market other than the Bank to buy credits.
- Urge the HLC to support any and all farmland preservation funding from the Legislature and to work for a more permanent source of such funding.
- Urge the HLC to examine all its funding programs so as to use any unexpended funds or surpluses to compensate Highlands landowners through the Bank or through the regular county easement purchase programs. The HLC budget receives money each year from the Legislature to implement the Act but there’s nothing for the landowners.
- Monitor the activities of the Highlands Credit Bank and urge more progress in development of a viable TDR program, including the establishment of mandatory receiving areas that would provide a real market for Highlands Development Credits.
- Encourage the HLC to make planning expertise and funding available to towns where there is potential for development of a Receiving Zone, including the communities outside the Region but in Highlands counties where PlanSmartNJ research shows capacity for the necessary increase in density of development.

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- Work to ensure the fair designation of sending areas based upon the lost development potential due to the Highlands Act; an equitable and transparent method for allocating credits; a viable market to receive credits.
- Continue to work with the HLC and the HDC Bank Board to express lingering questions and concerns about the whole complex TDR process and to expand the role of Bank members.
- Continue to press the HLC to create a market for the credits in addition to the Bank itself.

### Regional Master Plan and Plan Conformance

The seven counties and many of the 88 municipalities with land within the Highlands Region are working with their consultants and the Highlands Council staff to come into conformance with the Highlands Regional Master Plan (RMP) adopted in July 2008. The municipalities with land mapped in the Preservation Area of the Highlands must conform to the RMP while those with area in the Planning areas have the option of conforming to either the Highlands RMP or the State Plan for that part of their community.

So far 43 Highlands communities have been granted Plan Conformance, some for the Preservation Area only, some for both Preservation Area and Planning Area and even some for only the Planning Area. Fourteen more are progressing toward a public hearing before the HLC to seek approval.

The many towns voluntarily conforming for their Planning Area land as well as the Preservation Area seem to be motivated by the ability to resolve Planning Area development issues and to create Centers through the Plan Conformance process. This can be accomplished so much easier and faster through Highlands Plan Conformance than through the flawed Plan Endorsement process of the State Plan. Other Planning Area municipalities have a “wait and see” position reserving municipal authority to plan and zone in the meantime.

The Highlands Council has developed a very informative and easy-to-use tool on their website for tracking the Plan Conformance process ([www.highlands.nj.state.us/njhighlands/planconformance/index\\_municipal.htm](http://www.highlands.nj.state.us/njhighlands/planconformance/index_municipal.htm)). By clicking on a county or municipality, a page appears that has links to all the documents submitted in the process. Farmland owners should become familiar with their town’s Highlands mapping to locate where their own property falls. They should also review the draft Highlands Master Plan and Land Use Ordinance if available to learn how agriculture and forestry are to be treated or regulated.

The finished Plan Conformance documents must be approved by the HLC after a short public comment period and public meeting. This will be the most effective time for corrections, objections, and suggestions to be presented by the landowners. The next step (described in detail in the Implementation Schedule online) is formal consideration and adoption by the municipal officials of the draft Master Plan and Land Use Ordinance. There will be the usual public notice and opportunity to comment at a public meeting as with all changes in municipal land use regulation. Landowners and Farm Bureau must now pay attention to the actions municipalities to implement their Plan Conformance agendas.

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The important thing to learn from these documents is how municipalities will conform to the aspects of the RMP that support or restrict agricultural activities. Thanks to efforts by NJDA and Farm Bureau, towns with significant agriculture must develop Agricultural Retention and Farmland Preservation Plans to show how they plan to support the agricultural industry in future. The fact that these communities can obtain funding for developing these plans shows the priority the HLC puts on them.

The biggest change in regulation for Highlands farmland owners may come in dealing with the forest resource area in the Preservation Area that includes all woodland tracts above a certain size. Unlike farmland assessment rules, the RMP calls for more restrictions on nearly all woodlands. If a town chooses to conform to the RMP for its land in the Planning Area as well, many acres of woodlands will be brought in the regulatory scheme.

Policy areas that will affect farmers and landowners the most: the mapping of farms in the Agricultural Resource Area (ARA) and the Conservation Zone for maximum support of the industry. Municipalities are asked to designate in their new Land Use Ordinance the Agriculture Resource Area to include the majority of Highlands active farmland. Since all the policies to support the agricultural industry apply to the ARA and Conservation Zone, even in the Preservation Area, farmland owners must make sure their farm is mapped in that area.

Farmer residents of Highlands towns engaged in Plan Conformance must inform themselves of this process and make sure their voices are heard to take advantage of the aspects of the RMP that support the agricultural industry.

As it is apparent to all that the Highlands Act, to a great extent, was and remains an unfunded mandate, legislators, NJ Farm Bureau, and many other groups and individuals have urged Governor Christie and the Legislature to revisit and remediate this situation. Numerous “listening sessions” have been held for stakeholders to express to DEP and other Administration officials their problems with the Highlands Act, the DEP Highlands rules, and the RMP. But even yet it is not clear what changes if any will be made. It is very apparent that special protection of some form for the Highlands Region is here to stay.

Implementation of the RMP through changes to municipal master plans and land use ordinances is well under way. Members can find some information about their town’s progress online at: [www.highlands.state.nj.us/njhighlands/planconformance/Municipal\\_PC\\_Implementation\\_Tracking.pdf](http://www.highlands.state.nj.us/njhighlands/planconformance/Municipal_PC_Implementation_Tracking.pdf).

To review the implementation progress of any town, click on the town you seek to review and download the documents required in Plan Conformance.

In the coming year the NJ Farm Bureau shall:

- work with Senate leaders to ensure that they appoint the full number of Council members as soon as possible to replace some that have been influencing Council decisions almost since the beginning in 2004.

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- review and comment upon each Plan Conformance petition to ensure that municipalities include in their master plans and land use ordinances as many as possible of the Plan policies that support and enhance continued farm viability, and that they consider creating a Receiving Area for the Highlands TDR program. The Agricultural Retention and Farmland Preservation Plans required for many towns who would receive funding for this planning and their new Right to Farm ordinances should be carefully reviewed as well.
- continue to work cooperatively with the Highlands Council members and staff throughout the plan conformance process, injecting a voice for Highlands farmers and landowners. Farm Bureau urges Highland landowners to use the greater influence they have with their own elected officials to effect changes for their benefit.
- work to educate farmer members in the Highlands region about the risks and benefits of their towns conforming to the RMP and arm them with questions to ask their town decision-makers and talking points to use in public hearings on Plan Conformance. For Preservation Area farmers, Farm Bureau shall work to ensure that Municipal Plan Conformance does not negatively impact agricultural viability. For Planning Area farmers, Farm Bureau shall work to provide the proper tools to oppose or support the conformance process depending upon the impact conformance will have on agricultural viability.

### Implementation Issues

The legislative sponsors of the New Jersey Highlands Water Protection and Planning Act, intended “exempting” agriculture from the strictest regulatory oversight for commercial farm operations. This is shown in the language that excludes agricultural activities from “major Highlands development” and in the language that sets forth the process for agricultural development through the New Jersey Department of Agriculture. The New Jersey Department of Environmental Protection and some local municipalities are continuing to require Highlands Applicability Determinations (HAD’s) for routine farming activities and for implementing Woodland Management Plans. Some municipalities will not consider variances, planning or permits until such a determination is made. Highlands Applicability Determinations come with a \$100 fee and also may require expensive technical assistance. This undue requirement is also putting substantial demands on the USDA-NRCS, New Jersey Department of Agriculture, Rutgers Cooperative Extension and the local soil conservation districts for their technical assistance. Furthermore, valuable state assets such as NJDEP staff time to review HAD’s in situations where there is a clear exemption from the Highlands Act, are being wasted during a time of dire fiscal straits in New Jersey.

To remove this drain on farm operation finances, Farm Bureau shall partner with the NJDA and urge the Highlands Council, the DEP and the NJDA to formulate and distribute an official statement listing the rights of farm owners within the Highlands Region. This statement should specify the steps that farmers need to take in order to further develop their agricultural operations, facilities and uses without undue restriction, delay and misinformation. The statement should come from the Secretary of Agriculture, the Commissioner of the DEP and the Chairman of the Highlands Council. It should be comprehensive enough for Highlands municipalities to understand that Highlands farmers do not need a HAD from the NJDEP to partake in agricultural and horticultural activities as exempted by the Highlands Act.

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In addition, the New Jersey Farm Bureau shall seek a current statement from the Legislative sponsors of the Highlands Water Protection and Planning Act, to clarify their stated intentions when “exempting” agriculture from the strictest regulatory oversight for commercial farm operations. This would serve to inform the policy makers and planners in the Highlands that agriculture is truly “exempt” and help make farming in the area remain viable.

During the next year, NJ Farm Bureau shall:

- Make every possible effort to secure resolution of the Farm Bureau legal challenge of the flawed nitrate dilution model used by DEP to establish unrealistic septic density limits and extremely restrictive lot sizes in the Highlands Preservation Area. A more reasonable and scientifically defensible methodology must be established for lot sizes in the Preservation Area. This is essential to enable landowners to make decisions on future use of their lands. When this is accomplished, work to make sure conforming municipalities reflect the more reasonable lot sizes in their land development ordinances.
- Challenge the Legislature and Governor Christie to assess the total economic impact due to the Highlands Act and RMP to educate themselves as to the total cost of the Highlands Act and its impact on NJ’s regional economy.
- As part of the process to determine the impact of the Highlands Act on landowners, track, or cause to be tracked land sales and farmland preservation appraisals in the region on a continuing basis, and make such information available to the Highlands Council, CADBs, SADC, county boards of agriculture and the general public. Farm Bureau should also track the trends of Highlands’ reviews, approvals, waivers and denials to ensure they do not conflict with or erode existing Right to Farm protections.
- Monitor the application of Agricultural Resource Area mapping and the municipal “consideration of Right to Farm Act provisions” in the new master plans and land use ordinances developed as part of Plan Conformance. Work to ensure that the farmers inside and out of this ARA are treated fairly or to make sure all farmland landowners who want to be in the ARA are included.
- Work with the NJDA and urge the Highlands Council and the DEP to assist the NJDA in formulating and distributing an official statement defining actions Highlands farmers may take without the cost and stress of preparing and filing a fully detailed expensive Highlands Development application.
- Work to have the HLC appoint a Highlands Agricultural Advisory Committee like the one in the Pinelands to include regional farmers, members of the CADBs of affected counties, and others knowledgeable about the region’s agriculture to advise the Council on agricultural issues and resolve any questions about agricultural operations.
- Educate the new HLC members about Highlands agriculture. Provide them with up-to-date statistics about the industry and its value to the economy of the Region and the state, plan and carry out another tour of Highlands farm operations for Council members and new HLC staff like the one held early in the RMP process, and/or work with the

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NJDA to present a series of white papers describing Highlands agriculture's status and issue.

- Continue to inform its Highlands region members about current, relevant issues through the weekly, "This Week in Farm Bureau," the quarterly, "Farm Bureau Update," and the Farm Bureau Highlands Advisory Committee.
- Urge the Governor to assure that membership of the Highlands Council include stakeholders who own land in the Preservation Area.

New Jersey Farm Bureau shall send copies of this resolution to members of the Highlands Council, the Governor of the State of New Jersey, all members of the New Jersey Legislature, the head of each department of State government, each Board of chosen Freeholders of Highlands Counties, and to the governing bodies of each municipality in the Highlands region.

### **BAYSHORE REGION - TRI-COUNTY PARTNERSHIP COMMITTEE**

There is a movement underway to protect an area in South Jersey called the Bayshore Region. The counties having land mass in the Bayshore region are Cape May, Cumberland, Gloucester, and Salem. These areas consist of estuaries, salt marshes, forested wetlands, woodlands, streams and a large amount of contiguous and productive cropland in the Delaware Bay watershed. Preliminary mapping has been done to highlight the current land use in this region. With the current and increasing development pressure in this region, the New Jersey Conservation Foundation (NJCF), along with other environmental groups, has made this area a priority for preservation of its natural resources. The NJCF received a grant for land acquisition in these areas, as well as for other programs and projects in the region.

The NJCF's plan to develop an Agriculture Enterprise District was not supported by the counties in the proposed region and thus ended further discussion on this issue. It is important that NJFB monitor any future activities of environmental groups that attempt to impose their interests by developing regional plans or targeting areas for protection with Pinelands or Highlands-type regulations.

### **PROPERTY RIGHTS**

Farm Bureau shall seek the enactment of state legislation to protect all property owners from the adverse effects of excessive land use regulations. This legislation should resemble the property rights protection legislation in the state of Florida known as the Bert Harris Act or Measure #37 of Oregon. Those laws both recognize that while some laws, regulations and ordinances may not amount to a constitutional taking, they can still cause an inordinate burden on property owners, and such burden should be compensated for.

Farm Bureau shall assist any evaluation of a "takings violation" by conducting research and gathering economic information pertaining to the "beneficial use" of farmland. Recent court decisions in New Jersey seem to imply that stripping property rights down to "beneficial uses" is permissible under the Constitution without understanding the economics and marginal profitability of many farming enterprises.

It is further resolved that the aforementioned state legislation include a provision that all affected landowners be notified regarding the imposition of any new or proposed state land use

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regulation. This is already done by municipal government for zoning changes. Farm Bureau shall seek the enforcement of this notification requirement and the removal of the exemption for master plan re-examinations. Notification should be made to individual landowners.

### **EMINENT DOMAIN**

Eminent domain gives governments the power to “take” private property for “public use” or “public purposes” while providing “just compensation” to the landowner. States have statutes and rules that set up a process to be followed that is supposed to be fair for all parties: the landowner, the government entity, and the general public that theoretically receives the ultimate benefit of the action.

New Jersey has its Eminent Domain Act of 1971 and the Local Redevelopment and Housing Act that set up a prescribed set of conditions for using the condemnation power and a legal process that must be followed.

In many cases, the first a landowner knows that his/her property is being considered for eminent domain as part of some development project is when he or she receives a certified letter from the municipality stating that they are sending an appraiser to inspect the property. This actually comes after a long chain of planning board discussions and actions about which landowners receive no special notice. If able to participate in these planning discussions, however, landowners and other residents could present their reasons against the eminent domain taking, perhaps causing the governmental body to withdraw the proposal.

In recent times there have been several court decisions approving the use of eminent domain to take farmland for various purposes such as open space, recreational facilities, or building schools. Most notably, the Mt. Laurel vs. Mipro decision by the Appellate Court said it was proper for a town to use eminent domain to preserve open space expressly to stop a development project.

The New Jersey Agricultural Development and Retention Act recognizes the possibility of using eminent domain to take farmland by setting up a process within the Act (NJSA 2:4C- 19) through which CADBs can “determine the effect of the use of this power upon the preservation and enhancement of agriculture in the Agricultural Development Area, the municipally approved program, and upon overall State agricultural preservation and development policies.” Governments contemplating using eminent domain to acquire farmland in an Agricultural Development Area are required to notify the CADBs, or in counties with no CADB, the SADC. These boards review the reasons offered and can hold a public hearing before deciding whether or not there will be adverse effects on the Agricultural Development Area. In using this process, there have been instances when a CADB or the SADC determined that there would be no effects harmful enough for them to oppose the action.

In the upcoming year Farm Bureau shall:

- Oppose the use of eminent domain to take farmland out of agriculture for open space acquisition or merely to obtain increased tax revenue for an agricultural property.
- Assemble the necessary information about eminent domain in New Jersey to have on hand for reference at the Farmhouse.
- Prepare an “information kit” for farmland owners that would outline the process of eminent domain and show how and where a landowner can be most effective in

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preventing this or working to put it to their advantage, and how they can protect their right to a fair settlement.

- Be prepared to help farmland owners caught in eminent domain plans involving redevelopment or preserving open space with information, referral to eminent domain legal specialists, and points to use against eminent domain if necessary.
- Prepare a position paper on eminent domain relative to farmland, “taking” for non-farm purposes as well as for agriculture that could be sent to the SADC, the State Planning Commission, the Office of Smart Growth, the Highlands Council, the Pinelands Commission, and any other regional planning agency as well as municipalities that appear to be considering use of this tool.
- Work with the Legislature to amend the New Jersey eminent domain statutes to strengthen measures to protect active farmland from indiscriminate and ill-advised use of this powerful tool.
- Oppose the use of eminent domain without some guarantee to the public and the landowner that the “public purpose” or “use” will actually come into being, preventing the land from being diverted to some other purpose.

### **WILDLIFE MANAGEMENT**

Wildlife damage to agricultural crops remains a chronic concern for New Jersey farmers and a top priority for New Jersey Farm Bureau.

#### General Wildlife Issues

- New Jersey Farm Bureau should continue its efforts in educating both the public and the legislature about the increasing problems that wildlife creates for agriculture. Farmers should be sought out, whenever possible, to present testimony before the legislature on wildlife issues as they relate to agriculture.
- All open space land bought with public funds should be required to have and implement a wildlife management plan to maintain populations at or below levels approved by New Jersey Division of Wildlife biologists, or be fenced. Wildlife populations, if excessive should be reduced within a specified time period or effective hunting mandated. New Jersey Farm Bureau shall support a legislative change that would mandate wildlife management on all public open space. Additionally, this legislative change should include a provision that those who harbor wildlife, that then cause damage to neighboring properties, should be held financially accountable for this damage.
- Lease-holders of public-owned land should be able to determine the wildlife management strategy for the property they lease.
- Any wildlife reintroduction proposal by the Fish and Game Council or the Division of Fish & Wildlife should include an Agricultural Impact Statement as required by the Right to Farm Act.
- Site-specific depredation permits should be issued for any animals causing crop damage that are not specifically covered by other Fish and Game management programs.
- New Jersey Farm Bureau maintains its strong opposition to any plan to shift the control of the Fish & Game Council to non-hunting or non-farming interests or to the DEP. New Jersey Farm Bureau supports the continued autonomy of the Fish and Game Council.
- Farm Bureau also supports the relocation of the Division of Fish & Wildlife, and any associated funding, from the Department of Environmental Protection to the New Jersey Department of Agriculture.

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- The contribution of all wildlife, especially waterfowl, to water pollution should be documented for New Jersey waters using DNA testing and other science and technology, including GIS mapping of all impacted sites.
- New Jersey Farm Bureau supports the development of a single farmer depredation permit for multiple species, including but not limited to deer, bear, turkeys and feral pigs.
- While best efforts to find the animal should be made, permits should not be pulled if the carcass cannot be found.

Deer – Farm Bureau supports the following:

- Because the key to managing a wildlife population is reducing the number of females in the herd, Farm Bureau supports the reinstatement of the Earn-A-Buck program in all zones where deer population reduction is the goal.
- Farm Bureau supports a change to allow for some self-check-in of deer to make the process more efficient. However, measures must be taken to insure that during “doe first” seasons, does are checked one time, by one hunter, only.
- The use of rifles during daylight hours for site-specific cases where it is deemed appropriate.
- Bow hunting during the summer months.
- Full implementation of the Community-based Deer Management Program which is consistent with the science-based research and management options of NJAES, School of Environmental and Biological Sciences (SEBS), Rutgers University.
- Reducing the paperwork associated with renewing deer and bear depredation permits, they need to be available to farmers in a known wildlife damage area during crop planning and preparation, and should be valid for the entire growth cycle of that farm’s cropping program. Permits should be renewed annually on or before the anniversary date of the prior permit used. Farm Bureau also supports the development of a system that would allow the on-line renewal of these permits. Additionally, once proven to be agricultural producers, farmers should not have to re-certify that they are farmers.
- NJFB should work with the Fish & Game Council and the Division of Fish & Wildlife staff to effectuate a change allowing for the use of bow for deer depredation permits, especially for those areas where firearm discharge is unsafe or not permissible.
- In order to make the depredation permit program more effective, and to shift the burden of wildlife control off of the farmer/landowner, Farm Bureau supports the development of a new, state-funded program that allows for hunters on depredation permits to be compensated for their services, through the adoption of site specific wildlife management plans. Recognizing that funding for a compensation program is unlikely in the current fiscal climate, NJFB supports a policy change that would allow hunters and/or their agents to sell the venison from the deer they cull as an acceptable alternative to compensation.
- Expanding the current regulation that allows farmers to hunt property they own with a farmer license, to include farm properties they lease as well.

Fencing – Farm Bureau supports the following:

- The reinstatement of program state funds for a deer fencing program.
- Special priority should be granted to those applicants with land adjacent to publicly owned or other non-hunted land.

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- Research and funding for other types of fencing that may be less expensive or labor intensive to install.
- While fencing is important, it is not always practical for producers of larger acreage crops. Farm Bureau must ardently support other forms of wildlife controls in addition to fencing.

### Black Bears

Farm Bureau supports the continued, annual implementation of a black bear hunting season as part of the state's comprehensive black bear management strategy. Reports of black bear damage to crops, livestock and beehives will only continue to increase if the population is not managed. Depredation permits are helpful, but not fool-proof, and the damage from black bears is often not detected until harvest time, too late for a depredation permit to be of any use.

New Jersey Farm Bureau opposes any plan that calls for the relocation of black bears. This wildlife resource must be managed, not simply moved to another location in the state.

### Other Species

- There should be an increase in the number of available turkey permits.
- There should be a black vulture control program.
- The use of the "Rodentator" should be permitted for the control of ground hogs. New Jersey Farm Bureau shall support a regulatory change to allow the use of this control method.
- The use of propane cannons should also be permitted for bird damage control.

### Federal Wildlife Issues

- New Jersey Farm Bureau supports an increase in the federal funding for the USDA APHIS Wildlife Services federal program and budget, and will oppose the annual attempts of environmental groups to cut and divert their funding.
- Specific attention needs to be given to expanded control of resident Canada goose populations, including increasing the number of animals allowed to be taken on a depredation permit.
- New Jersey Farm Bureau shall work with other state farm bureaus to develop a unified position on issues related to the control of Canada geese.

## **LABOR SUPPLY AND MANAGEMENT**

Critical issues of economic viability of farms affect hired labor availability and affordability. It is a factor for farms in all commodity groups, not just those using large numbers of seasonal workers in the field and packinghouse.

Growers who employ workers on their farm are concerned about the availability of reliable workers who are accustomed to farm work. Shortages appear in some short-season commodities like blueberries and many farms report having an insufficient number of workers relative to the total number desired.

In addition, this emerging shortage is aggravated by the uncertainties of the legal status of some workers. The appearance of valid-looking documents is sufficient to commence employment, but over the long term there is a concern for whether many of these workers will return due to the increase in border security.

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Farm Bureau will continue its efforts in assisting growers with accessing a reliable work force. Specifically, it should:

- Seek coalitions with other state Farm Bureau interested organizations and labor-intensive businesses.
- Continue to work with local, state and federal officials.
- Assist with the process of legalization wherever it is appropriate by pursuing agriculture work visas for foreign workers and making it easier to obtain alien registration cards.
- Encourage American Farm Bureau to work with the U.S. and Mexican governments to develop a more streamlined process for the work visa program.
- Continue to pursue a streamlined work visa program separate from H2a.

The availability of a legal workforce remains a critical, unresolved issue because there has been no movement of an immigration reform bill. The American Farm Bureau undertook the effort to form a committee to create an agricultural worker visa program that will address the current workers in the country and future supply of workers. This effort hopes to satisfy U.S. farms diverse needs for agricultural labor. AFBF plans to introduce this farm worker visa concept to the new congress for support. New Jersey Farm Bureau should oppose any form of State or Federal enforcement, including any requirement to utilize E-Verify, without the implementation of a streamlined work visa program and/or H2A reform.

NJFB should advocate for an immigration reform legislation that contains the two following policies:

- Adjustment of status or workers ability to remain in the country on a guest worker program
- H2A reform that streamlines the process and mandates a wage lesser then the current Adverse Wage Rate, and easing the requirement for advertising prior to hiring in local newspapers.
- Attempt to re-establish with Puerto Rico DOL a program to encourage potential workers to come to the mainland to work in agriculture

Reform of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) is needed for provisions related to housing, transportation, wages and benefits, and recruitment of migrant and seasonal farm workers. 1) The Joint Responsibility mandate must be clarified. The farmer should not be considered a joint employer unless he/she performs a certain number of employer-like functions, such as supervision of work, preparation of payroll, and payment of employment taxes. 2) A 10-day grace period should be given to farmers to correct MSPA related paperwork errors before a fine is levied. 3) To avoid conflicts and duplicative enforcement actions, federal housing standards should be applied only in the absence of applicable state or local standards. 4) Return the responsibility for regulation of farm worker transportation insurance to the states. 5) Impose a statute of limitation on MSPA enforcement actions and lawsuits brought under the MSPA private right of action.

Agricultural employers feel that the USDOL has changed their emphasis from education for compliance to monetary violations for compliance. The growers feel that they are experiencing increased scrutiny by USDOL inspectors then in the past. Growers also feel federal USDOL

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purposely omitted information at county labor meetings regarding future policy enforcement on kitchen charges. The lack of specific guidance by USDOL on some regulations has left growers questioning meal charge allowance for workers. NJFB should require the USDOL to provide more clarity on the meal charges since many growers suffered violations under this regulation. NJFB should investigate if data is available quantifying that amount of fines levied each year by the USDOL to verify if there is an increase in fines levied against agriculture under this administration.

NJFB should also advocate for a level of confidentiality regarding fines levied by DOL. Publication of fines by DOL only serves a political agenda and besmirches an entire industry that has an overall clean record.

Farm employers need to be aware of a current emphasis on rules pertaining the Fair Labor Standards Act, Migrant Seasonal Worker Protection Act and Child Labor laws. New Jersey Farm Bureau can assist with providing information in each of these areas.

Farm Bureau opposes an increase in the minimum wage unless there are off-setting employer benefits equal to the cost impacts of affected employers. NJFB should oppose SCR-1 which amends the Constitution to set minimum wage at \$8.25 per hour with annual adjustments based on the CPI-W rate for inflation. The NJFB is also opposed to using a constitutional amendment as an avenue to amend the current minimum wage.

A Report analyzing the impact of the increase of the minimum wage to the agriculture industry in New Jersey was completed in 2006. The report has determined an estimated \$14 million impact on agricultural employers in the state. Of the \$14 million, approximately \$10 million impacts 320 farms out of the 2,300 farms utilizing labor in the state. NJFB shall use this data to seek future financial relief from the Legislature to offset the adverse effect of any future increase in minimum wage.

Possible ergonomics regulation remains a concern for agriculture. Regulation of work motions that are repetitive and sustained would be incredibly onerous for agriculture. Farm Bureau shall oppose a future ergonomic regulation without the results of a proposed study from the National Science Foundation. Even with those results, ergonomics regulations must contain an exception for agriculture. Farm Bureau supports a NSF study and an exception for agriculture.

In order to address the need for skilled “middle management” employees, New Jersey Farm Bureau should work with county colleges and Rutgers to develop 2-year degrees in targeted agricultural areas.

### Health Insurance

The Patient Protection and Affordable Care Act signed into law in 2010 requires large employers (business employing more than 50 full-time workers) to provide health coverage for their employees or pay an excise tax penalty for those employees. Full time employees are those that work 30 hours per week and more than 120 days. Employees working less than 120 days are considered seasonal and do not count towards the 50 employees.

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With many NJ farms producing crops from early spring until late fall the production season last much longer than 120 days. This means many of the larger farms would be subject to the requirements of the law.

The NJFB should work with the American Farm Bureau to seek a change in the definition of seasonal worker to 6 months or have agricultural workers defined as seasonal workers.

### **TRUCKING/MOTOR VEHICLE REGULATIONS**

The motor vehicle laws and regulations affecting agricultural vehicles are numerous and complex. In an effort to keep the farm community up to date on these laws, New Jersey Farm Bureau continues to update and distribute its handbook on motor vehicle regulations for farmers to any Farm Bureau member or law enforcement entity upon request.

The implementation of a new, more stringent motor vehicle inspection system is of concern to farmers because many “farm use” and “farmer” licensed vehicles manufactured prior to 1989 will likely fail inspection. These older trucks and vans make up a large portion of farmers’ work vehicles. It will cost approximately \$600 per vehicle to get these vehicles passed inspection temporarily. New Jersey Farm Bureau should pursue the possibility of having these “farm use” and “farmer” trucks exempt from this provision.

Farm Bureau supports:

- A regulatory change to expand the mileage limits for “farm use” vehicles.
- A legislative change that would allow farmers to use their farmer trucks for private snow plowing contracts.
- A regulatory change to allow the personalization of “farmer” plates.

Federal Motor Carrier Safety Administration (FMCSA) rules grant states the discretionary authority to exempt individuals who operate a farm vehicle, as outlined in the rule, from CDL licensing. The FMCSA rule states that the waiver is limited to the driver’s home state unless there is a reciprocity agreement with adjoining states. New Jersey exempts farmers operating farm vehicles from the CDL. Most states have a similar exemption for their farmers, but very few reciprocity agreements exist between the states. New Jersey has been successful in signing reciprocity agreements with Pennsylvania and Delaware confirming that both states acknowledge the CDL exemption for Farmers. While the NJ Department of Agriculture has asked New Jersey Motor Vehicle Services to request the necessary reciprocity agreements from the other states within 150 miles of our state’s lines (CT, NY, RI, VT, NH, MD VA and WV), no other reciprocity agreements have yet been signed. New Jersey Farm Bureau urges the NJDA to continue working with the Motor Vehicle Service to expedite the adoption of these reciprocity agreements.

New Jersey Farm Bureau should seek passage of legislation to remove the standard driving restriction from the agriculture driving license. The current statute for the agriculture driving license requires the licensee to follow the same restrictions as a standard permit holder. The restriction requires an agricultural licensed driver to drive with a licensed driver that is at least 21 years of age in the vehicle. This rule renders the license worthless for the agricultural industry and was never the intention of the law. This interpretation of the agricultural driver’s license is surrounded with uncertainty since Motor Vehicle has interpreted the law not to pertain to the

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agricultural driver's license and verbally informs the driver that the restrictions do not apply when questioned.

New Jersey supports a change in regulation to allow holders of international driver's licenses to operate vehicles with a gross vehicle weight up to 25,999 pounds, as opposed to the current limit of 7,700 pounds.

The farm chemical industry made NJFB aware of an issue for custom applicators to register their equipment. New Jersey does not have a registration for farm equipment that is used "for hire", therefore providing no means for chemical companies to register and receive a tag to operate in New Jersey. NJFB should research the ability to develop a New Jersey registration for farm equipment used "for hire". Currently custom applicators must register for-hire farm equipment, such as self-powered sprayers in Pennsylvania.

### **BRIDGE CHANGES AND ROAD WIDENING**

Farmers in New Jersey typically farm many parcels of land, and need to move large pieces of farm equipment on public roadways to get from one field to another. When bridges are upgraded or re-designed they are often made impassable for some farm equipment. When this occurs, farmers have to re-route, often miles out of their way.

Farm Bureau encourages county and state entities, when contemplating a bridge re-design, to contact the farm community through the appropriate county board of agriculture. The agricultural community should be asked for their input on size, width and weight accommodations.

Current research into municipal ordinances shows that many communities have imposed weight limits on their roads in addition to the bridges. This is apparently done with the help of NJDOT and full agreement of residential landowners along those routes. Strict enforcement of these limits would severely hamper moving agricultural product to market, increasing the time and expense of farmer efforts to market their output.

The farm community must meet with the NJDOT to discuss this concern and initiate efforts to help communities become aware of this need and better plan agricultural routes. There is precedent for this in a recent Delaware Valley Regional Planning Commission DVRPC transportation study for the Burlington Route 206 Farm Belt where agricultural routes were mapped by the farm community itself.

With increased traffic, the transportation infrastructure is continuing to be upgraded and expanded. New Jersey Farm Bureau recognizes the need for these improvements, but requests that the impacts of those changes, such as water runoff onto adjacent farmland, be addressed at the planning stages by the entity doing the project.

### **RELIEF FROM EXCESSIVE ENVIRONMENTAL REGULATIONS**

Ever since 1972 and the passage of the federal Clean Water Act the Legislature has repeatedly assigned to the New Jersey Department of Environmental Protection ever increasing power and authority to regulate a broad range of activities related to the use of our land, water, plant, animal, and other natural resources, often without precise detailed and quantifiable standards.

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We recognize this has resulted in improvements to the environment where action was needed to correct problems and prevent their reoccurrence. However, after several decades of a single agency having environmental regulatory authority with little oversight, there are indications of what appear to be spontaneous generation of rules and requirements and assumptions about the need for additional environmental constraints that exceed legislative intent or even public need.

The promulgation of ever escalating air and water quality standards is causing many citizens, including those involved in agricultural production, to wonder if these resources will ever be clean enough, as determined by the State regulatory agencies.

In the promulgation of many new environmental regulations the DEP has often utilized questionable assumptions and broad generalizations to support rule-making. When DEP rules are challenged during public comment opportunities, the typical response to comments is “the Department respectfully disagrees.” To many concerned persons, it appears that there is a lack of concern for reasonability and the practical approach to resolution of environmental concerns. The rule-making intent seems to make the rules as extreme as possible, as though engaging in a negotiations process but never conceding to any requests for more reasonability.

We all can agree that environmental protection is important. Through good conservation and management practices agriculture can improve the environment. The public recognizes this, and the DEP should also recognize this in their development of rules and regulations. However, environmental protection regulations must also be tempered with consideration for the impacts they have on our economy and society and their ability to absorb the ever increasing restrictions on our natural resources.

Recently we have been barraged by studies that show people and businesses are leaving New Jersey at an increasing rate. Perhaps one of the major reasons they are leaving is because of over-regulation. Before we become a state where progress is no longer possible it is essential that we have stronger oversight of our regulatory agencies.

Therefore, the delegates of the 2012 New Jersey Farm Bureau Convention request that the Legislature and the Governor continue to review the current system of legislative and regulatory oversight and take action to constrain excessive regulation to assure that the opportunities for economic progress and personal success remain viable in New Jersey while concurrently supporting reasonable regulations needed to protect our environment.

Furthermore, DEP’s response to repetitive, sometimes anonymous complaints from members of the public against one farmer is perceived as wasteful of government staff and resources and of the affected farmer’s time. Farm Bureau should encourage the DEP to develop protocol in cases of repetitive complaints from the public on the same issues. DEP should first look into permits, licenses, or programs that are already in place on the farm, before going out to the farm property to investigate. Furthermore, when the complaint filer’s issue has been investigated and DEP finds that the farmer is in compliance with required rules, permits, licenses, etc. the DEP should testify to the complainer that the issue has been investigated (date, time) and addressed and that the farmer/farm is in compliance.

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We request that copies of this resolution be sent to the Governor, members of the Legislature, heads of State agencies, including the Secretary of Agriculture, and to appropriate leaders of other institutions and agencies involved in legislative and regulatory functions throughout New Jersey to demonstrate our continuing support for reasonable and common sense environmental management.

### **CONSERVATION DISTRICTS**

NJFB supports Soil Conservation Districts, and recognizes them as partners in the good stewardship of our lands.

Defined by statute as “special purpose subdivisions of the state,” soil conservation districts today employ approximately 100 professional, technical and administrative staff to serve their local area, while utilizing no direct state funding. Rather, some districts receive funding from their counties for agriculturally related work in the respective county, but district operations are mainly funded by development fees charged for soil erosion control plan certification and construction site inspections under the 1975 law most commonly called the Chapter 251 program. The Chapter 251 program requires any land disturbance activities in excess of 5,000 square feet of surface area that is not agricultural or horticultural in nature to develop engineering plans for methods of controlling erosion during and after construction. These site plans must be prepared by an engineer or architect licensed in New Jersey and must incorporate erosion control best management practices found in the Standards for Soil Erosion and Sediment Control. Soil Conservation Districts are empowered to review, certify, inspect and enforce the Rules and Standards adopted by the SSCC. Chapter 251 also directs the New Jersey Department of Transportation to develop similar erosion control standards and provide self-regulated erosion control inspections on all state DOT projects. Standards and rules for erosion control implementation by NJDOT are subject to the approval of the SSCC.

The Chapter 251 program incorporates science-based, best management practices drawn from a variety of sources such as agronomics, hydraulics, hydrology, soil science and the expertise of various federal organizations such as the USDA Natural Resources Conservation Service, US Army Corps of Engineers and the US Federal Highway Authority, the Soil Erosion and Sediment Control Program has effectively prevented an estimated 27.3 million tons of soil from eroding into state waters over the last 34 years (averaging over 800,000 tons annually). Districts utilize their local presence to administer the Chapter 251 program in a direct and efficient manner which is responsive and adaptable to both local and regional concerns, performing in excess of 60,000 construction site inspections annually. SCDs continue to serve as the local conduit for conservation assistance to farmers, and also provide a range of free conservation education programs to the public, especially to K-12 schools and students with the annual poster contest and Envirothon contest.

There is an opportunity for the Districts and the State Soil Conservation Committee to develop a higher profile with the current administration by offering to be part of streamlined government thru better coordination between the two entities. Better coordination can bring the ability to generate additional support income by expanding the services they provide to local and state government. New Jersey Farm Bureau should support an expanded role for the Districts as well as encourage the county boards to be more active with the local Districts and in the nomination process of members for the District Boards.

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### THE LANDSCAPE PROJECT

The Landscape Project mapping of alleged habitat for threatened, endangered or “rare” animal species continues to be the most powerful land use mapping tool with the potential to make vast acreages of New Jersey land difficult if not impossible to use. This is true despite the fact that neither the rules nor the associated GIS mapping has been reviewed by the public and adopted formally by the DEP. The public has realized that the Big Red Map so strongly rejected a few years ago is being implemented town by town when they are required to regulate to ensure that there is “no net loss of wildlife habitat” or when any DEP permit is required.

The first draft of the proposed State Strategic Plan released to replace the third reiteration of the State Development and Redevelopment Plan cites this mapping as a “perfect example” of how the State Planning mapping became a regulatory tool even though it is “flawed data”. Many stakeholders told Gov. Christie’s Red Tape Committee that use of this imprecise and often erroneous mapping is a major impediment to economic growth and many worthwhile environmental projects. For this and other reasons, the new State Strategic Plan will not have an official state map but rely on more site-specific mapping at the county and municipal levels.

Recent experience of Farm Bureau members with this mapping has revealed just how broad scale and unconfirmed data can cost money as well as delay projects to increase farm viability.

“Threatened and endangered species habitat” mapping is being used to reduce development potential on farmlands and could make it difficult to build necessary farm structures that might enhance farm viability. The DEP’s computer-based maps delineating the habitat and potential habitat of threatened and endangered plants and animals are available to anyone online at <http://www.state.nj.us/dep/fgw/ensp/landscape/index.htm>. On only some of the mapped habitat have the species actually been sighted. In other cases, there is only the supposed potential for an area to be used for nesting or foraging.

The DEP and environmental organizations have succeeded in having this mapping become the basis for identifying “critical environmental sites” in municipal ordinances to protect habitat. It has very heavy weight in the Highlands Land Use Capability Map as well as in the many policies of the Highlands Regional Master Plan.

Many NJ farmers are affected because several species of grassland birds are considered the most threatened in NJ, if not actually on the Endangered Species list. Farms are considered their prime habitat even though row crops or orchards are not preferred for nesting or foraging.

What is this “habitat”? Supposedly the plant or animal has been sighted on the areas mapped. For each animal there is a disputed scientific model that calculates the amount of habitat it requires, usually more than the subject property under review. DEP appears to seek every opportunity to expand the coverage of the regulations by protecting “rare” species or “species of concern” as well as one formally designated endangered or threatened.

Grassland birds are one of the highest priority species for the Landscape Project. These include species that make their homes on hayfields, cropland, airport edges -anywhere there are large tracts of *native* grass plants. Bog turtles, barred owls, and timber rattlesnakes are other species of concern being found; it is alleged, on New Jersey farm properties.

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Research on grassland birds, for example, shows that each species has its own special requirements for nesting ground, breeding, and feeding. One species needs short grass, another much taller. Yet even the USDA-FSA CRP requirements contain one set of restrictions – delayed hay mowing - that may favor only a few of those species, not all. One size may not fit all.

On the federal level, Court decisions have forced the US Fish and Wildlife Service to perform an economic impact assessment before declaring an area as habitat. New Jersey Fish and Wildlife should have to do the same before green lining thousands of undeveloped acres in New Jersey. NJFB must work to require that there be science based physical evidence in addition to habitat potential before any regulatory action may be taken regarding restricting land use by NJ DEP and other land use regulatory bodies. Farm Bureau must make sure that thorough and meaningful economic and agricultural Impact Assessment statements are required.

In the coming year, Farm Bureau shall:

- Join the many groups of stakeholders informing Gov. Christie and his administration about the major role the Landscape Project has played in reducing opportunities for housing, jobs, and economic opportunities and urging him to reduce its power to control all land use decisions.
- Ask the USDA NRCS and FSA for statistics on a regular basis to report to the membership the number of farms and acreage going into all federal programs so as to track WHIP, the Wetlands Reserve, the Grassland Reserve, and the new forest management program, especially if EQIP funds are being used.
- Continue to raise questions about the lack of scientific basis for the Landscape Project mapping, the lack of public review through the formal rule making process, and guard against further restrictions on the ability to farm profitably.
- Work with the NJDA to encourage a concerted effort to create or discover ways the populations of species of concern can be protected and increased by means of agricultural practices instead of prohibiting farming. This should include a study of the Hold Harmless provisions that protect landowners in many states from future regulation if they agree to increase habitat for a listed species.
- Bring together wildlife specialists from the US Fish & Wildlife Service, Rutgers University, the farmer representatives on the Fish and Game Council, the NJDA, the SADC, and the USDA Farm Service Agency and NRCS to review the maps, the criteria for the mapping, the requirements for each of the species of concern, and all state policy set thus far to accommodate their needs. New policies that better protect the practice of agriculture and farmland equity should be developed and recommended to the Fish and Game Council.
- Make every member of the New Jersey Congressional delegation aware of the effects of the regulations that the New Jersey DEP has set up to fulfill the federal mandates. They must be educated to understand why there should be changes and should be urged to support the changes supported by AFBF before them. This must include a landowner Hold Harmless provision that protects them from further prohibitions if they do too good a job increasing the numbers of threatened, endangered, or even rare species.
- Advocate for a change to the Landscape Project procedures to require a detailed, specific economic impact assessment for all properties affected by this regulation. A thorough analysis of the real Agricultural Impact must be required as well.

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- Encourage the New Jersey Department of Agriculture to participate fully with the DEP in the development and implementation of reasonable landscape project regulations that enable viable agriculture instead of prohibiting it.
- Consider engaging environmental groups in public forums to debate these issues.

### **WATER QUALITY REGULATION/WATERSHED PLANNING ISSUES**

New Jersey Farm Bureau seeks a science-based approach to water quality regulations and watershed planning and does not support a “one-size-fits-all” approach.

#### Stream buffers

There are two major DEP rules involving stream buffers, the Storm water Management rules, adopted in February 2004, and the Flood Hazard Area Control Act (FHACA) rules, adopted in November 2007. Together, these two rules limit activities that can occur in the riparian zones of New Jersey waters. Farm Bureau commented on both rules and remains concerned over the impacts of these rules on land based equity and future agriculture development. Farm Bureau, individual farmers, county boards, commodity groups, and public agencies representing agriculture should:

- Encourage the State Soil Conservation Committee to develop guidelines for storm water implementation for agriculture to be used state wide by the Soil Conservation Districts.
- Develop and distribute fact sheets for farmers and the public about what agriculture has done to reduce non-point source pollution and storm water runoff reduction.
- Educate the public and government agencies on the recharge value of farmland.
- Encourage the SADC to adopt water quality and storm water AMP’s to protect farmers from ill-informed municipal or watershed group actions.
- Encourage the agriculture community to take advantage of cost-share funding to address storm water and non-point source runoff from farms where needed.

#### Non-point Source Pollution, TMDL’s, and Storm water Management

The EPA is requiring all states to show progress in controlling pollution from agricultural operations. States are required to develop specific pollutant loading limits (Total Maximum Daily Loads - TMDL’s) for nutrients, pathogens, sediment, mercury, and metals, temperature, pH, dissolved oxygen, and pesticides on all stream segments or water bodies in order to meet New Jersey’s Surface Water Quality Standards (SWQS).

The DEP has committed to establishing TMDLs in accordance with timeframes that USEPA describes as “expeditious.” The DEP continues their accelerated implementation of more than 100 TMDLs on lakes and streams throughout the state. Many of these streams are listed as “impaired” by phosphorus and fecal coliforms. These impairments are often linked to agricultural practices. Farm Bureau avidly opposes placing the blame for these impairments on farmers without sound scientific proof. Farm Bureau will continue to monitor the TMDL process so that agriculture does not bear an unfair burden in correcting impairments in state waters.

#### Farm Bureau should:

- Work to coordinate federal and state programs dealing with non-point source pollution and stormwater runoff.

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- Assist the NJDA and Rutgers School of Environmental and Biological Sciences in collecting all available data on agriculture and non-point source pollution and stormwater runoff including measures already in place. New Jersey Farm Bureau's web page can be used by all federal and state agencies, as well as farmers and watershed planning groups, to obtain consistent and current information about the agricultural community's non-point source activities and accomplishments.
- Investigate how other states are managing to produce nutrient management and natural resource conservation plans rapidly with a high level of participation from the farm community. These programs should be used as models.
- Work to ensure more funds for practice implementation and comprehensive viability programs that can show farm operators the financial rewards of each change made to reduce non-point source pollution and stormwater runoff.
- Seek partnerships for funding sources to help implement non-point pollution AMP's on farms.
- Assist in the development of statewide manure processing plan and the establishment of processing/composting centers like the one currently operating in Sussex County.
- Assist in the development of AMP's to support these non-point source pollution and stormwater runoff management practices.
- Help farm operators monitor watershed group and municipalities carefully to see that they do not violate the Right to Farm Act or the Water Quality Memorandum of Agreement in their actions to clean up farms.
- Work to document the non-agricultural use of fertilizers, pesticides and herbicides in New Jersey so as to provide scientifically-based information as a point of comparison to agricultural use.
- Be vigilant in following national issues on mandated water quality standards and nutrient management such as the case of the Chesapeake Bay TMDL and the Florida numerical nutrient criteria, which may serve as a national model for water quality and watershed management. Issues such as these have the potential to impact how water quality standards and TMDLs are addressed in any state in the future.

The agricultural industry is often cited for runoff pollution without any consideration for the suburban/homeowner lawn fertilizer sources. Farm Bureau will work with RCE to ensure that the BMPs help address the issue and allow agriculture to work on its own issues with appropriate soil/water conservation practices.

- Farm Bureau shall seek to educate the public that farmers in New Jersey are not major contributors to non-point source pollution and storm water runoff.
- As towns seek to adopt stream corridor protection ordinances that impact growth potential and landowner use of property Farm Bureau should be ready to assist landowners, towns and municipalities with language to exempt farming practices and encourage good land management in critical areas.

The New Jersey Department of Environmental Protection Storm water Management rules (N.J.A.C. 7:8), adopted on February 2, 2004, establish minimum design and performance standards for development by managing water quality, quantity, and groundwater recharge impacts from storm water runoff. These rules have created more stringent storm water management standards for land developments in the state, including agricultural construction projects. Therefore, agricultural construction projects are subjected to the same rules and

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standards as commercial and other land developers. There are concerns in regard to the application of this rule requirement for farm construction projects, where the consideration of permits-by-rule for agricultural construction is currently absent.

Therefore, Farm Bureau strongly encourages the New Jersey Department of Agriculture to work with the New Jersey Department of Environmental Protection in coordinating the establishment of standards and permitting for farm construction projects. Depending on the conditions of the rule, a permit-by-rule provision in the Storm water Management rule could allow for a specific regulated activity to be undertaken without written approval from the NJDEP. Additionally, Farm Bureau will support the use of a Farm Conservation Plan in addressing the management of storm water runoff for water quality, quantity, and groundwater recharge.

### Category One Waters (C-1)

Category One or a C-1 waters is the category entitled to the highest level of protection under New Jersey's Surface Water Quality Standards. C-1 waters are protected against any measurable change in water quality. Development restrictions apply to areas located within the 300-foot riparian zone of a C-1 water body under the state's Storm water Management rule. A C-1 designation carries with it greater restrictions to surrounding land owners as well as other growth restrictions. Therefore the New Jersey Farm Bureau and our partners should:

- Work to ensure that any new classification is based on science; and
- Organize local farm groups to combat unjustified nominations; and
- Recommend appropriate criteria based on science and good data for such classification.

### Animal Feeding Operations/Concentrated Animal Feeding Operations (AFO/CAFO)

The NJ DEP establishes permitting requirements and effluent limitations for concentrated animal feeding operations (CAFO) in NJ through the New Jersey Pollutant Discharge Elimination Systems rule (NJPDDES). EPA Commissioner Lisa Jackson has stepped up EPA's enforcement of CAFOs under the Clean Water Act. reported increased presence by EPA on farms and stricter enforcement of CAFO's. While NJ's CAFO rules are the strictest in the nation, and though there are few CAFO's in NJ, Farm Bureau will continue to monitor both state and national rules, court cases, and other actions that impact all animal feeding operations.

In March 2009, the NJDA adopted the Criteria and Standards for Animal Waste Management (a.k.a. AFO rule). Assistance in meeting the rule requirements has and will continue to be provided by Rutgers University, Soil Conservation Districts, NRCS, and the NJDA. New Jersey Farm Bureau staff will continue to work with our membership and the NJDA to ensure that this rule is understood and that assistance is available for plan development and implementation to all New Jersey livestock owners.

### DRBC Floodplain Management

The Delaware River Basin Commission, at the suggestion of its Flood Advisory Committee (FAC), formed a Floodplain Regulations Evaluation Subcommittee (FRES) in November 2008. This group was asked to examine the floodplain regulations already in place in Delaware, New Jersey, New York and Pennsylvania and to provide comprehensive land-use recommendations to the basin commission. On May 19, 2009, the FRES delivered a recommendations report to the FAC of the DRBC. The report reviews and evaluates existing floodplain regulations throughout the Delaware River Basin and presents recommendations for "more effective" floodplain management to the FAC. The FAC took ownership of the report, provided additional

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language to it, but made no major change in the FRES recommendations. Farm Bureau has concerns with the recommendations, and has officially commented on the lack of socio-economic impact assessment in the recommendations, the proposed changes to a regulatory floodway and floodplain definition, and stream riparian corridors and vegetation disturbance, among others. While New Jersey already has stringent state floodplain regulations in place, we will remain watchful of any future plans for implementation of recommendations for floodplain management in the basin as it may significantly impact farmland within the Delaware River Basin.

### **WATER SUPPLY**

Farmers are again advised to be very careful in keeping up with their DEP Bureau of Water Allocation certification renewals. Growers allowing certifications to lapse could lose their water rights. With serious competition for access to New Jersey's water supply, the agricultural industry may not regain the approvals for an increase in irrigation water use, once considered routine for agricultural diversions in some areas of the state. This is especially important as the division of water supply is scrutinizing any new allocation request or any unused allotment at time of renewal. Farm Bureau strongly urges compliance with the current water allocation program. The permit process should be streamlined to make it as efficient as possible. NJFB should also continue to advocate for the role that RCE agents play interacting with the DEP in the water allocation and permitting process.

The Delaware River Basin commission (DRBC) who once tried to require certification with their agency, is currently exempting farmers from their application process. NJFB should oppose any future requirement for certification or fees through the DRBC or any other agency. The certification process should be administered through the state bureau of water supply without fees.

The NJ Water Supply Authority has also been found to charge excessive fees for any new or additional water usage for farms that are located in basins under their purview. New Jersey Farm Bureau opposes any fees and duplicative paperwork that would be imposed outside of the NJDEP purview. The NJFB should work with the NJDA to ensure consolidation of the additional applications from water authorities with the DEP applications and eliminate the fees being imposed.

There have been municipalities in the state that have created ordinances regarding water supply. The municipalities have set standards requiring water withdrawal applicants to adhere to these municipal mandated guidelines. New Jersey Farm Bureau believes this is outside the jurisdiction of the municipality and a duplicative process for a farmer to endure and opposes any such action by a municipality and encourage the NJDEP to cease and desist any such actions by a municipality.

As a result of completed and continuing studies evaluating the availability of water in various aquifers and watersheds farmers have experienced a reduction of water amounts allocated. Farmers in New Jersey cannot survive without an adequate water supply. Obtaining approval for water use on all farms is without doubt a major issue for the success of production and profitability. Farm Bureau should support the approval for agricultural water use by New Jersey DEP as the highest priority to ensure farm viability on all farmland. New Jersey Farm Bureau recognizes the need to implement water conservation practices to secure this vital resource. In

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response to the effort to conserve water, NJFB should evaluate the possibility of preserving water reductions that are accepted by farms, to be placed in a bank for future or neighboring agricultural usage. NJFB should also encourage the requirement of municipalities in proximity to the Tri-county pipeline in South Jersey to source public water needs from American Water pipeline that extends from Burlington County into Gloucester County.

New Jersey Farm Bureau shall ensure that agricultural water supply needs are represented in the revision of the State Water Supply Plan. The water supply plan is currently on hold until the adoption of the NJ State plan. With limited review of the plan agriculture seems to remain status quo with no dramatic changes.

Some progress has been made by Farm Bureau and others in having nursery water use during drought emergencies standardized with other agricultural exemptions in those circumstances. The State Assembly passed a resolution urging the Governor and DEP to treat nurseries and garden centers the same as agricultural food crops when imposing mandatory water use restrictions. New Jersey Farm Bureau also supplied a letter to the DEP water supply administrator encouraging a rule change to permanently fix this problem.

New Jersey Farm Bureau shall continue its work with the DEP on the permanent rules regarding emergency water use to ensure that these restrictions are not used in the event of another drought. It is not appropriate that a single segment of industry in this state should be restricted in the use of water. The nursery industry deserves the same access to water resources as all the other industries in the state. The nursery-landscape-garden center industry is committed to implement voluntary water conservation measures during drought periods and comply with mandatory restrictions that are in effect for all branches of commerce. Once permanent drought rules are established, they should be widely publicized, so the general public, as well as the agricultural industry will know what water uses are and are not permitted.

### **U.S. CLEAN WATER ACT/NPDES PERMITS**

The Clean Water Act (CWA) controls water pollution by regulating point sources that discharge pollutants in and around waters of the United States through the National Pollutant Discharge Elimination System (NPDES) permit program. The federal Environmental Protection Agency (EPA) has never required NPDES permits for the application of pesticides for agricultural crop protection, mosquito control, invasive aquatic weed control, forest canopy insect control, or other registered uses of pesticides when properly applied following FIFRA-approved label directions; and

In January 2009, U.S. Court of Appeals for the Sixth Circuit decision, in the matter of National Cotton Council of America et al. v. United States Environmental Protection Agency, vacated an EPA Final Rule which exempted pesticides applied in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) from the federal Clean Water Act's permitting requirements; and

The Court granted EPA a two-year stay of its decision, during which time EPA is developing general permits for four aquatic pesticide uses in the four states without CWA authority, and states which have assumed CWA authority may use these examples as models in adopting general permits for their states.

Legislation (H.R. 872) that clarifies the adequacy of FIFRA in covering these pesticide application types has passed the House and been released by the Senate Agriculture

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Committee for consideration by the full Senate. However, the full Senate failed to act in advance of the November 1, 2011 deadline for permit coverage.

EPA is now required to have these permits in place since the November 1, 2011, has passed. New Jersey is one of the states that has assumed CWA authority, so NJDEP must now also have its permits in place.

This change will require NJPDES permits for pesticide applications made to or near the "Waters of the State," meaning the ocean and its estuaries, all springs, streams and bodies of surface or ground water and wetlands, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction, and this would place additional burdens on applicators, impact crops in fields, pastures and forestlands adjacent to farm ponds or bogs, ditches, streams or rivers, and interfere with the timely application of pesticides.

The version of the 2012 Farm Bill that was released from the House Agriculture Committee included the corrective language from H.R. 872. There was a concurrent effort to include similar language in the Senate-passed version of the 2012 Farm Bill, but this effort was unsuccessful.

Most recently, a bipartisan group of Senators introduced the Restoring Effective Environmental Protection (REEP) Act of 2012 (S.3605). The bill includes identical language from H.R. 872.

NJFB should:

- Continue to Work with American Farm Bureau Federation to support the passage of H.R. 872 or S.3605 in the Senate and urge our Senators to support this measure. Even though the deadline for permit coverage has now expired, this issue can still be resolved legislatively.
- Support the inclusion of H.R. 872/S.3605 in the 2012 Farm Bill if the Senate fails to act on S.3605 as stand-alone legislation.
- Work with DEP on a general permit for agricultural applications that is not burdensome to applicators, provides adequate protection against 3<sup>rd</sup> party lawsuits and can be issued to allow the pesticide applications in a timely fashion.
- Ensure that if H.R. 872/**S.3605** fails to pass this winter and permit coverage is still required for next year's growing season, sufficient federal resources are made available to offset the costs associated with getting permit coverage so that these costs are not shifted to state agencies and hard working farm families.

### **WETLANDS EXEMPTION FOR AGRICULTURE**

Legislation (A-932) permitting that agricultural wetlands areas can be returned to agriculture even after these fields have been out of production for more than five years was passed by the full Assembly in the last session, but was not acted on the Senate. The bill has since been reintroduced on the Assembly-side and has been released by the Assembly Agriculture and Natural Resources Committee.

A-932 Sprovides that for the purposes of any permit or letter of exemption involving ag activities issued by DEP, or any enforcement action taken by DEP involving ag activities:

- Ag fields will be considered "active" provided that any combination of crop production, maintenance or renovation of the field for ag purposes has taken place within 5-years;
- If no crop production, maintenance or renovation has taken place within 5-years preceding an application or letter of exemption request, this bill provides that an ag use should now be considered minimally adverse to the environment and permissible if:

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- the crop production, maintenance, or renovation of the field is related to the previous use of the field for ag purposes;
- during the previous use of the field for ag purposes, it was disturbed, developed, or otherwise built upon such that the ag field cannot return to a natural wetland state regardless of the length of time it is inactive, poorly maintained, or uncultivated.

Traditionally, farmers operating in freshwater wetlands areas have been bound by unreasonable rules because of the narrow definition of “abandonment” in farmed wetlands areas. The current definition makes it impossible for farmers to obtain the necessary permits or letters of exemption to return previously farmed wetlands areas to active agricultural production. The bill resolves this problem by making ag activities permissible in ag wetlands areas once deemed “abandoned”, thereby opening up these lands to cultivation and use for ag purposes.

NJFB also supports the provision stating that the lack of a commercial harvest or crop production can no longer be used as the determinant in declaring a field abandoned. Oftentimes, farmers may take a field in a wetlands area out of traditional “production” for a number of years as part of a carefully planned cover cropping or crop rotation. This bill protects farmers who implement this practice from the risk of having their fields deemed “abandoned” because of misperceived inactivity.

Permitting that cranberry fields once deemed “abandoned” be returned to cranberry production provided that these fields were being maintained or renovated for the purpose of cranberry production at the time of “abandonment” is also something that NJFB strongly supports. This provision allows for cranberry production to resume in areas where it never really ceased, but was taken out of production under the current, unreasonable provisions of the “Freshwater Wetlands Act”.

Certain provisions of this bill might conflict with existing state and federal wetlands regulations under Section 404 of the Clean Water Act. This Section of the Clean Water Act regulates the discharge of dredge and fill materials into waters of the United States, including wetlands. Typically, the Environmental Protection Agency (EPA) is responsible for regulatory activities under Section 404, but there has been a joint agreement in place since 1993 that enables NJDEP to assume implementation with advice and oversight from EPA. Therefore, any change to the Section 404 agreement, including revisions to the definition of “abandonment” and an extension of the 5-year clause, might require joint action by NJDEP and EPA.

NJFB should continue to support the passage of this bill while also getting clarification on whether this legislation conflicts with the existing Section 404 Agreement. If a conflict exists, NJFB should support action by EPA and NJDEP to amend the Section 404 agreement to allow for the changes set forth in the legislation.

### **ASPHALT MILLINGS**

Farmers extensively use reclaimed asphalt pavement (RAP) or asphalt millings to improve farm lanes and prevent mud tracking on public roadways from farm equipment. The asphalt millings make farm road improvements affordable for farmers; where purchasing new natural aggregate or using millings as a sub-base to a superficial natural aggregate layer is expensive and creates unnecessary hardship for farmers.

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Farm Bureau opposes restrictions on the use of asphalt millings on farm roads. With society's emphasis on increasing sustainable development, the re-use of reclaimed asphalt helps to decrease landfill waste, decrease dependence on mined natural aggregate, and it decreases use of bitumen which is an organic compound of potential environmental concern. In addition to its greener foot print, the use of asphalt millings on farm roads helps cut unnecessary costs on farms.

Current international scientific research on the environmental leaching potential of the organic compounds from bitumen is scant. However, the research that has been performed shows that there is an extremely small risk of these compounds leaching from bitumen into the environment. Given this scientific evidence, and the societal benefits of using asphalt millings on farm roads, the Farm Bureau will support initiatives that protect farmers' rights to use the asphalt millings so long as it is scientifically proven not to pose a public or environmental hazard.

### **MISUSES OF IMPERVIOUS COVER ORDINANCES**

The recent flooding in many parts of New Jersey is caused, according to many experts, by the higher and higher percentage of surfaces impermeable to water (roofs, roads, sidewalks . i.e. development) that has been built upstream of the affected rivers and streams. One predominant research study claimed that once a watershed contained more than 10% impervious cover (identified by GIS mapping), the streams would begin to degrade, water quality would be reduced and floods would cause loss of property downstream. The 10% limit was supposed to be used as an average across a whole watershed area, but NJDEP and NJ municipalities have used it to limit impervious cover site by site affecting all new development. There is even some effort to use this standard to regulate impervious cover on farms.

New Jersey municipalities are given the power to regulate the percentage of a lot or development area that may be occupied by structures and other surfaces impermeable to water and required to develop Stormwater Management Plans with impervious cover control and stream corridor protection ordinances to implement them

NJDEP has set the most limiting definition of "impervious cover" in the nation: material that does not allow the passage of water, including gravel they believe will always become compacted. And permeable paving, they maintain, will never receive the maintenance required to keep it permeable. This must change if New Jersey is ever to use the latest "green infrastructure technology" that is saving so much money while benefiting the environment in states like NY and PA.

New Jersey agriculture and even preserved farms become subject to limits on impervious cover for reasons other than stormwater control or aquifer recharge. These tend to restrict land coverage on farms at levels far below that needed for the future viability of farming. Municipalities are acting to limit coverage because of the fears of residential neighbors about water quality and reduction of residential land values. This has led to accusations against greenhouse agriculture as being a form of industry undeserving of any consideration as agriculture. Mandated low impervious cover percentages also could limit the type of farming to "horses and hay" or open fields without any of the often necessary farm buildings.

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Research by water resource specialists at the NJ Agricultural Experiment Station shows that not all stormwater runoff causes degradation of water quality in streams, ponds, and other water bodies. If the devices that collect stormwater are disconnected (don't collect stormwater through pipes for ultimate discharge in a water body) and are allowed to discharge over land areas where the water can be absorbed by vegetation or made to recharge groundwater, a strict impervious cover limit is unnecessary. Furthermore, if this stormwater solution is denied, water quality could be reduced and recharge made impossible. Farms are likely sites for such disconnected stormwater management and therefore should not be arbitrarily limited in the amount of impervious cover.

New Jersey Farm Bureau should work on this issue to meet both the needs of New Jersey agriculture and the legitimate concerns of municipalities. Municipal officials must be made to understand that there is a distinct difference between connected and disconnected stormwater devices with added water quality advantages in the latter. In proposing lot coverage ordinances affecting farmland they must consider the following strategies:

- Identify and encourage the maximum use of the whole farm to manage the stormwater created by roofs, roads, and other impervious surfaces while putting no strict limit on impervious cover.
- create trade-offs between site impervious cover and the many water recharge opportunities on farms.
- encourage farmers to develop a conservation plan and obtain site planning assistance from the USDA-NRCS to deal with water quality and quantity
- create ordinances that allow for the development of site-specific rules that take into account the needs of each unique location – not the imposition of an arbitrary percentage of allowable cover.
- mitigate any objectionable visual aspects of farm buildings or structures through careful sighting and landscape buffering.
- consider the Right to Farm and AMP process as they apply to the construction of agricultural structures.
- use the trigger process mandated in the Highlands Act: triggers for increasing impervious cover on farms that sends landowners to the NRCS for conservation plans that will include stormwater management.

The SADC is currently evaluating rules to impose impervious cover limits on preserved farms because of conditions attached to federal farmland preservation monies and the passage of state legislation.

Municipalities must recognize that farms needing increased impervious cover to develop farm buildings such as greenhouses, livestock barns, equine arenas, indoor aquaculture facilities or alternative energy sources. Properly designed, these sites can also be a significant source of groundwater recharge. Stormwater management and recharge can both be achieved on farms through this process.

Farm Bureau shall:

- Continue to review and comment on the SADC recommendations on how to deal with impervious cover limitations so that today's landowners do not tie the hands of future farmland owners.

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- Ensure that municipalities and the SADC uses the two Highlands triggers (3% and 9% additional impervious cover) for decisions about impervious cover on preserved farms instead of the NRCS 2% limit total for federal farmland preservation monies.
- Ensure that the SADC and municipalities use the Highlands definition of “agricultural impervious cover” that better accommodates real farm conditions.
- Work with state agencies and groups to broaden (less restrictive) DEP’s definition of impervious cover. Farm Bureau should strongly oppose use of the DEP definition that considers even gravel an impermeable surface.
- Educate municipal officials, regulators, and landowners about the findings of the Rutgers research that provide a more reasonable way to quantify and manage impervious cover on farms: defining stormwater as connected to water bodies and disconnected\_ so that land and vegetation can absorb and/or improve the quality of stormwater.
- Prevent imposition of any absolute cap, using instead trigger percentages that enable the farmer to engage in a site-specific method to set limits in conjunction with the appropriate conservation plan and management practices.
- Support policies that have less restrictive impervious cover limits for agricultural buildings, allowing for a higher percent coverage than other uses while recognizing a farm’s potential for groundwater recharge when stormwater is managed by appropriate design.

### **INTEGRATED PEST MANAGEMENT (IPM) FUNDING**

Rutgers Cooperative Research and Extension (RCE) has delivered Integrated Pest Management (IPM) trapping and scouting services and educational programs to farmers statewide for over 35 years.

The IPM programs have helped farmers to improve pest management for crops in many ways. Precisely timed pesticide applications are made when economic thresholds are reached rather than spraying on a regular schedule; improving control of the target pest and saving farmers unnecessary spray applications, time, and money. Control recommendations through the RCE IPM program have allowed farmers to choose more environmentally friendly control measures, such as mating disruption tactics, insecticides that are pest specific and that do not harm beneficial insects, trap crops, and other sound options for pest control. Additionally, IPM programs have assisted with reduction of pest resistance to certain pesticides, minimize pesticide use, minimize production cost, prevent wrongful use of pesticides, protect New Jersey food supply from foreign insects and disease, protect farm workers and children from pesticide exposure, improve environmental quality, reduce non-point source pollution, maintain export markets for New Jersey produce, and improve food quality through farmers being educated on alternatives to traditional pesticide use, as well as the proper use of low risk pesticides and fertilizers. This highly integrated program uses information gathered throughout the state once a week, or for some crops twice weekly, during the growing season, as well as from neighboring states. It brings the latest insect and disease forecasts and recommendations to growers who wish to participate in the RCE IPM programs and to all growers through the RCE Plant and Pest Advisory weekly newsletters and RCE website. Therefore, the information generated by this program benefits all New Jersey Farmers the general public and the total environment in our state. Farmers need the most up to date information and technologies to produce high yielding, high quality crops and IPM is an excellent tool to accomplish this goal.

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Budget cuts to the New Jersey Agricultural Experiment Station (NJAES) have jeopardized the future of the RCE IPM programs and services to farmers. New Jersey Farm Bureau recognizes the tremendous benefits IPM brings to agricultural production and the environment. New Jersey Farm Bureau supports the continuation of this program with its current delivery and needed staff to accomplish this and expansion of RCE administered IPM programs to the farmers of New Jersey. New Jersey Farm Bureau shall work cooperatively with RCE, agricultural producers and the state legislature to develop a permanent funding source for this valuable program.

New Jersey Farm Bureau recommends that RCE include IPM functions in more county extension positions which are jointly funded by local, county and Rutgers state funds. This recognizes that historically, extension work is strongest when the funding partnership is used to support programs delivered at the county level.

The scope of the IPM program is such that it requires knowledge, resources and time that make farmers unable to adopt these practices on their own. Putting the total responsibility of this highly technical program on our already overburdened county extension offices is unrealistic to expect the program to function effectively as in the past.

New Jersey Farm Bureau recommends that IPM be reauthorized as an annual line item of \$500,000 in funding to NJAES/RCE.

New Jersey Farm Bureau shall continue to develop a public relations campaign to garner public support for continuing this program, with news releases that include talking points on all the merits and benefits of the IPM program that helps keep the state's environment safer.

### **STINK BUGS**

Instances of BMSB related crop damage are becoming more common on New Jersey farms with significant damage and losses reported for various commodities. Current trends indicate that populations of BMSB *Halyomorpha halys* (brown marmorated stink bug) are expected to increase. As such, it is essential that action continue to curb the prevalence of this species.

In September, 2010, a bipartisan coalition of Members of Congress sent a letter to both USDA and EPA urging immediate action to limit damage to American farmers from the aforementioned stink bug species. Specifically, the coalition asked that "...that EPA evaluate existing plant protection tools and facilitate collaboration amongst the various federal research agencies, universities and private companies to ultimately facilitate the registration and/or emergency use of effective pesticides."

In response to the letter, USDA has already taken steps to reclassify the BMSB as a regulated pest. Once the reclassification process is complete, USDA APHIS has indicated that it will work with EPA to ensure that farmers are able to spray pesticides found to be effective at limiting damage to crops attacked by the stink bug during the upcoming growing season under Section 18 of the Federal Insecticide Rodenticide and Fungicide Act (FIFRA). Section 18 authorizes EPA to allow an unregistered use of a pesticide for a limited time if EPA determines that an emergency condition exists.

Additionally, EPA officials have already agreed to take preliminary actions in anticipation of receipt this Section 18 request from USDA-APHIS to facilitate its swift implementation.

While these coordinated efforts at the federal level are essential, equally important is adequate funding for stink bug research. Currently, research on the best means of managing stink bug populations and limiting stink bug-related damage on farms is being conducted.

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Therefore, NJFB should:

- Urge New Jersey's Congressional Delegation to support the efforts of the aforementioned coalition that pushing for action by USDA and EPA.
- Encourage the coordinated efforts of USDA and EPA to ensure that the reclassification process and subsequent coverage of BMSB-related insecticide applications under Section 18 of FIFRA occur in a timely manner.
- Encourage the NJAES/RCE to develop short-term solutions to effectively monitor and control the BMSB
- Work to secure additional funding for NJAES/RCE to be used for research on the best methods for limiting BMSB damage on New Jersey farms.
- Work to ensure that current crop insurance programs provide adequate coverage for damage due to the BMSB (written agreements will need to be implemented for NJ crops that don't have an RMA insurance program)

### **NEW JERSEY AGRICULTURAL EXPERIMENT STATION (NJAES) AND THE COMMITMENT TO PRODUCTION AGRICULTURE**

The New Jersey agricultural community is faced with a multitude of challenges that threaten its viability and sustainability. These include increased land use regulation, raising production costs, right to farm issues, water quality concerns, wildlife damage, and rising taxes. Unexploited market opportunities and limited access to innovations that would enhance prosperity, stewardship potential and compatibility with other land uses also severely impact sustainability and viability. Given the impacts and public benefits of the agricultural and food system complex, not only in rural areas but also in the state's urban and suburban communities as well, these constraints impinge upon assuring food security, nutrition and health, water quality and supply, environmental sustainability, economic development and quality of life in the Garden State.

For the past several budget cycles the NJAES budget has been significantly decreased both from the state government and the federal government. Meeting increasing operational costs has meant less funding for programs and research. Funding for production agriculture has seen drastic losses and outlying research and extension stations are in constant danger of losing capacity to be productive because of budget limitations.

Additionally, NJAES ability to support production agriculture has been decreasing as agricultural agents and specialists have retired and replacements have not been hired. In the case of specialists, agents have been pressured by NJAES administration to take over the research responsibilities of the missing specialists. Yet agents often have not been trained as researchers nor do they have the support personnel that usually is a component of a specialist's research program (a technician). Agents must apply for competitive grants to fund the research. This takes time away from the Agent's fundamental extension outreach educational program so there is less time for agents to make farm visits and keep abreast of what is happening in the field. Support has been weakened further by the hiring of program associates or program coordinators (with lesser degree requirements) in the place of tenure track positions. The net effect is the weakening of the unique Land Grant research and extension program that has historically allowed great agricultural production efficiencies to take place keeping production ahead of population growth and providing for a better standard of living for society as a whole.

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There are applied research areas which were covered by specialists in the past and are not covered now; yet are sorely needed by production agriculture. There have been shifts in personnel where a highly effective Extension specialist has retired and a replacement has not stepped up to address industry needs. All of this has been done under the shadow of never ending budget cuts, but support for production agriculture has suffered cuts far worse than other sectors of the Land Grant System while NJAES continues to expand service to other areas further diluting the scarce funds for production agriculture research and extension.

Exacerbating the past cuts are the current and the expected retirements of County Agents and Extension Specialists in the next few years. A significant number of retirements without hiring replacements will further negatively impact the delivery of critical agricultural programs across the state.

Working together, the New Jersey Farm Bureau, County Boards of Agriculture of New Jersey, the State Board of Agriculture and the NJAES Board of Managers completed an assessment of the needs of the agriculture industry in New Jersey. The results were submitted to the administrators at NJAES/SEBS in a document titled, Annual Assessment of the Needs of Production Agriculture In New Jersey. Farm Bureau shall continue to urge the administration at NJAES/SEBS to act in an urgent and timely manner to merge this assessment done by the agriculture community with their own strategic plan for filling faculty positions (agents and specialists). This plan is currently being developed by the faculty in the department of Agricultural and Resource Management to enable the continued delivery of quality programming; and to develop new programs as identified by new and existing stakeholders in agriculture and natural resources. This plan must incorporate a balance between maintaining tenure track agricultural agents that deliver an educational program to the agricultural community based upon the applied research and recommendations of qualified specialists with sufficient specialists to meet the applied research needs of the agricultural community. Farm Bureau must emphasize to Rutgers University, the NJAES and the New Jersey state government that support for production agriculture must be improved and maintained if the agricultural industry is to remain viable.

Rutgers Cooperative Extension faculty and staff have worked hard to secure millions in extramural grants, contracts and gifts in the past fiscal years. This kind of funding helps, but it does not provide for the stability of funding required for a program of excellence that is sorely needed in New Jersey today. Most of the innovative technologies adapted by farmers that have led to the production efficiencies of today came from the research and extension efforts of the Land Grant System. One farmer feeds more than 100 people today, but the farm population continues to decrease as the population continues to increase. How are we to feed future populations if the genius of our Land Grant system is destroyed subtly by undermining the academic rigors of our research and extension staff? Neither the private sector nor government bureaucracies have begun to achieve what the Land Grant system achieved in the United States.

Component parts of the New Jersey Agricultural Experiment Station, including the Rutgers Food Innovation Center, the Rutgers Equine Science Center, the New Jersey Aquaculture Innovation Center, Rutgers Agricultural and Extension Center at Bridgeton, the Snyder Farm, the Marucci Blueberry Cranberry Research Center, the Fruit and Ornamental Research and Extension Center at Cream Ridge, Adelphia Plant Science Research & Extension Center and the Rutgers

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EcoComplex contribute much to the NJAES research and extension mission. Adequate funding is absolutely necessary for these component parts of the NJAES system to meet the needs of production agriculture.

New Jersey Farm Bureau should work now with the Governor and the legislature to restore funding for production agricultural research and extension that addresses the needs as outlined in the aforementioned document, Annual Assessment of the Needs of Production Agriculture in New Jersey.

### **RUTGERS BOARD OF MANAGERS**

The Board of Managers serves as a two-way communications link for conveying information between the Rutgers New Jersey Agricultural Experiment Station (NJAES) and the agricultural community through the County Boards of Agriculture. Representatives from each County Board of Agriculture ensure grassroots input from the agricultural community to the NJAES to help shepherd our states land grant institute. The board also serves as the advocate for the experiment station, and provides advice to the Executive Dean and Director of the experiment station on issues that concern the programs of the experiment station including RCE. The Board of Managers consists of a representative from each county board of agriculture; the president of the university, the director of NJAES and the NJ state secretary of agriculture as ex officio members; and a six-member statewide advisory committee.

The New Jersey Farm Bureau supports the Board of Managers in this advisory role and urges the County Board of Agriculture representatives to fully partake in the responsibilities of the Board of Managers, to maintain the benefits for agriculture from this longstanding relationship. New Jersey Farm Bureau calls on the NJAES Executive Dean and his staff to aggressively engage the RU BOM to more fully utilize the potential of the Board of Managers to provide meaningful substantive input in its advisory role.

The result of a comprehensive effort to inform all stakeholders regarding the needs of agriculture, that can be addressed by NJAES/SEBS, a document titled Annual Assessment – The Needs of Production Agriculture in New Jersey was adopted.

NJFB urges the Bd of Managers to review the Annual Assessment yearly, and identify the NJAES's response to the previous years' input. Changes and adjustments need to be defined and incorporated into each successive year's Annual Assessment.

The Board of Managers shall review any department of Rutgers Cooperative Extension and specialists performance when needs, deficiencies, or other concerns are identified.

NJFB, in the strongest terms, encourages all parties involved to restore vital aspects of Board of Managers involvement in the actual functioning and management of RCE and the NJAES.

To ensure that the future of agriculture and food production in New Jersey remains viable and thriving, NJFB will work to seek legislation to strengthen the role of the Board of Managers to include general oversight, acting as a board of directors.

We expect the BOM and the NJAES/SEBS administration to establish a protocol that outlines the parameters to ensure that both participate in open and honest discussion and evaluation of

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every facet of concern including and not limited to policy, staffing, programs, performance, budget and expectations.

This will ensure that the NJAES and Rutgers develops a relevant plan for the future of comprehensive and professional agricultural research and extension services.

### **FARM MANAGEMENT/TRAINING MEETINGS**

New Jersey farmers continue to face new and challenging circumstances. One of the ways New Jersey Farm Bureau will assist its members in dealing with these challenges is by developing, sponsoring and promoting educational and training programs.

The Garden State Re-Engineering Initiative started as a pilot project for dairy management improvement, and grew into a program that could assist producers of all commodities. Elements of it included: financial planning and analysis software, small group workshops and one-on-one consultations, evaluation of agronomic practices, review of enterprise and operational alternatives, as well as consideration of a varied set of implementation strategies. Funding for this creative farm management training program has been eliminated, causing the program as it previously existed to be discontinued. NJFB shall work with RCE, NJDA and legislators to find new sources of funding for this innovative training program.

Electricity costs for farms continue to be a major factor in cost of farm production. Some savings may be found simply by careful review of current energy use and the electricity plan. Farm Bureau shall continue to work with Rutgers Cooperative Extension personnel to develop ongoing training programs, to help educate farmers about how they can find areas of potential savings in their energy use. New Jersey Farm Bureau shall also work with the SADC to simplify and expedite the process to increase alternative sources of energy on preserved farms.

Farm Bureau has also been awarded a USDA Specialty Crop Grant that will be used to fund seminars to help educate farmers about direct marketing opportunities. Educational seminars will take place in early 2012.

### **INCUBATOR PROGRAMS**

NJFB recognizes the fact that the average farmer is now 57 years old. In an effort to recruit people into the agricultural industry, it needs to support programs that will train new potential farmers (young & old) to secure the future of our agricultural community. The Farm Bureau will encourage farmers and other agricultural institutions, both profit and not-for-profit, to engage in incubator programs that employ interns to learn the business of farming. Farm Bureau will support programs that follow models which include economic business plan modeling and provide continuing training and consultation to assure the success of the interns as they endeavor to secure their own farms.

### **TRANSFER OF DEVELOPMENT RIGHTS (TDR)**

The planning concept Transfer of Development Rights (TDR) continues to be an option for municipalities who want to manage growth yet provide equity for their landowners. Four TDR programs have been developed in New Jersey in the past, two of which are still in the process of buying credits for development, the Pinelands Development Credit program and the Chesterfield Township Burlington County TDR Plan. One, for Woolwich Township, Gloucester Co, has met all the conditions and received all approvals but no credits have been bought, sold,

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or traded despite expenditure of over \$300,000 for TDR planning. The hold-ups have been approvals by NJDEP for water and sewer and the NJDOT for the planning of Route 322.

In March of 2004 the Governor signed the first state wide TDR legislation. New Jersey Farm Bureau worked extensively with the bill sponsors, administration staff, and other constituent groups to make sure that any TDR legislation would be built upon the successes learned in the Burlington County TDR programs. The final statute has safeguards built in to protect landowner equity when establishing a TDR program on a municipal or regional level. A successful TDR program is one where all parties buy in and there are actual transfers made that result in the appropriate development.

Although intended to inspire other communities to develop TDR programs, the experience of Woolwich Township, New Jersey could not be more discouraging. The program must by law be analyzed in October 2011 as to whether any actual transfers have been accomplished but cannot be canceled for lack of progress until 2014. The downturn in the economy and lack of development pressure seems to have provided the developers, who once were interested, a way to escape. But the long delay caused by the two state agencies meant that the town lost the window of opportunity to create some development and thereby purchase credits from the 4000 acre Sending Area.

The landowners of the 4000A of the Sending Area are in the very situation the statewide TDR Act tried to prevent: downzoned property supposedly compensated by TDR credits and no apparent market for them in sight. They will be watching closely as the anniversaries arrive, with their review of the whole program's progress.

The Highlands Development Credit Bank with \$10 million in start-up funds, has held 3 rounds of applications to sell Highlands Development Credits to the Bank and a fourth round will be decided in February 2012. Because few landowners could establish the extenuating financial circumstances to be eligible for purchase offers, the criteria for consideration were made broader. See the Highlands policy for more details.

Frustration among planners has now prompted two efforts to change the Statewide TDR Act:

- The Legislature approved a change to the TDR Act that makes it possible to transfer credits all around New Jersey with special benefits for buying credits in either the Pinelands or Highlands. Will these changes encourage municipalities to use this growth management tool? What effect will this have on the existing TDR programs?
- A TDR study task force including Farm Bureau and the Department of Agriculture has analyzed why the program has been so difficult to achieve and in particular, what is discouraging municipalities from using this equity protection tool. A final report contains recommendations to streamline the process and provide more powerful incentives for municipalities to develop TDR programs. NJ Farm Bureau participated to prevent the development of recommendations that would weaken measures in the TDR Act supposed to protect the Sending Area landowners from bearing the total burden of the community's growth management strategy. The recommendations of this report are noted with interest in the draft State Strategic Plan. The next step will be asking the Legislature for changes in the Municipal Land Use Law to implement the changes.

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Because of these potential actions to change the TDR Act and the fact that professional planners still see TDR as one of the best tools to allow some growth while creating some compensation for landowners, Farm Bureau members must ensure that if such a tool is being considered in their town, the following principles apply: It is important that they be established again to make Farm Bureau's past actions and support for TDR clear to those who might want changes made.

- TDR must be a growth strategy as much as a preservation strategy. There must be a demonstrated balance between the land values in the protected sending area and the development opportunities in the receiving area.
- There must be participation in the planning process by all parties affected, especially landowners from the potential sending area. If there is no buy-in by all parties, there will be no transfers.
- Ideally, transfers should be within a municipality, or between adjacent municipalities or counties. There must be a concrete connection between the land values to be preserved in the sending areas and the amount of development required in receiving areas.
- A mandatory TDR program would ~~The statute~~ requires meeting the requirements of the TDR ACT designed to protect landowners from being put into a Sending Area with no hope that there will ever be a market for their credits. This includes review by the CADB and the County Planning Board of any TDR program that involves farmland, one of the most important safeguards for landowners.
- The legislation provides for both voluntary and mandatory programs. Whether mandatory or voluntary, a municipality must demonstrate its willingness to amend its water supply and wastewater plans to provide adequate infrastructure for the receiving areas if it is not already available.
- All levels of government must cooperate in developing and permitting the TDR Program, especially in providing for the critical infrastructure that the TDR Act requires up front, before lines are drawn around the Sending Area and land is severely downzone. Municipalities that want to create a TDR program must receive priority attention from state agencies (especially the DEP), the State Planning Commission the Office of Smart Growth, and COAH as well as the State TDR Bank grants to do the planning. They should have priority, once the program is designed and approved, for infrastructure bond grants and other supportive programs.
- The deed restriction associated with any and all TDR programs must address only the sale of the development right and not include other onerous restrictions that impinge on the property owners' privacy, farm management and other use, and enjoyment of the now undevelopable land.
- TDR programs must be used only to compensate for the loss/sale of development rights and not be used for other ancillary purposes. While resource protection and other environmental goals may be laudable, these should be compensated from a separate funding source. TDR programs must not be diluted by other environmental purposes and must be directed solely at compensating for lost or sold development rights.

Many of these principles were observed in the final recommendations of the TDR Task Force and some changes will both streamline the process and make it more feasible for municipalities. For example, the Real Estate Market Analysis and report has been the most time-consuming,

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therefore the most expensive part of the TDR planning process. Results come to the municipality too late in the planning process if the TDR Act is followed. The Task Force recommends requiring a Preliminary Real Estate Market analysis to be part of all the very early planning discussions to save wasted time by developing a scheme that balances the value of the land to be preserved with the estimated value of potential development in a Receiving Area. The final report with detailed back-up would be part of the adoption of the completed TDR ordinance.

Farm Bureau believes enabling more use of density transfer from contiguous or noncontiguous parcels should be the first priority in working with the Legislature on statutory changes and assisted the Task Force in developing proposed rule changes to clarify how to create contiguous and noncontiguous clusters.

Another recommendation supported by Farm Bureau was that state agencies be involved early in the process and commit to issuing their permits before the process goes very far. Farm Bureau would like to see this made a high priority before the TDR Act is amended because without this cooperation the changes will make no difference in the use of TDR.

The emphasis in the report, however, is on changes to the municipal TDR requirements that would:

1. Make both voluntary and mandatory TDRs possible. Mandatory TDRs must continue to conform to the TDR Act as it exists now.
2. Voluntary TDRs would have new provisions and requirements to streamline the process and provide more incentives to municipalities to undergo development using this equity protection tool.

In the coming year, Farm Bureau shall:

- Work with the Task Force and the Legislature to make the changes necessary in the TDR statute and rules to make density transfers a more attractive land development option to towns and a way to compensate landowners for development value lost through other planning mechanisms.
- Continue to advocate a pilot project to test the voluntary TDR option before extending the ability to develop them statewide. This testing was a very critical step in developing TDR programs when at first only Burlington County municipalities could use this tool.
- Analyze any TDR legislation proposed by the Legislature or proposed rule changes to implement the recommendations of the TDR Task Force and oppose any measures that might undo the efforts made to protect Sending Area landowners from complete wipe-out.
- Assist landowners in Woolwich in preparing to challenge the continuance of the whole program in the 3<sup>rd</sup> year review after October 2011. Assist Woolwich landowners by giving strong encouragement to the NJDEP, and NJDOT, to grant the necessary approvals, and complete the necessary plans and projects that still remain as obstacles to actual sale of credits in that community.
- Monitor the development and progress of the Highlands TDR program, especially the actions of the Highlands TDR Bank and encourage all steps to develop Receiving Areas to make a market for credits.

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- Monitor any further TDR pilot projects and any other TDR projects in agricultural communities to insist that the steps to protect landowners be taken.
- Serve as a conduit for bringing landowners, municipal and government officials together to discuss the merits of TDR in their community.
- Make sure that the land values (as reflected in the number of credits) for each property in the sending area are calculated fairly and equitably. Farm Bureau should ensure that municipalities understand that the intent of the TDR statute was not an invitation to downzone first, then try to make TDR work.

### **STATE STRATEGIC GROWTH PLAN**

The third reiteration of the State Development and Redevelopment Plan (SDRP) now called the State Strategic Growth Plan (SSP) is yet to be released to the public in its final form. The four public hearings produced many suggestions that Office of Planning Advocacy staff reports that they are incorporating into the first 40-page draft. This document ~~puts~~ will continue its emphasis on planning for jobs and growth especially in areas of the state where there is already water and sewer infrastructure. It also will emphasize the concept of a strategic preservation area that would build on the preservation work of both the SADC and Green Acres.

If adopted and approved by the public through another cross acceptance process, the SSP will abolish the State Plan map with its planning areas, used too often for regulatory purposes and the overly complex, time-consuming and expensive municipal Plan Endorsement process. An Executive Order replaces the Plan Implementation Committee with a State government Steering Committee to line up state agencies in support of the visions for NJ's economic future described in the draft plan. The NJ Department of Agriculture will be an important member of this Committee to be part of the Lt. Governor's Office of Planning Advocacy housed in the NJ Department of State.

On the plus side, this draft Plan presents the most positive vision of the economic future for the agricultural industry in the Garden State yet expressed in the State Development and Redevelopment Plan. Development and implementation of new policies to move towards this vision will depend upon leadership from the Governor, his Administration, and new members to be appointed to the State Planning Commission.

Some areas of concern remain and hopefully are resolved in the final draft:

1. The SSP must contain language like the SDRP Equity Policy that was added with so much effort to the first State Plan and strongly defended in succeeding versions. Farm Bureau with the NJDA was successful in encouraging the Office of Planning Advocacy (OPA) to restore the strength and meaning of this key policy. The final draft language on this issue is critical.
2. While NJ agriculture is described as an "emerging economic sector" promising to grow, the draft Plan's vision is too limited in its definition of what is included in NJ agriculture. The Plan must encourage all types and scales of farming and be flexible enough to cover the inevitable changes in the future.

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3. There is an opportunity in this plan to make a strong connection between economic growth and viability and agriculture, between growth in urban and suburban and rural areas, to see this recognized by all state agencies (such as the Economic Development Authority) so that increasing agricultural economic viability is made a part of the efforts to bring more jobs and growth to the state. “Sustainable agriculture” has always meant economic viability and profitable farm families, not just environmental sustainability to NJ farmers.
4. The concept of Areas for Agricultural Industry Growth, a new definition added to the State Plan glossary: meaning those areas designed to preserve agriculture or its support industries should be a key tool in the Strategic Growth Plan that is to identify viable regions for development. This concept should be reflected in municipal master and county farmland preservation plans and land development plans in order to streamline the process of obtaining any required state agency permits. It is not clear what the definition of these areas will mean for an individual farm, for a municipality or county, or for a prospective regional Agricultural Enterprise District.
5. The emphasis in this Plan will be on aligning all the agencies of State government behind the same vision of growth and development, of resource protection, in order to help local governments move in the same direction. There will no longer be a Plan Endorsement process that proved so difficult and expensive that less than 20 municipalities actually achieved it in the 20 years the SDRP was in effect.
6. State agencies will be asked to prepare their own Strategic Plans to implement the visions of this Plan and to direct as many as possible of their funding programs toward achieving the goals outlined in the Plan. The NJDA has a good start with their already developed Agricultural Smart Growth Plan. It may need updating to be a strong part of the united state agency efforts.

### Farm Bureau should:

1. Ensure that the NJ Department of Agriculture remains as a full member of the State Planning Commission to continue to be at the table for land use issues that affect agriculture. Support the NJDA in assembling the resources and staff to implement the State Plan favorably for agriculture to ensure that the Agricultural Smart Growth Plan as updated to meet the goals of this Plan is implemented by state agencies and municipalities. NJFB commends the NJDA staff and the State Board for their ongoing efforts in representing the needs of the agriculture industry in the state planning process.
2. Carefully review the final Strategic Growth Plan document when released for public comment, summarize it for Farm Bureau members, and continue to comment upon the aspects favorable to agricultural viability and those that hinder it.
3. Oppose also the “identification” of rigidly determined areas for agricultural land use and growth that might take on the character of limited agricultural zoning. NJ agriculture is too varied and located everywhere statewide to benefit from any consolidation in “large contiguous tracts of farmland”.

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4. Be ready to review and comment upon legislative efforts to make changes in the State Planning Act and regulations to lend support to those that further strengthen its support of the agricultural industry.
5. Find opportunities to implement the Strategic Growth Plan's direction to counties and municipalities to consider NJ agriculture as a resource rather than a nuisance by educating municipal officials and professional planners about the benefits of planning FOR agriculture and the industry's viability instead of seeming to thwart farm enterprises that seek to become more profitable.
6. Investigate data sources and research methods to quantify the contributions NJ agriculture makes now to the economy and "natural capital" of the state so that its true contribution to the state's economic and quality of life can be spotlighted. Find new data layers that the State, counties or municipalities must use along with the dozens of environmental factors to identify economic enterprises worthy of support instead of continuing to ignore all economic information in their master plans and land use ordinances.
7. Support the NJDA Smart Growth Plan for Agriculture with its tools and protection for farmers in land use issues and work to ensure that there are adequate staff and resources within NJDA, Rutgers Cooperative Extension, the New Jersey Agriculture Experiment Station and the SADC to achieve the Agriculture Smart Growth Plan's goals.
8. Educate Farm Bureau members about the benefits of agricultural development alternatives, like the one developed by James Miller for East Amwell that includes innovative conservation planning and the use of onsite wastewater treatment facilities. This accepts new development while protecting farm equity unlike any other form of development.
9. Ensure that all members understand and use the Equity Policy of the State Plan to forestall efforts by towns to downzone farmland by referring them to the New Jersey Appellate Court decision in Bailes vs. East Brunswick.

### **LAND USE REGULATION**

Agricultural and forested lands continue to be the largest areas of remaining undeveloped land in the state that pay taxes while providing food and fiber products to New Jersey's economy. In order to insure landowners have the freedom and flexibility to use, acquire, and preserve the land, New Jersey Farm Bureau has been active in promoting the need for balanced land use regulation. This balance includes protecting farmland and open spaces, environmental integrity, agricultural economic viability, and landowner equity.

New Jersey municipalities have the power under the Municipal Land Use Law (MLUL) to plan and regulate the type and extent of land uses on private property in the name of public health, safety, and welfare. Many municipalities are using their zoning power for much more including: farmland and open space preservation, preservation of rural character, and water quality improvement, and limiting population and growth.

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All landowners should be aware that land use planning at any level is now based on aerial photography mapping (GIS) taken as of a certain point in time. The technology allows creation of multiple map layers of data and identification of even the smallest detail down to around 1 square yard. So there is no longer 1 map to review to see what planning and environmental regulations apply to a property.

GIS mapping is only as good as the data of the aerial photography and agencies seem to make no effort to visit a site to test whether the assumptions made to display the data are correct. Agencies do not correct the data when applicants prove the mapping wrong. Therefore it is always in order to ask questions before assuming that the agency's interpretation of a land use in question is correct.

Counties and municipalities have been required to develop wastewater management plans to conform to new DEP environmental protection regulations. Future development will depend upon whether there is existing capacity or new infrastructure planned and the absence of any vital environmental resources. New maps of Sewer Service Areas showing where service exists today and where they want to plan for more capacity will, if accepted by DEP, direct growth and therefore zoning for the near future. These plans could local zoning codes in ways that would severely restrict land uses in rural areas while opening up new development opportunities in areas with water and sewer service capability.

Since a municipality's or a site's capacity for handling wastewater continues to be measured by its capacity to dilute nitrogen by means of outdated technology such as septic systems, this will probably result in much larger lot sizes and reduced development density, a major change in the development potential of farmland. Municipal acceptance of clustering and onsite community wastewater systems are the landowner's only hope for development density that might approach what was in place before these plans go into effect.

Research into New Jersey municipal planning practices shows that, even in areas where farmland preservation has been strongly supported for decades, municipalities do not use their planning, zoning, and other regulatory powers to support a vision of strong, profitable agricultural businesses. Municipal documents talk about supporting agriculture, preserving farmland, and fostering agricultural viability, but other sections of the master plan and township regulations often contradict these goals. There are model ordinances available on the NJDA website and at Farm Bureau that support the agricultural industry instead of hampering its viability. These can be used by municipalities to amend or create more effective and supportive regulation. The recently released new State Strategic Plan has a strong statement about municipalities considering agriculture an important resource rather than a nuisance.

Landowners in the Highlands should be alert to municipal or county planning in response to the Highlands Regional Master Plan (RMP). Most of the Highlands towns in both the Preservation and Planning Areas are working with the Highlands Council to conform to the Plan. The public has 2 chances to review and comment upon the land use changes: (1) when the HLC staff completes the review process and prepares to submit the new planning documents to the Council, and (2) when the changes to the municipal master plan and land use ordinance must be presented to the residents and either the Planning Board or Township Committee for formal adoption.

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New Jersey Farm Bureau should:

- Continue to urge its members to stay alert to land use planning changes in their municipality possibly coming with new wastewater management plans and the new State Strategic Plan and make sure they are in favor of the potential effects on their properties.
- Disseminate information to the general public about the negative impacts of down zoning on an ongoing basis.
- Encourage the farm community to seek positions on local land use boards, environmental commissions and other municipal and regional decision-making bodies in order to have input on land use and zoning issues that impact agriculture.
- Encourage all members to be ready to investigate or participate in municipal planning and zoning activities that may impact land values or the ability to conduct farming practices. The key points are during the master plan re-examination, master plan amendments, township committee passage of land use or police power ordinances such as those required by municipal stormwater management plans, and any municipal planning activities moving toward State Plan implementation or Highlands Plan Conformance.
- Encourage all members to participate in or monitor the actions of any municipal Agricultural Advisory Committee or to work to have the municipality create one to advise both the township committee and the planning board about land use planning and other regulation that effects agriculture. Find funding for the Agricultural Advisory Committee to review their master plans and ordinances to assess whether existing documents do support the agricultural industry.
- Reach out, with the NJDA, to professional planners, educating them about how they can improve farm viability and about the dynamic nature of New Jersey agriculture.
- Make a special effort to help Highlands farmland owners ensure that they receive the benefits outlined in the RMP to the maximum extent possible as their communities go through the Plan Conformance process.

### **MUNICIPAL DOWNZONING**

Counties and municipalities (and the DEP in Warren County) are working to complete required county and municipal wastewater management plans supposed to determine the actual build-out capacity of the area based on the number of septic systems the land can contain and still provide safely low levels of nitrates in ground water. Farm Bureau has taken the DEP to court challenging its methodology to develop a septic density number that determines the proper lot size. No other state has such strict acceptable levels of nitrates. Other assumptions are questionable as well, leading to capacity numbers much lower than they need be for public health.

The tool of choice to accomplish many municipal land use and environmental protection goals continues to be down zoning to create very large lots – 7, 10, 12, even 15 acres, in the name of Smart Growth and growth management. There is more and more evidence that this practice only makes large-lot sprawl the development form of choice. Rural character and environmental benefits as well as savings in the cost of municipal services (apart from school costs) are lost instead of encouraged.

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Many proponents of down zoning use the protection of water quality and quantity as rationale for their actions, often without scientific justification. Use of various models of ground water pollution such as the controversial nitrate dilution model can result in whatever lot size is desired if different numbers are entered into the model equation. This has enabled DEP and the Highlands Council to determine development densities in the Highlands as 1 unit per 25 acres in farmland and 1 unit per 88 acres in forested land. Farm Bureau challenged DEP in court on their lack of scientific basis for these arbitrary numbers and was successful in having the judge require more information from the DEP before making a decision.

The DEP, under the Christie Administration, promised to take a look at what Farm Bureau considers a purely political, unscientific use of the model and passed the question on to its new DEP Science Advisory Committee charged with studying a number of DEP rules cited by various stakeholders as ones that make growth and development difficult. The Committee report about the DEP Highlands rules seems to support many of New Jersey Farm Bureau's issues in the suit. At present DEP states that it is working on new rules that would reflect more sound science. But this may be low priority for the agency faced with amending and reissuing most of its major environmental regulation unless a way can be found to put the issue at the top of their work list. One way might be for the Highlands Council to urge DEP to speed up action on this change.

Farm Bureau must continue to assist its members in opposing these actions that have serious negative effects of land values, the primary asset of farm businesses. Farm Bureau should undertake a public information campaign regarding the protection of land values, equity and property rights. The agricultural community must work to make the general public understand the negative impacts down zoning have on both land values and the viability of the industry they seek to preserve as well as its result: large lot sprawl.

An important signal to landowners that they must be alert to potential down zoning is the town's entrance into the master plan re-examination process that must take place at least every 6 years. Since the master plan must be the basis for zoning changes, establishing a firm legal foundation for the zoning change would start with amendments to the current master plan document.

There may be times and places, however, where carefully designed growth management including larger lots and agricultural development clustering to protect land equity are a better way to enhance the viability of agriculture than smaller lots and a hands-off approach to development. Every study of what's needed for agricultural viability nationwide has contained strategies for directing inevitable growth into smaller, more marginal land areas so the best land can be protected for farming.

The New Jersey Farm Bureau will continue to strongly oppose downzoning and:

- Challenge the continued use of the nitrate dilution model whenever it's being used as a political tool and manipulated to produce whatever zoning is wanted.
- Continue to press DEP to make the necessary revisions in the use of the nitrate dilution model in the Highlands a top priority.
- Continue to advocate strongly for towns to use clustering or "conservation zoning" techniques to prevent very large lot zoning that eats up large tracts of the best farmland and destroys the community's rural character.

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- Disseminate information to the general public about the negative impacts of down zoning on an ongoing basis, including the results of the New Jersey Farm Bureau commissioned Clarion/Samuels Down zoning Study.
- Call upon all CADBs and the SADC to question severely or deny PIG (Planning Incentive Grant) applications that are submitted by municipalities that utilize down zoning without reasonable equity protection strategies, who fail to support the Right to Farm Act, or retard agricultural viability in other ways.
- Encourage the SADC to require an equity protection statement in any county or municipal agricultural preservation/retention master plan, as well as measures that demonstrate strong support for agriculture as a business.

### **COUNCIL ON AFFORDABLE HOUSING (COAH)**

COAH was established following the Mount Laurel decision to ensure that every community in the state addresses the need for affordable housing, be it low or moderate income housing. COAH creates the rules and standards by which municipalities plan for and build affordable housing. Currently in place is what are referred to as the third round rules.

On January 25, 2007, the New Jersey Appellate Court issued a decision on an appeal filed by the New Jersey builders and affordable housing advocates regarding COAH's third round rules. The Court affirmed many aspects of the rules, invalidated other parts, and remanded certain issues to COAH for rulemaking, to be completed within six months.

The court focused on three aspects of the council's rules, calculation of need, allocation of need and compliance mechanisms. As parts of the third round rule have been implemented we have begun to see impacts to farmers such as COAH fees for the construction of barns and storage structures on farms. Those structures are supposed to be exempt under the rules. In part as a result of the court decision the legislature passed a law in June setting the mandatory fee for COAH obligations at a fixed rate 2.5% of assessed value. The legislation created confusion over farm structures and the fees. The NJDA working with DCA resolved the conflict and DCA issued written instructions to municipalities to not charge the fees on agriculture structures on farms.

On June 29, 2011, the Governor issued Reorganization Plan, No. 001-2011, which eliminated the 12-member Council on Affordable Housing effective August 29, 2011. The Reorganization Plan was the subject of litigation and the New Jersey Supreme Court has granted the State's petition for certification to consider the matter. The case presently is pending before the Supreme Court.

NJFB should continue to work on finding ways to have Ag labor housing count towards a town's COAH obligation, remove assessments for agriculture related structures, and provide for exemptions from fees for construction of farm family homes.

### **RAILS TO TRAILS INITIATIVES**

Counties and municipalities have developed greenway plans that cover many hundreds of acres along streams or adjacent to other public open space. In some instances, the purchase of development easements on a farm is contingent upon the landowner granting a conservation easement along any stream that is part of the county or municipal greenway system. This can happen without the extra compensation such a taking should warrant. It can create problems for the farmer in maintenance of drainage system outlets, trespass and vandalism, increased

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liability, unauthorized motorized vehicle access, setbacks from pesticide spraying, and even the farmer's access to his/her own fields.

Open space and recreation enthusiasts are advocating the conversion of abandoned railroad lines to active recreation trails. They envision horseback riding, hiking, bicycling and nature walks as a new use. Unfortunately, these plans have not considered the potential interference with adjoining farm operations.

Farm Bureau shall work to ensure that sufficient safeguards for agricultural uses can be demonstrated to the New Jersey Farm Bureau directors on a case-by-case basis for any projects that are proposed.

### **TRESPASS/VANDALISM**

Farming in the suburban/rural fringe areas of New Jersey continues to experience regular nuisance events from trespassing and vandalism. This pressure on agricultural operations is a preventable source of increased costs of production and is an unnecessary hassle for those farmers. The increased interest in the "Rails to Trails" program as well as the development of other new walking and horseback riding trails nearby or through active farmland is likely to increase the incidents of trespassing, littering, and vandalism, making this issue of even greater importance. These problems can otherwise negate some of the advantage for being in direct proximity to large retail market opportunities.

Because those who recklessly drive onto farm fields are not aware of on-site conditions, they sometimes get stuck in wet soil or simply abandon the vehicle on the farmland property. In such an event, the vehicle ought to be kept on the premises by the local police until the landowner has been notified, has the opportunity to assess any damage to the property and also has determined who is responsible for reimbursement of the damage. New Jersey Farm Bureau shall seek whatever rule change is appropriate to have this procedure adopted throughout the state. We urge that balloonists and all-terrain vehicles be included in the same laws as motor vehicles concerning trespass.

New Jersey Farm Bureau shall seek out support for legislation to strengthen the trespass law in New Jersey, and provide for both restitution and increased penalties in instances of farm vandalism. Farm Bureau shall seek stringent enforcement of these laws. New Jersey Farm Bureau also supports a legislative change to allow tenant farmers to file trespass complaints if his crop is put at risk.

New Jersey Farm Bureau supports more public education, and education of police and public officials in the form of brochures, billboard campaigns and/or booklets, regarding the consequences of trespassing and the theft and/or damage to crops. This would help promote a greater awareness in the public about the value of these crops to farmers and hence their importance in preserving a local source of food and scenic beauty.

Farm Bureau supports the concept of mandatory beverage container deposit legislation. Bottles and cans discarded along the roadside of farms is a costly nuisance to farmers. While the litter tax and clean-up program are in place, it is at best a partial remedy. Farm Bureau shall support the renewed efforts of conservationists to have this legislation passed.

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### **MANDATED CONSERVATION EASEMENT DEED RESTRICTIONS**

The SADC, the DEP, and municipalities are authorized by N.J.S.A. 13:1D-9 to formulate comprehensive policies for the conservation of natural resources, to promote environmental protection, and prevent pollution of the environment of the State, and are authorized by N.J.S.A. 13:8B-3 to acquire and enforce conservation restrictions. Even the smallest permit or other approval can be used to require the landowner to prevent use of the rest of the property through a conservation deed restriction.

Through these easements the public gains control of the use of thousands of privately owned and maintained acres at no cost. Each conservation easement specifies what is to be protected and often what methods are to be used. No changes can be made in perpetuity without permission of the owner of the easement and amendment of the deed. A governmental entity or a nonprofit owner of the easement may have the right to inspect the property at any time and monitor to ensure that the deed requirements are being met. The benefit goes to the public and the cost is fully borne by the landowner without compensation. Even an eminent domain taking is more equitable than this practice.

Some current examples of this confiscatory practice:

- The Pinelands Commission tries to attach further land use restrictions on landowners there, even trying to negate land use options on farmland enabled by the Pinelands Act of the 1970s.
- Landowners in the process of selling their development rights for farmland preservation report requirements from county or local government and even some nonprofits of further deed restrictions protecting natural resources or limiting farm options that are not appraised and compensated in the easement purchase transaction. Exactions of land for public trails is common in some counties. In New York State the landowner receives compensation for whatever land is protected for some limited use.
- The Highlands Development Credit (TDR) program, like other TDR programs in NJ, requires landowners who want certified credits to sell must put a deed restriction on the entire property. Farm Bureau and the NJ Department of Agriculture have spent many hours working with the Highlands Council and the Highlands TDR Bank Board on drafting the language of these documents to ensure that restrictions would be limited to rights that are compensated
- In its implementation of their Highlands rules, NJDEP continues to require other more comprehensive conservation easements as landowners come to it for exemptions and other approvals or even documentation that they are an exempt farm.

While some New Jersey landowners are beginning to make their cases in the courts about the inequity or even illegality of these policies, most landowners, it is feared, do not consider carefully what rights and actions they are signing away when faced with these 11<sup>th</sup> hour required deed restrictions. These restrictions govern farming and other uses of the property forever, no matter who may own the land. Two recent decisions should support landowners in refusing to agree to these extortions. In *Milgram v. Ginaldi*, the court agreed that a government cannot just require a landowner to preserve natural resources but must acquire them and pay fair market

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value. In another, *The New Jersey Shore Builders Association v. Township of Jackson*, the Appellate Division agreed that even the Municipal Land Use Law does not permit municipalities to condition site plan or subdivision approval on the reservation or common open space or recreational facilities. More challenges can be expected from around the state that could further strengthen Farm Bureau's case against use of this confiscatory policy.

In the coming year, Farm Bureau should:

1. Make Governor Christie's agency chiefs aware of the land use and land equity effects of this over-reaching practice. Landowners should not be forced by the need of a state government permit or approval to donate any future value of their property.
2. Work with the SADC to change the contents of their deeds of easement to be more like those used in New York State where the landowner receives an appraisal of and some compensation for all areas preserved for agriculture or natural resource protection
3. Urge all Farm Bureau members to be careful to read all the small print when receiving any action from a state or municipal agency and review it with their own attorney to make sure such a sacrifice of land use and value is necessary.
4. Survey members for their experiences with this type of exaction and collect examples of conservation easement deeds imposed without compensation.
5. Ask DEP, the SADC, nonprofit land conservation organizations for statistics on how much privately owned land is protected forever by these deed restrictions.
6. Seek legal opinion about how much legal support these easements could have and how to challenge the practice.
7. Use this information to develop guidance for Farm Bureau landowners about these conservation restrictions – their nature, their long-term effects, steps a landowner can take to avoid or change them. This could take the form of a section on the Farm Bureau web page, a guidance paper, and/or a future Update article.
8. Build an argument for legislation to outlaw this inequitable practice and find legislative support for a bill to deny state, county, local government agencies or nonprofits the ability to require conservation easements without compensation.
9. Report the findings of these activities to the Board of Directors in order to develop more action in the future.

### **FOOD SAFETY**

Food safety concerns remain an important issue to agricultural producers as more attention was given by the media to issues like salmonella poisoning and E. coli bacteria. A northeast state like New Jersey with a strong emphasis on fresh market produce and direct marketing to the general public of locally produced food cannot afford to be complacent on this issue. A rapid response to media inquiries by both NJDA and Farm Bureau must occur whenever a food safety issue arises.

The Produce Safety Task Force was formed at the end of 2006 after outbreaks of E. coli in California spinach impacted New Jersey growers. The Task Force's charge is to assist growers of fruits and vegetables in the state to adopt scientifically sound food safety protocols that will ensure safe produce in the market for the consumer. The emphasis is on small family farms. New Jersey Farm Bureau shall actively participate as a member of this council, representing the interests of its members.

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Food safety is a dynamic process with new research and information continually becoming available. This requires the industry to be updated throughout the year. Rutgers Cooperative Extension and NJDA work closely to provide the latest information to the industry through written material, workshops, websites, etc. Farm Bureau supports these efforts and encourages the continued funding of these efforts.

In addition to the Food Safety Task Force, The New Jersey Department of Agriculture, along with the United States Department of Agriculture, offers a voluntary farm auditing program that verifies that produce has been grown, harvested, packed and shipped in a safe and sanitary manner. New Jersey Farm Bureau encourages growers to participate in this voluntary program.

The New Jersey Farm Bureau should promote recognition and acceptance of uniform standards for third party audits. Some food retailers have demanded audits be done by specific companies and have decided not to accept certified audits performed by other entities. This increases the cost of third party audits to farmers while research has shown no demonstrable advantage of one audit over another.

New Jersey Farm Bureau shall seek to educate the various entities (ie: chain stores, brokers, shippers, etc.) requiring food safety audits to accept the “Harmonized Audits” that have been developed through a national dialog between the private and public sectors. Where possible, costs of third party audits should be totally or partially reimbursed to growers.

The Food Safety Modernization Act was signed into law January, 2011. This was the most significant change to food safety regulation since the United States Food and Drug Administration was established. This Act will result in mandatory food safety standards and audits for most fruit and vegetable operations in New Jersey. The Regulations required by the FSMA have yet to be published and remain under review by the Office of Management and Budget (OMB). There is currently no specific date available as to when the regulations will be released for comment. The NJFB will work with the NJDS Produce Safety Task Force and Rutgers to review the regulations when released and address any concerns that would impact New Jersey farmers.

New Jersey Farm Bureau will continue to represent agriculture as an industry advisor to the Office of Counter Terrorism. Farm Bureau will also work with our partners at Rutgers New Jersey Agriculture Experiment Station, the Food Policy Institute, the New Jersey Food Council as well as lead staff at the New Jersey Department of Agriculture on issues related to food safety, biosecurity and general animal health. NJFB must also work to keep our members informed of policy and practice changes as they relate to food and food security issues.

### **BIO-ENGINEERED FOODS**

American agricultural technology has provided the leadership in the adoption of these processes into the food production system. Farmers are significant stakeholders in that system.

Bio-engineered foods are now under assault from criticism directed at the consumer health effects, environmental impacts and ethics of using this technology. Opposition is strongest in Europe and is now expanding to both developed and developing countries around the world. Critics have seized upon the public relations tool of stigmatizing the food supply among

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consumers through the news media, which in turn has caused some major food processors and food retailers to run scared. Farmers face the risk of market disruption and interruption of trade opportunities and those disruptions are increasing as countries try to use GMO bans as a trade barrier tool.

Several California counties have passed regulations banning the planting and use of GMO crops there. It is important that sound science be used in establishing such regulations and that they be done as part of a national policy and not on a state or regional level.

Farmers are vulnerable to economic harm if the debate over bio-engineered products is won by those who have hidden agendas. Europeans seeking advantage in blocking food imports and anti-technology alarmists will overwhelm the political, regulatory and consumer markets with scare tactics unless their commentaries are confronted. At the same time, farmer interests are better served if they remain distinct from corporate entities that own the technology. It is still unclear whether the benefits of bio-engineering in agriculture accrue to farmers if the fundamental relationship between the producer and the input companies results in more economic concentration. Not only might farmers lose freedom of choice among suppliers and buyers, but their role over time might evolve into being more of a manager and less as an independent business owner.

New Jersey Farm Bureau shall become proactive in the debate over bio-engineered foods. Grain producers for example are faced with a dramatic loss of market potentially without the intervention of credible voices in the debate. Emphasis needs to be placed on the safety of these modified foods and their importance in the worlds' economy and future food supply. Scientific research and findings supports the safety of these foods. Farmers need to ensure however, that they not relinquish their place in the food production system even as they assuage consumer apprehension over the commercial use of this technology.

New Jersey Farm Bureau shall also support a greater effort of educating the public regarding the sound science of bio-engineered foods.

There are currently two bills in the New Jersey Legislature (A-2955/S-1367; A-3192) that would require that every GMO food product that is offered for sale in the state to contain a label indicating that the product contains GMOs. Additionally, there is legislation (A-1192) that would impose a similar labeling requirement for food containing any product from a cloned animal or its progeny. NJFB opposes these bills, and any other New Jersey Farm Bureau opposes legislation mandating the labeling of foods made with bioengineered products. The practice of labeling foods as "bio-engineered" or "made with bioengineered products" will serve no public service, and without public education could potentially frighten consumers away from safe, high quality products.

### **BIOSOLIDS**

For some farmers the land application of biosolids products has proven to be beneficial, at least in the short term, because they are less expensive than other commercial fertilizer products. However serious concerns about the quality of these products, and the potential liability associated with their use still remain. Farmers and other landowners should also note that the

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land application of these products is currently not permitted on land in the Farmland Preservation or Green Acres programs.

While Rutgers has developed guidelines for the application of sewage sludge and sewage sludge-derived products on agricultural lands, the Rutgers NJAES Commercial Vegetable Production Recommends states, " due to science, public perception and liability issues, Cooperative Extension does not recommend the application of sewage sludge/biosolids to soils used for vegetable production". Additionally, the USDA Food Safety Audit contains a special audit section for land where municipal biosolids have been applied. These guidelines are based on agronomic practices, and do not address the liability or public perception issues or food safety concerns.

Rutgers should reassess the use of biosolids within the Pinelands and Highlands with regard to the quality and safety of the sludge material being applied, and develop AMP guidelines consistent with water quality regulations that are already in place in the Pines. Further, the state should be held responsible to monitor the groundwater in these areas surrounding the application sites where municipal or county utility authorities have hauled (applied) their sludge and make the test results quickly available.

Because the liability question remains unaddressed, New Jersey Farm Bureau strongly urges caution if sludge or sludge-derived products should be placed on agricultural land until (1) an AMP is developed and adopted and (2) the DEP and the sludge product producer provide ongoing liability protection through state law for the use of this material if applied according to the AMP. The SADC has proposed an AMP (based on Rutgers guidelines) for the application of Exceptional Quality (EQ) biosolids on farmland. If adopted, those farmers who apply biosolids in conformance with the AMP will be eligible for Right to Farm protection. The new rule would also allow for the application of EQ biosolids on land enrolled in the Farmland Preservation Program.

New Jersey Farm Bureau continues to urge caution in the usage of these materials, even with an adopted AMP, because their distributors do not guarantee the quality of the material, the food safety concerns (human pathogens, heavy metals and other toxic materials), and the negative public perception sometimes associated with these products.

To further ensure the proper use of these products, research on sludge and other by-product soil amendments should be conducted at Rutgers for New Jersey-based conditions.

### **USE OF FOOD BY-PRODUCTS**

Waste material recycling, if done properly, can be a significant way to conserve natural resources and energy. Composted material used as an input for soil nutrients and replenishment is also a potential way to merge waste disposal with farm production practices. Both recycling and the use of compost materials are generally seen as beneficial to society and usually having a positive environmental impact.

An Agricultural Management Practice (AMP) for the land application of food processing byproducts was adopted by the SADC in 1999. Farmers land-applying these products should follow the guidelines provided in the AMP in order to receive full protection under the Right to Farm law. Farm Bureau should make farmers aware that this AMP is available for their use.

### **HISTORIC PESTICIDES**

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Passage of the Site Remediation Reform Act in 2009 has changed the process and regulations regarding Historic Pesticides. These changes were fully implemented in 2012. There is a new Historic Pesticide Stakeholder Committee. NJFB will follow these developments and keep the membership informed.

Test results should be decreased by the weight percentage of any stone in a given sample. For instance: 1 cubic foot of soil may contain 30% stones. Therefore a sample of arsenic measuring 28, or 8 over the limit of 20, would be reduced to 19.6, thus not needing remediation.

Gluconitic soils are known to have naturally-occurring arsenic levels exceeding DEP remediation standards. These soil locations are known and mapped, yet individuals seeking subdivision and project approvals are required to hire environmental consultants to justify these background levels. Farm Bureau shall seek an amendment to the regulations, to remove this duplicative burden on property owners.

### **BIOSECURITY**

New Jersey Farm Bureau shall request the USDA increase biosecurity measures at all points of entry into the United States and the State of New Jersey, to guard against outbreaks of diseases such as foot and mouth, and avian influenza as well as possible threats of bioterrorism.

Under the leadership of the New Jersey Department of Agriculture in consultation with leaders in the different sectors of New Jersey agriculture, industry guidelines and procedures outlining the response and action taken by the agricultural industry when a change in alert code or an event happens were developed. As the federal government is moving away from the color coded alert system it is important to have the sectors that fall under the leadership of the Department of Agriculture that include; livestock industries, livestock auctions and slaughterhouses, pet stores and shelters, zoo and animal exhibitions, veterinarian hospitals, plant industries, crops including the wholesaling of fruits and vegetables, and feed and fertilizer, review and update the emergency response plans to fit the new alert system. It is important for individual operations to use their sector related plan as a guide for developing their own action plan in the event of an emergency.

In the past, the New Jersey Food Council, the Department of Agriculture and Farm Bureau have participated in joint exercises to test the emergency preparedness of the states food and agriculture industry. Lessons learned from those exercises have been beneficial in improving the state's emergency response system as it relates to agriculture and food. Those lessons proved valuable in the speedy response by the Department and the food industry during the spinach e-coli outbreak.

In the past these exercises have focused on the supermarket food distribution systems, since December 2011 a broader group of agricultural leadership was formed to focus on all of the segments of agriculture and food in NJ. This group includes the co-op auctions, fruit packers, emergency food system as well as restaurants. The goal of the broader group is to develop a response plan in an emergency or disaster that goes from farm to fork and will help the industry recover faster when disaster strikes.

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The storm events pre and post Hurricane Irene and the early snow fall last October as well as hurricane Sandy in 2012 which caused crop damage and power outages impacting farms and their operations show the further need to have all emergency plans in place. These plans can improve the restoration of power and infrastructure when coordinated with the plans developed by the power companies. Agriculture is a critical infrastructure to the state and making sure basic services are restored as soon as possible is an important part of the emergency planning process. The plans can also help in communication with emergency responders over access, movement of animals, as well as need for feed and water and restoration of services. The final exercises of the agriculture and food working group would be with law enforcement and first responders to address those issues unique to agriculture.

In the past the emergence of the H1N1 virus better known as swine flu again put a target on animal agriculture and the fear in the public of potential crossover of human and animal diseases.

Each year experts predict a higher increase in flu related illnesses and are recommending people stay home and avoid contact with others if they are sick. This could have huge impacts on work force availability both on and off farms. Farm Bureau encourages its members to continue to look at their own operations and plan in advance for and be prepared to respond to any emergency.

### **ANIMAL CARE**

The State Veterinarian, housed within the NJDA, has drafted minimum standards for the care of farm animals, as required by state law. These were developed with the input of veterinarians and other livestock experts. In addition to the required public comment period, a public hearing was also held.

The standards became effective upon publication in the New Jersey Register on June 7, 2004. Based upon public comments the Department received from the initial publication of the rule, amendments to the rule were also proposed at that time. New Jersey Farm Bureau worked with our livestock members to make them aware of the proposed changes and to encourage comments on them.

The adopted rule is the first of its kind in the nation to comprehensively address standards for livestock care as it relates it to animal cruelty. Several animal rights organizations have sued the Department of Agriculture over the standards. The appellate court ruling left the authority of the Department to draft rules unchanged and upheld the Departments expertise on the matter. The groups appeal to the NJ Supreme Court was accepted. The Appeal was heard and in July 2008 the Court upheld the authority and the expertise of the Department to promulgate the standards further stating "Regardless of one's personal view of the overall regulatory scheme or of domestic livestock in general, the regulations as a whole are consistent with the meaning of the term "humane." The Court did remand back to the department to key definitions that need to be better defined including that of routine husbandry practices and the definition of knowledgeable individual. Five years have passed since the rules were first adopted and the Department of Agriculture has received an extension to allow for more time to readopt the rules and incorporate the opinion of the NJ Supreme Court into the re-adoption. In June 2011 the comment period ended on the changes and updates to the standards with Farm Bureau sending in supportive comments. The State Board still needs to review the comments and vote on the

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rule proposal one more time before they can be published in the New Jersey register and become effective.

New Jersey Farm Bureau should also work with the state's livestock organizations to promote awareness of the standards and the built in biosecurity standards to our members and those authorities responsible for animal abuse investigations.

In the last few elections, ballot questions have passed in Florida, Arizona, and California banning farming practices used by production agriculture. It is very important for New Jersey agriculture to have a strong and working humane standard for livestock producers that is based upon science and able to separate agricultural management practices from true animal abuse. This separation is being challenged by current legislation S-1921 and A-3250 that would create a new standard for gestation crates in NJ that runs counter to the regulations developed by the Department of Agriculture.

New Jersey Farm Bureau also supports a change in state legislation that would shift the enforcement authority for the care of domesticated livestock from the SPCA, to the State Veterinarian, using the minimum standards as a guideline.

Currently the federal government through the USDA is working on a National Animal Identification System (NAIS). The program includes a Premise Identification (PI) component. All domestic species inclusive of all breeds, types and species of camelids (llamas and alpacas), cattle, bison, cervids (domestic deer and elk), equine, goats, sheep, swine and poultry will be included in the NAIS and PI development. NAIS and PI will be voluntary as the system is developed and phased-in over time, at this point the federal government has stepped away from making it mandatory for all domestic species. After much push back from the livestock groups the NAIS rules now focus on animals that move off premise and across state lines. This impacts the cattle and equine industries most and it is the animal owners' responsibility to keep records of the animals' movement for trace back ability in the event of a disease outbreak. NAIS is implementing electronic RFID (Radio Frequency Identification) button tags, hang tags, surgically implanted chips and other technologies to implement the NAIS program. Additionally, New Jersey Farm Bureau also supports the USDA Scrapie Eradication Program for sheep and goats and supports the USDA plan to phase in the NAIS tagging system to replace the current "scrapies" tag program in order to avoid duplication and undue expenses to those producers.

New Jersey Farm Bureau supports the goals and implementation of the USDA's NAIS and PI initiatives' as a national goal to have the capability to identify all animals, premises and all the movements of said animals in order to achieve a "48" hour trace back and forward for disease control. Control and rapid identification of naturally occurring domestic and foreign diseases and diseases introduced via bio-terrorism are the goal of the USDA, APHIS, NJDAH and related concerns.

The New Jersey Farm Bureau supports the USDA concepts (Program Aid No. 1797 and 1800) and does not want the NAIS or PI programs to become a burden on any domestic animal producers. Farm Bureau also supports the avoidance of multiple identification programs, processes, or requirements. Farm Bureau will oppose the imposition of fees to producers for implementation of this program.

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New Jersey Farm Bureau continues to oppose any legislation seeking to regulate or ban the raising of livestock, including the “veal bill.” Farm Bureau believes these farm activities should be regulated using the NJDA’s animal care standards.

Farm Bureau will seek protection from unauthorized entry of farms by persons seeking farm management practice documentation without first gaining permission from the farm operator. This recommendation should be forwarded to the NJDA-Division of Animal Health, which has responsibility for the regulations pertaining to the care/treatment of farm animals and the enforcement thereof.

### **LIVESTOCK INDUSTRY SUPPORT**

New Jersey’s livestock industry is valued at nearly \$260 million annually. This includes equine, beef cattle, swine, poultry, sheep, lamb and goats. The state’s beef and dairy industry alone was valued at \$47.5 million as of 2009, and sheep, lamb and goat production continues to grow to match market demand. Add to that New Jersey’s equine industry – an industry that generates \$1.1 billion annually in positive impact on New Jersey’s economy according to a 2007 study by the Rutgers Equine Science Center – and the combined strength of the state’s livestock industry is clear. Too often, however, the industry is viewed for its component parts and not for its collective impact on New Jersey’s agricultural economy. This narrow, compartmentalized view hinders access to research and vital support services essential for the livestock industry’s success.

Currently, the state’s livestock industry lacks a unified voice that is representative of the industry as a whole. This is in part because the industry includes a large number of small-scale and part-time operators. This perpetuates the belief that each livestock type should be viewed separately and limits the industry’s statewide impact on livestock policy. A unified group representing all aspects of livestock production could play a key role by offering support and guidance on livestock issues. This could be an expansion of the Agricultural Animal Alliance (AAA) that was meeting through the animal science department at Rutgers. This would track with recent action in Ohio to establish various committees representing all areas of agriculture including an active livestock committee that consults regularly with the state’s Department of Agriculture and Farm Bureau.

An emergent issue impacting the livestock industry is the limited access to slaughterhouse facilities willing to cut and process animals for retail sale. For many small-scale livestock producers, the custom-cut retail market is essential for sustained viability. USDA slaughterhouse inspection standards, while rightly aimed at ensuring public health and safety, are not tailored to facilities that specialize in custom cutting for the retail marketplace. As a result, slaughterhouses interested in offering this essential service for small-scale livestock producers are forced to either scale up, making substantial investments to maintain compliance with USDA regulations, or move away from offering these services altogether. When the latter occurs, small-scale livestock producers lose access to this essential support service and are forced to travel greater distances – oftentimes out-of-state – to have their animals processed for retail sale.

Another key to the continued success of New Jersey’s livestock industry is education. This includes education for producers and consumers. In order to take advantage of New Jersey’s robust retail marketplace for livestock products, producers must continue to offer high quality

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products and redouble their focus on marketing. With both comes consumer awareness on the relative quality of locally-produced livestock products. This education component includes: essential extension research, marketing support and a unified voice to carry-forward the industry's message.

Marketing of New Jersey's livestock products is vital for the continued success of the industry. NJFB is uniquely positioned to assume a leadership role publicity and public support for this sector of the state's agriculture industry. Additionally, this marketing component should also include a branding program for New Jersey livestock products that is similar to the "Jersey Fresh" program for fresh produce. This branding initiative should include quality grading standards developed by the statewide committee representing New Jersey's livestock industry.

New Jersey Farm Bureau should:

- Help to establish a statewide committee, like the AAA representing all aspects of livestock production and work with this group to identify key industry needs going forward. NJFB should continue to support this committee once it has been established;
- Support livestock and slaughter facilities that offer essential services for livestock producers including custom-cutting and processing for retail sale;
- Work with NJAES researchers and the aforementioned statewide livestock committee to identify and support current and emergent education and marketing opportunities to enhance New Jersey's livestock industry;
- Generating public support and media publicity for the industry;
- Support the establishment of a branding program for New Jersey livestock products that includes a quality grading standard to uphold the integrity of the label. This program, intended as a new marketing tool for New Jersey livestock products, should be established in consultation with the newly-formed statewide livestock committee.

### **DAIRY**

NJFB believes there is an inherent value in having a locally-produced supply of all food and agricultural products. Dairy farms, in particular, not only provide a local and fresh source of milk and other dairy products, but also provide large tracts of tax-paying, privately maintained open space. In order to keep these important farm properties open, and actively devoted to the dairy industry, NJFB must work with the dairy community, the Department of Agriculture and Rutgers Cooperative Extension to find innovative ways to assist dairy producers, and to insure that more consumer dollars go back to dairy producers.

Farm Bureau, through its dairy farmers, shall:

- Encourage dairy operators to take advantage of programs available to them for testing herds for Johne's. There are programs available through the Division of Animal Health and Extension to help diagnose and control this disease.
- Urge the NJDA, RCE and the state legislature to find a new source of funding for the Garden State Re-Engineering Initiative which includes a milk quality program. NJFB should seek out an entity (ie: Department of Community Affairs, Economic Development Authority) to serve as a conduit for these funds.

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- Work with NRCS and the State Conservationist to insure that all dairy producers are aware of the conservation programs and assistance available to them.
- Work with state legislators to develop and enact legislation that allows for the sale of raw milk in New Jersey.
- Work with the State Department of Health and interested consumer groups to develop regulations and standards to allow the sale of all raw milk and raw milk products within the State of New Jersey.

The organizations involved with the Ag Water Quality Steering Committee must work together to find affordable systems for livestock farms to prevent and/or correct non-point source pollution problems. Farm Bureau should continue to support dairy farms by ensuring that adequate financial and technical assistance is available for farm improvements.

New Jersey Farm Bureau supports federal legislation to raise tariffs on milk protein concentrate (MPC) to levels high enough that imported protein will not displace domestic use of non-fat dry milk in U.S. food manufacturing. We ask that the USDA and FDA enforce their standards on manufactured dairy products.

In the past New Jersey Farm Bureau has supported the federal Milk Income Loss Contract (MILC) payment program. This program expired on Sept 30<sup>th</sup> when the 2007 Farm Bill expired. Since that time there has been no protection program for dairy farmers from a volatile market.

NJFB should oppose the supply management component of the Dairy Security Act. This is part of the Farm Bill.

The Scott-Goodlatte proposed amendment is the grassroots supported position of the average dairy farmers.

When milk processors request signed affidavits for not using such products as rBST and betalactams farmers should be reimbursed for the loss in production.

In 2005 the New Jersey Department of Agriculture announced the formation of the Garden State Dairy Alliance. The Alliance has two goals:

1. To offer New Jersey dairy farmers and supporting industries the comprehensive resources and assistance from the New Jersey Department of Agriculture, the New Jersey Agricultural Experiment Station and Rutgers Cooperative Extension.
2. To provide a program of technical assistance to the dairy producers in managing production, marketing, financial, environmental, legal and human risks associated with operating a dairy enterprise.

New Jersey Farm Bureau supports the development and ongoing activities of the Garden State Dairy Alliance. Farm Bureau shall promote the Alliance and the benefits it offers to dairy producers through its weekly newsletter or direct mail if necessary.

### **BEEF PROMOTION**

New Jersey Farm Bureau continues to support the mandatory beef check-off program and related activities of the National Cattlemen's Beef Association and the New Jersey Beef Council for the promotion of beef and beef-related products, consumer education and beef research activities.

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### **BISON PRODUCTION AND INSPECTION**

Bison are not currently considered a meat animal by the USDA. Because of this, the inspection process for bison meat products is much more costly than for other meats. NJFB supports a USDA regulation change to include bison on their list of meat animals.

### **DEER FARMING**

The deer farm industry has been strong in Europe, New Zealand and Canada for years. While the marketing of venison in the United States is still developing, deer farming is now growing throughout the United States. Some producers are new to agriculture while others are turning to deer farming as a way to diversify their farm operations.

Deer farming has been in existence in New Jersey since the early 1900's. The 2007 agriculture census shows 29 deer farms with 669 animals in New Jersey. This industry is currently regulated by the Division of Fish and Wildlife, Department of Environmental Protection. The Division does not seem to support the potential growth of this industry.

Legislation has been introduced that would transfer the oversight of the deer farming industry from the Department of Environmental Protection to the Department of Agriculture. This is the case in neighboring states including New York and Pennsylvania, where deer farming is becoming a fast-growing industry. New Jersey Farm Bureau supports this legislative change.

### **COMMERCIAL BEE INDUSTRY**

The commercial production of bees and their use in the pollination of crops is a vital component of New Jersey agriculture. This aspect of farming is not well known to non-farmers. Beekeeping needs to be supported and maintained in New Jersey. Some New Jersey municipalities, mistaking honeybees for yellow jackets, have passed local ordinances banning the keeping of bees. These municipal officials need to be educated about honeybees and their importance to the agriculture industry. New Jersey Farm Bureau applauds the New Jersey Department of Agriculture's outreach and education efforts toward local officials on this important topic.

The importance of the bee industry to New Jersey was highlighted 2007 when many of the state's bee colonies suffered from colony collapse disorder. This undiagnosed problem resulted in a loss of over 55% of the state's honeybee population.

To ensure a safe and plentiful supply of bees for New Jersey farmers Farm Bureau should oppose legislation that unnecessarily restricts the movement of commercial beehives into and around the state. This recommendation does not affect any of the existing powers in the NJDA Division of Plant Industry, which are sometimes used to stop the movement of bees in response to disease and insect problems. To ensure the health of the bee population in New Jersey, funding for the Bee Inspection Program within the NJDA Division of Plant Industry should be increased to allow for the hiring of more full-time inspectors.

A large segment of New Jersey's beekeepers are hobby beekeepers. Initial investments in bees and materials and the need to keep up on changing regulations and treatments for mites as well as damage from bears is becoming a costly impact that is burdensome to the growth of the industry.

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New Jersey Farm Bureau supports the continuation of the Department of Agriculture's beekeeper education program that trains and establishes new beekeepers in the state. The program is run in partnership with Rutgers and the Ag experiment station, there is a critical role for the University to support through research and education and having the appropriate expertise and specialists to grow the program. This is an important program and should be continued, but with a focus on training people in commercial farming as a priority for participation in the program. NJFB should also support the continuation of the bee inspection program.

The NJDA has reconvened the NJ Beekeepers Advisory Committee to review the current Best Management Practices for beekeeping. The advisory group will review and update the current BMPs as some requirements have become outdated and previously passed laws need to be incorporated into them. The current law was renewed, but the NJDA will propose new BMPs when the review is completed.

It is important that New Jersey Farm Bureau work with the Beekeepers Association and to assist them in finding ways to help the industry grow.

### **EQUINE INDUSTRY**

Equine owners and operators annually contribute more than \$647 million to the state's economy. Also, the New Jersey equine industry provides recreational, environmental and ecological benefits to all of the state's citizens. The Rutgers Equine Science Center released an updated equine economic impact study in 2007. The study outlines the 1.1 billion dollar total economic impact of the equine industry to the state (\$502 million contributed by racetracks) and the 42,500 equine animals that are housed in the state on 7,200 operations and 176,000 acres. As the equine industry shifts toward recreational uses, the growth in equine facilities for riding, training, and boarding continues to expand. In some communities the establishment of equestrian centers has been met with community resistance. With the adoption of the equine AMP there should be less conflict with farmers building and operating those facilities. Another area where recreational equestrians find conflict is in finding facilities and places to ride. The New Jersey Horse Park is fast becoming a premier riding and show place also providing open space trail riding. As more lands are acquired for recreational purposes, Farm Bureau shall support the establishment of equestrian trails, in locations that need them.

Beyond the recreational equine industry, the New Jersey horse racing industry must be kept strong with competitive purses at the state's racetracks. The industry is facing tremendous challenges from competition in neighboring states, and New Jersey's horsemen and women are facing a crisis. Without adequate income from purses and a strong breeder award incentive program, breeders cannot continue to breed and train their horses in New Jersey. Continued development of ancillary programs would also enhance the already considerable public interest in the industry. This would also boost the industry's efforts to compete nationally with other states' programs. Legislation has been approved and signed by the Governor that will enhance breeder programs and enable horsemen for the first time to have a say in State Racing Commission decision making including negotiating the number of racing dates at the race tracks.

In 2010 the State's thoroughbred industry tried a new approach and established the elite meet at Monmouth Park Race track. For the summer racing season they reduced racing days to pool

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the prize money creating bigger purses on fewer racing days. The experiment proved that with higher purses better horses came to train and race in NJ for the summer and fall meet. There was increased attendance over last year (+32%) as well as increased wagering (+26%). There is one problem; fewer racing days is not sustainable for the jockeys and horsemen who need full time employment, the shorter racing day's means fewer pay days for many in the industry.

With the release of the Governor's report on the State of Gaming, Sports and Entertainment a debate began about the importance of horse racing and gaming in NJ in general. The Legislature held three public hearings in response to the report and is formulating legislation to implement recommendations in the report that they liked and counter proposals to improve the health of the horse racing industry that was neglected in the Governor's report. In the past Farm Bureau has supported the implementation of the Off Track Wagering (OTW) facilities in the state to date only 3 of the 15 approved licenses are up and running. The 4<sup>th</sup> OTW is expected to open in Bayonne this fall. If all of the facilities were operating the racing industry would be more sustainable. Farm Bureau also supports Video Lottery Terminals (VLT's) and sharing the revenues with casinos to improve the purse and breeder awards programs, other sources include internet gaming, sports betting and off shore gaming. Besides the increased money for breeder awards and purses, money from the revenue generators should be used for marketing and promotion and research to improve animal health and well-being.

The state has leased to private operators the race tracks at the Meadowlands and Monmouth Park as part of implementing the recommendations of the Hanson report. This privatization is an opportunity to create new experiences at the race tracks that can increase wagering revenue.

Outside of betting and gaming the state still needs to support and grow the breeder programs in the state. New Jersey Farm Bureau supports legislation that makes line item appropriations from the State Treasury Discretionary Funds to the New Jersey Department of Agriculture to promote the New Jersey Sires Stakes and New Jersey Thoroughbred and Standardbred breeding programs. Funds from enhanced gaming opportunities in New Jersey should be used to support the breeders' incentive programs described above and the Rutgers Equine Science Center in addition to purses at the racetracks.

To further strengthen the race horse breeding program, races should be written on each race card as "New Jersey Owned and Bred Preferred."

Further eroding the competitiveness of horse racing and breeding is state sales tax policy. Since 2004 under the revisions to the sales tax code horse stall rental has been considered a sales taxable item. This has created confusion with the training and breeding industry where the animals are housed for production purposes and many thought they were exempt from the need to collect sales tax. This tax directly impacts competitiveness of the racing and training industry here in New Jersey. Farm Bureau should work with the equine industry to clarify the production exemption or work for the repeal of this tax.

An emerging issue in the equine industry is the care, use and the disposition of unwanted horses. Pending federal legislation would ban the transportation of horses to slaughter for human consumption. Faced with the pending ban, the three facilities that processed and inspected horsemeat in the US have closed. This limits export to Canada or Mexico as the options for meat slaughter. If the federal ban is approved, there could be huge impacts on New

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Jersey's equine industry. Farm Bureau should work with New Jersey's equine partners and landowners in the development of programs and policies to address the unwanted horse issue.

The Rutgers Equine Science Center is to be applauded for and supported in its continued efforts to ensure the well-being of the equine athlete and the sustainability of the New Jersey horse industry. Because of the work done at the Equine Science center the legislature and public has good information on the importance of the racing industry in the state and funding for the center should be a part of the line item funding in the Agricultural Experiment Station budget. New Jersey Farm Bureau shall support the continued development of the horse industry in the Garden State.

### **SOCIETIES FOR THE PREVENTION OF CRUELTY TO ANIMALS (SPCA) OF NEW JERSEY**

The New Jersey Society for the Prevention of Cruelty to Animals (SPCA) was created in 1868 to assist in the enforcement of animal cruelty laws. Professional law enforcement agencies were still in their infancy, so these tasks were entrusted to private citizens. However, today's professional law enforcement agencies have developed into more efficient and sophisticated entities. Yet, the system of using un-trained, or under-trained volunteers remains in place.

New Jersey Farm Bureau believes it is inappropriate to continue to empower organizations of private citizens to carry weapons, issue summonses and act in other manners similar to trained law enforcement professionals. Animal welfare statutes, as well as the humane standards for livestock adopted by the New Jersey Department of Agriculture should continue to serve as the laws by which animal owners must abide. The enforcement of those laws, however, should rest with professionals who have the appropriate training and oversight. Humane or welfare issues associated with farm animals should be administered by the Animal Health Division of the Department of Agriculture with appropriate funding.

A 2001 study by the New Jersey Commission of Investigation concluded that the interpretation and application of the cruelty laws by each county SPCA were inconsistent. The Commission strongly recommended that the authority of the New Jersey and county SPCAs be repealed, and that such authority for enforcing animal cruelty laws should be placed within the government's various levels of law enforcement.

Since the release of the Commission's report, New Jersey farmers have not seen any measurable improvement in the system by which the SPCA operates, and in some cases feel the problem has worsened. Often, SPCA volunteers get involved in farm-related animal welfare issues, with little or no knowledge of livestock care standards or veterinary medicine. These incidents seem to be increasing in frequency. Therefore, New Jersey Farm Bureau supports the Commission of Investigation's recommendation to repeal the authority of the SPCAs and shall seek legislation to effect such a change.

### **COMMERCIAL FISHING**

Farm Bureau shall strongly oppose any legislation that attempts to ban legitimate, historical fisheries in state waters. It shall be an active player in any coalition of recognized commercial fishing groups formed to oppose such a ban. Farm Bureau will seek and support legislation creating a Right to Fish bill. Such legislation will guarantee equal access to our marine fishery resources for all user groups (commercial, recreational, and charter). NJFB should work to

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ensure that any legislation establishes a workable process for mitigating "Right to Fish" disputes.

Farm Bureau shall seek aquaculture funding that reflects the realities of aquaculture in commercial fisheries, and serves as a bridge between the state's agricultural, scientific and commercial fishing communities. The common ground between commercial and aquaculture industries should be identified and strengthened to create a strong union to promote seafood through the Jersey Seafood program.

NJFB shall support merging the commercial fishing industry with the aquaculture industry. Combining these two industries would make marine products the state's largest single agricultural commodity, providing the opportunity for the industry to have a seat on the State Board of Agriculture.

### NJDEP Fish Consumption Advisories

The NJDEP regularly releases fish consumption advisories, sometimes more stringent than federal EPA guidelines. These more stringent standards can have a devastating effect on New Jersey's party and charter fishing business, and can also have a severe negative impact on the sale of commercially caught bluefish. The recent risk/benefit studies conducted by Harvard University and the National Academy of Sciences Institute of Medicine both concur that the benefits of increased seafood consumption outweigh any potential risks, especially in the commercial chain. New Jersey Farm Bureau strongly urges the NJDEP to use the PCB standard that is being utilized by the EPA.

### Government Aid to Commercial Fishing Industry

New Jersey Farm Bureau shall seek legislation ensuring that government money (i.e., subsidies, low-interest loans, guarantees, etc.) given to aid the commercial fishing industry shall be used for that purpose only. In the event said loans, etc., are not used for that purpose, said money must be repaid immediately. This should be patterned after the existing county level Ocean County revolving loan fund; and should not in any way be available for fishing enterprises owned and operated by large, conglomerate corporations.

### Ocean Dumping

The New Jersey Farm Bureau strongly supports the phase-out of all ocean-dumping of wastes. Commercial fishermen have long suffered from current dumping practices.

### Commercial Fishermen Classification

New Jersey Farm Bureau shall actively seek and support the following legislative change: person or persons and corporations shall be for legal purposes, considered in the same category as a farmer throughout the state of New Jersey if he is engaged in "the act of gathering or processing of marine or aquatic organisms for the use of food or industrial purposes, the sale of which is his/its source of income."

### Off-Coast Liquid Natural Gas (LNG) Facilities and Drilling

NJFB should oppose any and all LNG facilities, either for importation or exportation, that would be sited off of New Jersey's coast. There are presently three projects under consideration that would be sited in prime commercial fishing grounds off of New Jersey's coast and the

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construction of any one of these industrial facilities would have a devastating effect on the fishermen who fish these grounds.

### Support of Commercial Fisheries

- Farm Bureau shall move as vigorously and as quickly as possible to support the shellfish and commercial fishing industry in every way within their means recognizing this industry is a vital segment of New Jersey's agriculture. Farm Bureau shall seek and actively support the following:
- Depuration and relay of all shellfisheries (hard clams, soft clams, oysters and mussels) from all condemned and special restricted waters in the state of New Jersey.
- A special prosecutor from the New Jersey Attorney General's office to assist commercial fishermen in prosecution of cases concerning theft of gear and shellfish from leased ground, and farmers for cases of theft of crops and damage to farms. This special prosecutor should be a deputy attorney general assigned to commercial fishing matters, who should be directed to meet with commercial fishermen on occasion during the year.
- The proposed Coastal Commission provided commercial fishing interests are represented by at least one seat on the commission. Property tax abatement on dock space at the waterfront should be a major priority for the commission.
- Due to the high and ever increasing tax rates of commercial waterfront property, commercial docks, landings, and fish processing facilities are being forced to sell to other commercial interests thereby creating an economic hardship on New Jersey's commercial fishermen in that there are fewer facilities to unload, sell, and process their catch. New Jersey Farm Bureau should develop appropriate measures to enhance commercial fishing dock space, with sufficient capital funding in a manner that reflects each port's needs. New Jersey Farm Bureau shall work with shore area legislators to accomplish this.
- Encourage all marine extension research to be directly related to the needs of the industry. It shall also formally review the various advisory councils affecting commercial fishing for relevancy to the needs of the industry.
- The commercial fishing interests have long felt that their industry needs to be part of the state Department of Agriculture. Commercial fishing is a harvesting of sea resources and a form of food production. It needs to be promoted and protected in the same way as traditional farm commodities. New Jersey Farm Bureau shall initiate and support an effort to transfer the shellfish and marine finfish offices of the DEP into the Department of Agriculture.
- Farm Bureau shall work to ensure that import certification from NJDEP for out-of-state suppliers that are stocking fish in private and public New Jersey waters is harmonized with NJDA regulation covering the import of finfish for the purposes of aquaculture.
- The need for advocacy of commercial fishing also exists at the national level. The American Farm Bureau is respectfully requested to change the name of the Aquaculture Committee to include Commercial Fisheries. Although New Jersey Farm Bureau has had commercial fisherman members serve on this committee in the past, the emphasis has been on controlled-environment fishing and not commercial fishing of the seas and bayshore waters.
- The striped bass is a migratory fish that provides a source of income to the fishing communities of the East Coast and delicious table fare to millions. The Atlantic State Marine Fisheries Council is declaring the striped bass a recovered fishery as of 1995,

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after years of restrictive conservation measures. The historic commercial fishery for striped bass was legislated out of existence a few years ago with passage of a bill that gave bass "game fish only" status and banned the sale of this fish in New Jersey, thus removing it from restaurant menus. With striped bass stocks now fully recovered, neighboring states are allowing commercial harvest of striped bass. Farm Bureau shall seek and support legislation that will repeal the ban on the sale of striped bass and remove its "game fish only" status.

- New Jersey Farm Bureau shall seek to repeal current bans on the sales of fish labeled "game fish only," and any effort that would attempt to classify any commercially caught fish as "game fish only." Examples of this labeling include largemouth bass and smallmouth bass. Fish and Game regulation in New Jersey prohibit their import and culture for the purposes of foodfish. The roots of this are in the 80's and 90's, when aquaculture was a nascent food sector, from recreational angling groups such as B.A.S.S. out of the fear that aquaculture would genetically perturb the species and somehow take the fight out of the fish. Many states have no such restriction and are large producers of largemouth bass for food markets, and are still major sportfish destinations. Foodfish culture of Largemouth Bass has not harmed these natural populations. With large ethnic markets in the region, New Jersey farmers cannot realize the opportunity of culturing this profitable species, without this change in regulation.
- Recent legislation has increased the power and importance of the Atlantic States Marine Fisheries Council. As presently constituted, members of the council consist of three members from each state. Two are state officials and one is "at large." The present set-up allows one industry to be dominated by another, commercial or recreational depending upon a member's (commissioner) philosophy. The public should be represented by the two separate commissioners (one commercial and one recreational) so both interests are represented fairly. Public hearings should also be held on any proposed regulations by A.S.M.F.C. Farm Bureau We shall seek and support congressional legislation to achieve these changes.

### **AQUACULTURE DEVELOPMENT**

Aquaculture offers the opportunity for a new farm crop and expanded marketing in New Jersey agriculture. It offers New Jersey farmers the chance to diversify into a potentially profitable onfarm enterprise as a supplement to their current farming operations. Those promoting aquaculture envision farmers using ponds, cages in existing private impoundments, or tanks in greenhouse structures, or innovative structures for shellfish production, for producing species that are highly marketable to local consumers and the export market.

#### Rutgers University

Rutgers University has a significant research program underway and has plans to assist commercial development as well, building on the existing experience of east coast farmers with these new crops.

A Multispecies Aquaculture Demonstration Facility of Rutgers University has been funded by grants from the Federal government, the State of New Jersey, Rutgers University and Public Service Electric and Gas, and is to be completed within the next 6 to 9 months. However, there are no available funds to cover this facility's operating costs. Farm Bureau shall strongly support development of a plan for State support of basic operations including salaries and supplies

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required for conducting aquaculture demonstrations and research that will benefit the aquatic farmers of New Jersey.

### Clam Bed Lease Rates

NJFB shall support an increase in the lease rates of commercial clam grow-out areas in New Jersey. The current lease rates are too low, enabling certain leaseholders to maintain the rights to grow-out areas even if they aren't actively farming said areas. NJFB should support the clamming industry's recommendation for what the annual lease rate increase should be.

### Aquaculture Development Zones

Four Aquaculture Development Zones have been established in the Delaware Bay, which will enable the use of structure in shellfish aquaculture. The necessary state and Federal permits have been obtained by NJDEP. Regulation covering the use and allocation of leases in these ADZs needs to be developed by NJDEP, along with statutory changes to Title 50 to allow leasing in ADZ-4 (Cape Shore). In the interim, ADZs will be handled as research areas for an indefinite time period. While this is a good first step, this is not the scenario that is needed to foster long term investment in innovative methods for shellfish aquaculture. New Jersey Farm Bureau shall work with NJDA in its efforts to get the NJDEP to provide ADZs in addition to the General Permit for shellfish aquaculture so that there is greater flexibility for farmers to develop shellfish aquaculture in other private lease areas that work. Farm Bureau shall seek to have a regulatory fast track given to holders of riparian grants who want to develop shellfish aquaculture in these areas. Owners of riparian grants are paying taxes on these submerged lands and many were written to specifically authorize the culture and harvest of shellfish.

### New Jersey Department of Agriculture

New Jersey Farm Bureau supports the development of the aquaculture industry in New Jersey and endorses the central role of the NJDA in bringing about a streamlined protocol for the establishment of these production practices and businesses.

The Aquaculture Development Act was passed to help facilitate investment and start-up enterprises in aquaculture. This is critically important for small business operations that lack the capital, expertise and time to deal with an onerous regulatory structure. This responsibility is assigned to the Department of Agriculture and specifically to the Department's Fish and Seafood Development Program (FSDP). The FSDP currently provides support to the aquaculture industry through technology transfer projects, marketing assistance and technical assistance with required state permit processes. In 2004 the department published final rules for an aquatic farmer license and the permit applications are available from the department. To date 182 Aquatic Farmer Licenses have been issued.

An Agricultural Management Plan for aquaculture has been adopted by the SADC and is supported by a set of Aquaculture Management Practices and an Aquatic Organism Health Management Plan. These plans were developed to protect the environment, wild stocks and the growing New Jersey Aquaculture industry. Right to Farm protection is currently conferred as per this adoption.

### Federal Legislation

Legislation on Open Ocean Aquaculture Policy has been introduced in the United States Senate. This Legislation has tremendous potential to establish the guidelines under which the 3

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to 200 nautical mile limit can be utilized to foster environmentally sustainable and economically feasible aquaculture. The United States trade deficit for seafood products in 2004 was \$7.8 billion. Among all food items, seafood is the largest contributor to the U.S. trade deficit. Farm Bureau shall support the proposed legislation.

### **WINE INDUSTRY SUPPORT**

New Jersey Farm Bureau supports the fast-growing wine grape and wine production industry within New Jersey agriculture. It is a dynamic business with a strong potential for future growth among those entrepreneurs who have invested in these enterprises.

At the end of the legislative session in January the legislature passed the industry supported wine shipping bill that expanded the number of outlets and permits direct shipping in and out of New Jersey by licensed wineries. The passage of the bill and implementing regulations adopted in May ended a Federal Court challenge to the state winery license. This new opportunity to direct ship to customers is another tool for wineries to expand and grow in New Jersey.

Other bills that expand the industry to allow for cooperative winery licenses, and would permit the expansion of the licenses for distillation of alcoholic beverages and bills for on farm brewing and hard cider production are also being supported by Farm Bureau.

An emerging issue is the use of marketing activities that include weddings and other life events at wineries. Protecting under right to farm the ability to use these marketing techniques for both preserved and non-preserved farms is critical to establishing clear guidelines when they are promoting and using the agricultural output of the farm.

### **ENERGY USE ON FARMS**

While an agricultural purpose exemption exists for new and extended service hook-ups, it is narrow in its definition. Because of this definition, the New Jersey Board of Public Utilities is not automatically exempting farms from the fees if they are located in non-growth areas. NJFB shall work with the BPU to expand and clarify the agricultural exemption so that it includes all on-farm activities that meet the standards of the Right to Farm Act. NJFB also supports the exemption of housing built on the farm for family members or agricultural workers.

The farm exemption for demand meters needs to be clarified so that all farms, new or existing, are exempt from the need to install a demand meter. Further, NJFB urges the BPU to create a program that provides farmers an incentive to switch to three-phase electric service.

The BPU has a new program available called the “New Jersey Smart Start Buildings.” The purpose is to provide financial incentives and technical assistance to help those starting a commercial or industrial project from the ground up, renovating existing space, or upgrading equipment to more energy efficient standards. The goals of this program are laudable; however, incentives for new construction are available only for projects in areas designated for growth in the New Jersey State Development and Redevelopment Plan (PA 1 and 2). This requirement would render the majority of New Jersey’s farms ineligible for this program. New Jersey Farm Bureau supports a change in the eligibility criteria for the Smart Start program, to ensure that it is open to any business seeking to improve their energy efficiency. Farm Bureau should request a meeting with the BPU to discuss this issue as well as how the program can be better promoted to the farm community.

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### Energy Audits

There are a number of incentive programs available to farmers to help defray the costs associated with having an on-farm energy audit done. However, since funding is only available up to a certain amount, audits are often scaled-down to fall within cost constraints and are therefore not always exhaustive. NJFB should work to pursue additional resources for farmers seeking more complete energy audits and should work with NJAES, a process that started with the on-farm energy use seminars, to further this policy goal.

### Energy Monitors

NJAES has submitted a proposal for grant funding to educate farmers on the use and availability of energy monitors. Energy monitors track on-site electric use, enabling farmers to better manage electric consumption and costs. If this grant funding is awarded, NJFB shall collaborate with NJAES on these seminars.

## **RENEWABLE ENERGY**

### Ethanol

New Jersey Farm Bureau in consultation with the New Jersey Grain and Forage Producers Association should continue to promote the use of ethanol in motor fuel. It should also continue to seek ways to create marketing opportunities for New Jersey grain growers in the development of these oxygenated fuels.

### Biodiesel

Federal Incentives and new clean air requirements are improving the prospects for biodiesel. Soybean and other oilseed crop producers may find an opportunity here soon. NJFB should continue to monitor the feasibility of biodiesel and soybean crush opportunities to help create additional marketing outlets for local soybeans.

### Biomass Crops

New technology and market conditions for electric power generation to serve New Jersey's energy needs may soon create an opportunity for farm-grown energy crops. Farm Bureau should seek revisions to New Jersey Board of Public Utilities rules that will enable biomass sources to be co-fired with other fuels as a class one renewable energy source and encourage other federal and state legislative efforts to further incentivize biomass energy production on farms.

Biomass energy crops like switchgrass and miscanthus have been made a research priority at NJAES so New Jersey farmers may eventually find economic rewards from this and similar plant material. NJAES has established the Sustainable Energy Working Group to further this ambitious research agenda. The working group includes representatives from the New Jersey Farm Bureau, NJDA, DEP and USDA, among others. New Jersey Farm Bureau fully supports the research efforts of this working group and will continue to do so going forward.

NJFB shall work with DEP to streamline the air permitting process for stoves used to burn biomass energy as a heating source. The permitting fees and delays associated with obtaining these permits can add significant costs to the construction and operation of a biomass energy system and, under the current model, serve as a disincentive for on-farm biomass development.

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### Solar and Wind Energy

New Jersey Farm Bureau supports a change in New Jersey Board of Public Utilities regulations to allow and encourage farmers to generate and sell solar energy in excess of their own use for additional income, to enhance the viability of the farm operation. BPU rules now allow for private systems to generate enough energy to offset on-site average annual energy use. Farm Bureau should work with the BPU to make sure rules are drafted to allow for the increased sale of energy beyond average annual use by farmers back to the grid at retail rates.

Farm Bureau shall support on-farm alternate energy sources and review all municipal regulations that might interfere with their use, and seek recommended agricultural practices for Right to Farm protections of those alternate energy uses as they relate to a working farm. Though Farm Bureau supports utilizing the natural resources of sun and wind on farms, New Jersey Farm Bureau opposes the concept of defining energy production as an agricultural commodity, to prevent abuses of the Right to Farm and Farmland Assessment Acts.

Solar Renewable Energy Credit (SREC) values have declined substantially in recent months. One proposal to stabilize SREC values is to implement a “floor price”. NJFB shall oppose any effort by the state and solar industry to set a “floor price” for SRECS. Setting a “floor price” would not only be an unnecessary act of market intervention, it would also require a significant investment of state funding to back these “floor price” guarantees.

NJDEP has published in New Jersey Register coastal Permit Program rules, the adoption of amendments to the Coastal Zone Management rules and Flood Hazard Area Control Act rules that were proposed last year. Farm Bureau opposes these overly-burdensome amendments as they are currently written because they threaten to impede wind energy development in the coastal areas of the state. Instead, the state should take advantage of the resources in this area by encouraging well-designed, sensible renewable energy projects.

In January 2010, a bill was signed into law that expands the rules pertaining to solar, wind and biomass installations on preserved and non-preserved farms. The law affords preserved farm-owners the option of building renewable energy systems to provide for their average annual energy use plus an additional 10% OR 1% of their total land area. This total would not include roof-mounted solar equipment and would only apply to ground-mounted installations. The law expands Right to Farm protections to cover renewable energy installations that meet the aforementioned criteria.

The law also applies to non-preserved farms. It provides that for every 5 acres of land, 1 acre may be devoted to renewable energy system on a non-preserved farm. Total system size would be capped at 10 acres and would not be permitted to exceed 2MW. If a renewable energy system that meets these criteria is installed on a non-preserved farm, the legislation would guarantee that farmland assessment is maintained and again, Right to Farm protection would be extended to include these installations.

SADC staff is in the process of drafting an Agricultural Management Practice (AMP) that will be used to determine the specific system design criteria for solar and wind energy installations seeking Right to Farm protection. The AMP for on-farm solar projects is now complete and the final rule proposal is in the New Jersey Register.

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The SADC is yet to take action on the AMP and rule proposal for wind energy installations. Until this process is complete, wind energy installations are not covered under the Right to Farm Act and are effectively restricted on preserved farmland since only roof-mounted installations are being considered on preserved farms until the rulemaking process is complete. This delay has cost some preserved farm-owners their federal grant funding for a wind energy installation since this funding is predicated on having a certain percent of the project complete by a certain date – a deadline that has now passed in some cases. NJFB should strongly encourage SADC staff to adopt an AMP and propose rules for wind energy as soon as possible. The AMP and rules should promote wind energy use on farms to the greatest extent practicable without comprising the integrity of the Right to Farm program.

Many preserved farms have rock ledges, unused gravel pits, old barnyards and other areas that are not farmed. In some cases, these unused or underused areas would be more suitable for solar or wind energy installations than other actively farmed portions of the preserved farm. As such, NJFB shall encourage the SADC to streamline the approval process for installations sited in these non-farmable areas on preserved farmland.

The equipment used to generate and utilize these alternative energies (eg: solar panels, wind) should not be taxed as real property, in October '08 the governor signed legislation exempting those alternative energy systems from real property tax.

Legislation requiring that anyone working on an installation that receives financial assistance from the Board of Public Utilities be paid prevailing wages was passed *in 2010 last year*. This law threatens to negatively impact the renewable energy industry by dramatically increasing installation costs. Farm Bureau remains opposed to this policy since it impacts renewable energy installation prices such that these installations become unaffordable for farmers.

### Other Renewable Energy Sources

New Jersey Farm Bureau supports and encourages the development and use of all renewable energy source, including solar, wind, biodiesel, biomass, and geothermal. Farm Bureau believes that these technologies are inherently beneficial to the state and should be supported where applicable. Farm Bureau shall seek the enactment of legislative and/or regulatory initiatives that provide incentives for the use of renewable energy sources. Farm Bureau also supports the increased use of renewable energy by all state government agencies.

### **PRODUCT DISPARAGEMENT**

Growers of fruits and vegetables in recent years have suffered a loss of sales in the marketplace from unsubstantiated attacks challenging the safety of these food products. The issue of residues from agricultural chemicals in particular, like the ALAR scare on apples, is frequently a target of these misguided campaigns. The absence of scientific fact and the deliberate appeal to fear in an unsuspecting consuming public are used to disparage the safety and quality of fresh farm products. The fact that these products are marketed on a generic basis rather than through a brand name contributes to the problem.

Producers of generic products have no specific protection against libel and cannot recover damages from those who engage in produce disparagement.

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Several states have adopted legislation to give growers some legal protection from this problem. The New Jersey Farm Bureau directors should evaluate this situation and seek appropriate remedial action to protect its produce industry and any commodity group having the same problem.

### **MARKETING - JERSEY FRESH**

Marketing is consistently listed as a major concern of New Jersey farmers. 2013 will mark the 30<sup>th</sup> anniversary of the Jersey Fresh program. The New Jersey Department of Agriculture's Jersey Fresh promotion program has been a uniquely successful and nationally recognized effort to maintain the public's awareness of the quality of New Jersey's agricultural products. As the program is expanded with other branding names such as Jersey Grown, Jersey Bred, Jersey Seafood, and Jersey Firewood, it is important that proper funding be in place to further the state's marketing support.

For FY2010, 2011, and 2012 the Jersey Fresh Budget was reduced to \$150,000 this barely covers the costs of the inspection and grading program with no money for marketing and promotion. The Department was lucky to receive a \$360,000 grant from USDA for specialty crop marketing.

New Jersey Farm Bureau urges the Governor and State Legislature to restore not less than \$1.5 million to the Jersey Fresh promotion program so it can maintain and increase the successful promotion of the Garden State's agricultural and horticultural products. New Jersey Farm Bureau would be supportive of reasonable increased producer fees to support the Jersey Fresh marketing program. Farm Bureau will work with the New Jersey Department of Agriculture to actively seek out other funding sources for the Jersey Fresh Marketing program. In 2008 S218/A553 was approved and signed into law permitting the sale of Jersey Fresh products along New Jersey's toll roads this will be another outlet for farmers to sell direct to the consumer New Jersey grown products.

In January 2011 the Governor signed into law expanded powers for the NJDA to enforce the proper use of the Jersey Fresh brand this would permit the agency to issue summonses directly rather than go through the Department of Community Affairs. There is current legislation A-2871 that would expand those powers even more, the bill calls for the NJDA to confiscate mislabeled produce. Farm Bureau has concerns with the confiscation of a perishable product and will work with the legislature and the Department on other alternatives.

To further improve direct sales to consumers, the Farm Bureau shall work with the trustees of the New Jersey Council of Farmers and Communities and the New Jersey Department of Agriculture to see that the role that the Council serves continues to expand farmer based community marketing opportunities in New Jersey.

### **STATE PURCHASE OF NEW JERSEY-GROWN PRODUCTS**

State government institutions purchase millions of dollars' worth of fresh produce each year for prison inmates, school children and the residents of special needs facilities. Despite the ready availability of high quality farm commodities and value-added products from New Jersey farms at competitive prices, there is presently no state policy or mandate for these institutions to purchase in-state product. This legislative cycle NJFB has been successful in working with bill sponsors on A-2342 and S-1356 that would require state purchasers to look for local produce

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first when ordering. In August 2011 the Governor signed the bills creating the opportunity for state agencies to look at New Jersey agricultural products first. NJ Farm Bureau will follow the rulemaking process as guidelines for implementation are developed.

Since 2002 the NJDA and the Department of Corrections have been continuing a program that allows for the Corrections Department to buy New Jersey produce directly from local growers.

To further increase the purchase of New Jersey grown products, New Jersey Farm Bureau recognizes the passage of legislation in 2004 that reduces purchasing barriers and enables the sale of New Jersey product to state institutions during times of excessive supply. Since the joint New Jersey Department of Agriculture and New Jersey Department of Corrections New Jersey grown purchasing initiative was introduced more than a \$1 million of New Jersey fruits and vegetables have been purchased by the state through that program. This is a great opportunity for farmers to move over supply of product and the state to receive quality product at a beneficial price. NJFB should support outreach and education efforts by the NJDA on the program.

In the past year federal USDA food programs have been expanded to encourage the use of locally grown foods in schools. The Division of Food and Nutrition in the Department of Agriculture has been leading the way in working with farmers and schools to expand the market for New Jersey products. We support the inclusion of New Jersey value-added, farm based products to these efforts. New Jersey Farm Bureau also supported the passage of bills A-2854 and S-2125 in 2011 that establishes a Jersey fresh farm to school week where schools are encouraged to purchase and serve Jersey Fresh products in the schools as well as add a curriculum about NJ agriculture and food.

New Jersey Farm Bureau is also working to build new relationships as we promote the value of Jersey Fresh produce as a part of the national movement towards eating healthy, local, fresh and value-added food products. One such collaboration is with the New Jersey Farm to School Network, a relatively new organization with a mission to improve school food, promote locally grown produce and educate through school gardens. One joint effort will be a forum to discuss ways to expand the amount of Jersey Fresh produce in school lunches in a way that benefits producers, schools and children. NJFB is also partnering with the NJ Farm to School Network on a NJDA 2011 Specialty Crop Block Grant to enhance the competitiveness of specialty crops in New Jersey. Utilizing the Specialty Crop Block grant funding, NJFB will work with the NJ Farm to School Network to educate consumers about the benefits of buying locally grown, Jersey Fresh produce and with Rutgers Cooperative Extension to put on educational seminars and provide point of purchase materials for farmers to assist with promoting the benefits of the fruits and vegetables they grow. The Farm to School Network will assist Farm Bureau in educating school food service professionals about the accessibility of local produce. NJFB should continue to support the Specialty Crop Block Grant program from the USDA.

In past budgets, the governor has increased annual appropriations for the purchase of nutrient dense food by Emergency Feeding Operations. We applaud the intent of the program and its goals, but respectfully request that at least \$1 million of these funds be specifically used for the direct purchase of Jersey Fresh produce in each future growing season as long as the fresh purchase program is funded. In addition, NJFB should include New Jersey farm produced, value-added products in all discussions and actions taken where appropriate.

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## **COMMUNITY FARMERS MARKETS**

Farmers' Market is a public market for the primary purpose of connecting and mutually benefiting New Jersey farmers, communities and shoppers while promoting and selling products grown and raised by participating farmers. The purpose of a community farmers market is to enhance direct marketing opportunities for farmers, to connect farmers and local consumers, and to maintain the viability of rural communities through farm-based economic development. Farmers markets throughout the state need to be professional and well run to serve the interests of the farmer and the community to ensure their long-term success. Products sold are produced by vendors within New Jersey. Brokers or resellers are strictly prohibited.

New Jersey Farm Bureau should support the efforts of the farm community in recognizing the need to develop guidelines or regulations to keep community farmers markets Jersey markets.

## **NEW USE AGRICULTURE**

New Jersey Farm Bureau should continue its leadership role in bringing about an increase in production opportunities in new use agriculture for farmers in this state.

The movement in American agriculture that seeks to use plant material raised on farms as a new, substitute source of material used in industrial and pharmaceutical products continues to expand. There are many proven technologies available for the conversion of carbohydrate material into many products as an alternative to a near-exclusive reliance on petroleum products. New uses for traditional crops for their health benefits are also being researched and refined. NJFB urges the NJAES to make new uses for agricultural crops a priority area of research.

By promoting this initiative, growers will put themselves in a position to capitalize on the emerging non-food, non-feed agricultural products market. This multi-disciplinary, multi-institutional initiative will draw upon the expertise of various sectors related to new use agriculture with growers and producers involved at every step of the process thereby enhancing their profitability.

Some of the action steps from a coordinated grower-Experiment Station-industry-government initiative in New Jersey would be:

- Conduct market research and provide market links for growers and grower groups
- Establish a venture fund to profit growers
- Evaluate proposals from entrepreneurs
- Encourage industry to use New Jersey-produced material
- Identify training/research needs

Farm Bureau shall seek a vertically integrated arrangement for new use products that includes research assistance and investment, production on the farm, commercial development and retail sale and supplemental income from the return on investment.

## **VALUE-ADDED AGRICULTURE**

New Jersey Farm Bureau strongly believes that in order for farms to remain profitable, and therefore viable, they must find ways to market their products differently to appeal to a larger

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customer base. This can be done by finding new uses for agricultural products, but also by adding value to existing products. For example, farmers who process and or package their own products may see a competitive advantage in the marketplace.

New Jersey Farm Bureau shall help farmers seek out and establish activities to add value to their products. In all of these endeavors, Farm Bureau shall work with the appropriate agencies to stress the importance of limited and reasonable regulation in order to make the establishment of these activities more viable. These endeavors may include the establishment of:

- onsite pasteurization of milk
- health department-inspected home kitchens and cooperative kitchen programs, to help alleviate the burdens of commercial kitchen regulations on individuals, and to aid New Jersey producers in remaining competitive with farms in neighboring states. New Jersey Farm Bureau should aggressively pursue the development of regulations for this purpose, similar to those in Pennsylvania.
- local or regional slaughter facilities on farms
- on-farm re-packing or co-packaging of food products

### **ON-FARM BREWING**

On-farm brewing licenses could provide an additional marketing opportunity to New Jersey farms and their farm products. **While** New Jersey Farm Bureau supports a bill currently pending in the legislature that would establish a farm brewery license that would permit farm breweries to produce malt alcoholic beverages for retail sale to consumers. In September of 2012 the governor signed into law, A-1277/S-641 making changes to the brewery license that simplified and reduced the process by which a small micro-brewery would operate accomplishing much of what the “farm brewery” license does.

Also, New Jersey Farm Bureau should participate in a discussion to recognize on-farm brewing (micro-brewing) as an approved agricultural practice under specific criteria.

### **INDUSTRIAL HEMP PRODUCTION**

To date, 38 states have expressed support for decriminalizing the production of industrial hemp. Industrial hemp is not a significant producer of THC, the psycho-active element in marijuana. Industrial hemp was a valuable fiber, oilseed, and biomass crop in the United States prior to the 1938 Marijuana Act that criminalized the production of all types of hemp.

Annually, over \$34 million of legal hemp products are imported into the United States from Canada, Belgium, Portugal and other countries. NJFB needs to become informed of this broader national movement to decriminalize industrial hemp and provide fact-based detail to the membership, legislators and public regarding the benefits of industrial hemp production as a suitable and profitable crop for New Jersey growers.

### **AGRICULTURAL EQUIPMENT LEMON LAW**

Commercial farming is a competitive business that requires large investments for land, buildings and equipment. The purchase of new equipment in some instances for farmers represents a significant outlay of money and becomes a critical element in the production operations. It is important that the farmer's interests' during this type of major transaction is protected from

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careless or indifferent attitudes by farm equipment manufacturers in the event that a newly-purchased item proves defective.

Farm Bureau shall seek state legislation to protect purchasers of new equipment. Farm equipment manufacturers and their dealers should ensure that their equipment operates, performs, and functions in conformance with advertised standards. Manufacturers must be prepared to immediately repair, modify, or replace any defect in design, engineering, or manufacturing at no cost to the farmer; or in the alternative, refund the purchase price to the farmers if bought new or the amount the equipment was sold for as used.

Farm Bureau is concerned that the reduction of farm equipment dealers in the state also reduces the options available to farmers in selecting equipment, thus making them vulnerable to unilateral decisions by the manufacturers and dealers in these instances. This proposed legislation ought to be reasonable for both buyers and sellers and seek a clearly established understanding for everyone involved in these expensive transactions.

### **UTILITY LINE MAINTENANCE & EFFECTS OF UTILITY LINE DEVELOPMENT/EXTENSION**

The recently released New Jersey Energy Plan puts emphasis on better use of current facilities and energy resources leading to improvements in delivery of power and energy sources. Expansion of major electric and gas lines through the northern part of NJ including the Highlands are considered critical to bringing more wind power and gas supplies from newly developed sources in PA to the consumers of New Jersey and the Northeast. This would help to raise the percentage of power produced by alternate fuels to the 2020 and 2050 goals.

Gas production through the fracking process has been halted for one year in New Jersey by Governor Christie to prevent mining in a narrow strip of the far northwestern part of the State where underground supplies might be located. Though it is illegal today, gas development entrepreneurs may approach farmland owners there to obtain the most inexpensive options to drill if and when NJ permits use of this resource. Landowners in that part of Sussex and Warren counties should be careful to receive fair compensation for what could be a very valuable resource. NJ Farm Bureau opposes use of the fracking methodology to reach gas reserves in New Jersey because of the potential damage to land and water resources.

The Susquehanna-Roseland electric power link has become a new Obama pilot project that would expedite construction of certain transmission projects. This 45-mile link crosses the Delaware Water Gap National Recreational Area and a portion of the Highlands but would cause little more land disturbance because the preferred location only doubles the size of an existing transmission line. Some additional land may be required for the construction process and to protect significant views of the line. Landowners have been contacted and informed about the potential of selling portions of their land for these purposes. In order to receive Highlands Council approval (as a utility exemption) PSE&G set aside many millions of dollars to be used for land acquisition, thereby assuring money to compensate Highlands landowners at the expense of power users over the broader Northeast.

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An existing gas pipeline is proposed to be doubled to transport the newly mined gas from fields of Pennsylvania. This underground natural gas poses even more difficult land ownership questions since it can migrate in ways that are not easy to identify.

Because this is occurring at an even more intense pace in other parts of the United States, AFBF warns that farmland owners must take more care in agreeing to the terms of long-term leases or option agreements. Some of the questions a landowner must ask include:

How will the “fair market value” of the easement or acquisition be calculated?

Will owners of land needed to expand the utility/transmission line right of way receive a one-time payment or a yearly royalty like those who allow wind turbines or cell towers on their land?

Who assumes liability for the construction and operation and who pays for the liability insurance? Is it included in a yearly payment?

Does this land use reduce the value and usefulness of the property, such as impairing access, reducing the functionality of existing land and buildings? Compensation would be due for this impact.

Will the company restore the land to its prior condition and agricultural use if and when the utility use ceases?

Many current landowners may have no idea there is a utility easement on their land with the right to expand even though they can see the towers or other signs of a pipeline.

In the coming year NJ Farm Bureau must obtain more specific information for landowners and communicate it to the membership.

Utility lines located on farmland can create a serious nuisance for farmer options if they are not properly maintained. Large stanchions supporting overhead wires, if left unattended, can become a breeding area for noxious weeds, insects and diseases to the plant material on the surrounding farm acreage. Some utility companies have been reluctant to routinely clean these areas and in effect leave that work to local farmers at their expense. NJFB supports a legislative change requiring the proper maintenance of these areas, including the control of vegetation. Utility companies should maintain the height of utility lines that cross public roads in a way that prevents them from being caught or damaged by vehicles. New Jersey Farm Bureau will monitor this situation and advocate proper maintenance wherever it is appropriate. Similarly, gas and petroleum pipeline rights of way should also be maintained.

In the spring of 2008, the Board of Public Utilities (BPU) proposed a new rule regarding the control of vegetation under power lines. This imposition of a strict height limit would cause serious problems for many producers with these lines over their farms. The New Jersey Department of Agriculture successfully negotiated with the BPU to allow for the continuation of agricultural activities under these lines.

### **AUTO INSURANCE**

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Automobile insurance remains a high cost item for farmers and non-farmers alike in New Jersey. The present system cannot ever be expected to cause a decrease in premiums for a variety of reasons, one of which is the large amount of claims borne by all the insured for the uninsured. Those costs are passed along to the balance of the driving public without any attempt to reduce the number of uninsured drivers.

We believe that driving privileges ought to require proof of insurance as a condition of obtaining a driver's license in the state. Liability insurance should be purchased prior to state issued operator's licenses. Drivers should be insured - not cars - except for collision insurance which should remain on the vehicle.

New Jersey Farm Bureau shall work with Farm Family Insurance to encourage the adoption of a fleet insurance policy.

### **FARM CREDIT**

Agriculture in New Jersey, like elsewhere in the nation, needs a reliable source of operating credit and long term financing to support itself. New Jersey Farm Bureau recognizes the importance of maintaining a strong farm credit system to help meet the credit needs of farmers, agricultural cooperatives and rural communities. NJFB also recognizes that agriculture is changing and, correspondingly, its needs for financial services and capital, new investment, and infrastructure are changing. Because of this changing climate, agriculture and rural communities need greater, more dependable access to competitive, flexible, financial resources in order to compete in a changing global economy.

The customer-owned Farm Credit System has a mission to serve the financial needs of agriculture by providing capital, expert advice and competitive financial services and product. New Jersey Farm Bureau will support regulatory and legislative changes that would provide agricultural producers, commercial fishermen, farm- and fishing- related and other rural businesses, rural homeowners, and others in rural America with broader access to financing by the cooperative Farm Credit System.

### **USDA**

Farm Services Agency

Federal financial support for farming in New Jersey comes largely in the form of financial assistance for producers through the Farm Services Agency (FSA). Large amounts of money, in the form of federal disaster assistance, and other federal assistance programs, coming into New Jersey re-emphasize the need for additional staffing in the regional FSA offices. New Jersey Farm Bureau supports an increase in the USDA-FSA budget to accomplish this staff expansion.

To expand communication and coordination between New Jersey producers and the FSA state office, Farm Bureau will offer its assistance in organizing increased information about agency programs. This should include the involvement of county boards of agriculture and affected commodity groups.

New Jersey Farm Bureau should play a facilitator's role in the examination and review of current FSA programs in New Jersey to ensure that local growers' interests are kept equal to those in other states. Support of the state's congressional delegation should be solicited if needed.

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When any part of the state is declared a disaster area, farmers should be allowed to use the county-posted corn and soybean yield for their loan deficiency payments (LDP). For other crops more realistic yields also need to be used in the event of a disaster. The county average yield is the baseline used when there is no other production history. Because county average yield is based on National Agricultural Statistics Service it can produce yield figures that may not accurately reflect actual county averages. This could be an issue when there is not a past average production history that has been established by the grower. New Jersey Farm Bureau should work with the FSA advisory committee to ensure that yields for all crops more closely reflect actual New Jersey yields.

### Farm Loan Program

Farm Bureau supports:

- A change in policy that would make equine operations eligible for the loan program.
- Funding for the Farm Loan Program, the Interest Assistance Guaranteed Loan Program, and the Youth Loan Program.
- A change in federal statute that would allow disaster loans to be distributed in times of economic disaster as well as weather-related disasters.
- A change to allow the use of the direct Farm Ownership funds for refinancing debt. FSA is currently not allowed to refinance an existing real estate purchase.
- That in especially urban states like New Jersey, the need to relax the performance requirement for new (not yet preferred) lenders to participate in the loan guarantee program allowing banks with strong commercial portfolios to enter this program.

The Biomass Crop Assistance Program (BCAP) provides financial assistance to owners and operators of agricultural land who wish to establish, produce, and deliver biomass feedstocks. BCAP provides two categories of assistance:

1. Matching payments may be available for the delivery of eligible material to qualified biomass conversion facilities by eligible material owners; and
2. Establishment and annual payments may be available to certain producers who enter into contracts with the Commodity Credit Corporation (CCC) to produce eligible biomass crops on contract acres within BCAP project areas.

New Jersey Farm Bureau supports the continued implementation and development of this program that promotes on-farm fuel production.

### Crop Insurance

New Jersey farmers want to see crop insurance sold on a yield basis as well as price per unit of production. This type of coverage, called Crop Revenue Coverage (CRC), is available in other states and is available for grain crops such as corn, soybeans, etc. in New Jersey. NJFB supports extending similar coverage to other and/or all crops that are produced in New Jersey. Procedures for coverage, inspection and pay-out should vary by commodity. Growers should provide input during the development of these commodity-specific guidelines, especially since redemption terms are not uniform among commodities. State payments as a supplement to crop insurance premiums ought to be investigated.

Another key issue facing New Jersey farmers is acreage which is not eligible for prevented planting coverage when the first crop is not recognized ie: rye harvested for straw as the first crop to be followed by soybeans. It is requested that rye and other small grains harvested

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solely as straw and green feed (before grain maturity) be classified as a recognized first crop for prevented planting purposes.

Farm Bureau believes that there ought to be an option created for farmers to self-insure for disaster assistance. According to this concept, federal banking law should be amended to allow a farmer or pool of farmers to set aside their own money in a tax-exempt, liquid status for ready use in the event of an USDA declared natural disaster. These funds should be segregated into separate interest-bearing accounts that may also be put into other financial investments (mutual funds, etc.) but still instantly liquid. Taxes would be paid on the amount of the original deposit at the point of withdrawal. The assistance of AFBF with this proposal is also requested.

New Jersey Farm Bureau should work with RMA to develop a program for failed plantings in vegetable and flower crops. The NAP program does not work for New Jersey growers with multiple plantings when one or two plantings fail. Because so many New Jersey farms are so diversified, the development of risk management and insurance products that will meet the needs of those farms must be a priority for New Jersey Farm Bureau.

New Jersey Farm Bureau supports changing the current requirement that all crops in an operation must be insured in order to receive any payment. Farmers should have the option to insure just those crops they would want to recover in the event of a disaster.

### New Jersey State Conservation Enhancement Reserve Program (CREP)

The Conservation Enhancement Reserve Program (CREP) was designed to help farmers voluntarily reduce potential impairment from agricultural water runoff sources in an effort to improve water quality along New Jersey streams. New Jersey Farm Bureau signed on as a supporter of this voluntary program since its inception in February 2004. Since then, FSA in New Jersey has placed over five million dollars of USDA conservation funding towards CREP practice installation and maintenance across our state. These installations include tree buffers, waterways, and grass filters.

It is important to note that this voluntary and beneficial program could be severely hampered by other regulatory agencies. If NJDEP or other agency creates regulations that mandate easements or buffers, this would eliminate the federal government's ability to pay incentives, because FSA is not permitted, by rule, to pay incentives on land that is already under a mandatory easement.

### Natural Resource Conservation Service

Federal payments to New Jersey farmland owners to create wildlife habitat are encouraging them to take many acres out of agricultural production. This land is then lost for farmers renting the land who depend upon those acres to be viable. The USDA-NRCS and the New Jersey Audubon Society have received grants to enable them to help farmers increase wildlife habitat. And while they recommend ways that farmers can be profitable while developing and maintaining new wildlife habitat, experience is showing, that there is still little market for native grass hay.

Because New Jersey farmers already struggle with competition for tillable land, any loss of viable cropland is detrimental to the industry. The pattern of landownership in New Jersey also

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differs in that there are many more farms owned by non-farmers to whom a government payment may appeal.

New Jersey Farm Bureau urges the USDA-NRCS and non-profit wildlife groups to be selective in the properties they target for WHIP projects. Agricultural and wildlife groups should work together to find ways to keep the best agricultural lands in agricultural production, and use more marginal lands for wildlife habitat.

### National Agriculture Statistics Service

Farm Bureau calls upon the New Jersey Congressional delegation to maintain adequate funding levels in the USDA budget for NASS spending that is so vital to the many programs of the USDA, NJDA and NJAES, in support of commercial agriculture.

### **WIC AND SFMN PROGRAMS**

Since 1994, The Women, Infant and Children (WIC) Farmers Market Program, has provided Jersey Fresh fruits and vegetables to a segment of New Jersey's nutritionally at risk population who wouldn't normally purchase farm fresh produce. In 2002 a pilot program was started to address the fresh food needs of our senior citizens and to that end the Senior Farmer's Market Nutrition Program (SFMNP) was started with great success for New Jersey's direct farm marketers. Both programs have been successful at putting federal food program dollars in farmer's hands.

Though the SFMNP has had a high return rate for vouchers issued, the WIC FMNP has not had as successful a rate of return. NJFB urges the NJ Department of Health to over-issue the WIC checks by 30%, to improve the redemption rate. To improve consumption of fresh fruits and vegetables the federal government has proposed rules that would permit vouchers to be redeemed at supermarkets and expanded the program to include frozen and processed fruits and vegetables. New Jersey Farm Bureau supports exploring the development of greater access for WIC and SFMNP participants including making electronic reading devices available to local area growers for food stamps. As one means of increasing participation, NJFB supports a change in regulation that would allow for the distribution of WIC checks at the farmers markets. This year, New Jersey and New York are the only states to use the new Cash Value Vouchers, CVVs. The program got underway this October and New Jersey Farmers are able to accept them.

Currently, farmers are still not allowed to accept CVVs for their own frozen or processed produce. This provides an unfair advantage to supermarket retailers in a program that was designed to be mutually beneficial to local farmers and high risk consumers. The changes in this program would definitely be detrimental to farmers markets should these CVVs be used throughout our growing season, as well as detrimental to the at risk consumers, as they may be likely to purchase canned or processed foods instead of fresh. Furthermore, honey is currently considered a processed food. This assumption is not correct. Therefore, honey as well as other local value-added products should be included in the CVV program.

In January 2011 a new state law went into effect that would expand the authority of the Secretary and Department of Agriculture to establish Jersey Fresh produce markets in urban areas where access to fresh foods are limited. This bill is an opportunity for the Department to

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work with the private sector to meet the needs of underserved communities and could be a perfect fit for increased redemption of WIC, FMNP and SFMNP vouchers.

New Jersey Farm Bureau does not agree with and strongly opposes the expanded use of the coupons to supermarkets especially during New Jersey's local growing season, as the benefit of putting federal dollars into the hands of local farmers would be lost.

### **RURAL DEVELOPMENT**

New Jersey's rural areas are blessed with abundant natural resources, scenic values and economic opportunity that unfortunately receive an unsatisfactory level of attention by state government. While individual units of local government do well to represent themselves, there is a lack of an overall coordinated rural economic development policy in the state. Such a policy in many instances could work in a complementary fashion with local agriculture in these areas, to help realize greater levels of job creation, investment and social services for the residents in these areas of New Jersey.

Furthermore, the federal USDA is now embroiled in a debate over what constitutes the official definition of "rural areas," which holds the key to opening the way for increasing levels of rural development financial assistance provided by the agency. Northeastern states like New Jersey are at risk of being disenfranchised in the outcome of this debate if the criteria unfairly eliminates significantly parts of rural New Jersey from qualifying for USDA assistance.

USDA Rural Development makes loans and grants to develop essential rural community facilities in areas of up to 20,000 in population. Direct loans may be made to applicants unable to obtain commercial credit. Entities eligible to apply for Rural Development assistance include public entities (municipalities, counties etc) federally recognized Indian tribes and non-profit organizations.

The types of projects financed include:

- Health Care, such as hospitals, clinics, nursing homes, ambulatory care centers etc.
- Public Safety, such as police and fire stations, jails, fire and rescue vehicles, and communications centers
- Public Services, such as adult and child care centers, courthouses, airports, schools, fairgrounds, etc.

The need to emphasize rural development issues such as emergency services, high-speed Internet access, improved healthcare services, enhanced education and improved infrastructure is growing in importance to New Jersey's farm families and communities. Many issues dealing with rural development are high on the national agenda currently as they are related to the economic recovery plans adopted by Congress and the Obama Administration.

To thrive, rural areas need access to health care, government services, and educational and business opportunities. For many rural communities, access can only be gained by using broadband services and sophisticated technologies that require high-speed connections. Rural business owners need access to new markets and employees for their businesses. Rural health care providers need access to health information technology. Rural students need access to educational resources and continuing education opportunities. The Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) in 1997 to ensure that

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consumers in all regions of the nation have access to quality telecommunications and information services at affordable rates. Farm Bureau supports using the USF to expand broadband deployment to rural areas.

New Jersey Farm Bureau also supports the important work of USDA Rural Development to improve the quality of life and increase economic opportunity in rural America. We encourage the long-term funding of the grant, loan and loan guarantee programs administered by USDA Rural Development.

New Jersey Farm Bureau supports:

1. Legislation encouraging rural economic development, particularly to foster agriculture and value-added opportunities;
2. Rural Economic and Community Development programs and urge that these continue to be administered through USDA;
3. Additional USDA Rural Development funding, targeting a greater portion of funds towards stimulating commerce in rural areas and increased technical and marketing assistance to provide value added opportunities for agricultural producers;
4. Establishment of and funding for a state rural development council.

### **NEW JERSEY DEPARTMENT OF AGRICULTURE BUDGET**

Farm Bureau supports restoration of full funding to the NJ Department of Agriculture. Farm Bureau strongly opposes any cutting of the Agriculture Department budget.

As the national and state economies slowly recover, further cuts are still being requested of state agencies. Any additional reduction to the current year's budget will undoubtedly have a negative impact on the key functions and programs of the department. Some impacts have already been felt through the loss of employees to early retirement, reduced support to the Jersey Fresh program, loss of cost share money for conservation on farms, shortages in staffing for veterinarian services, inspectors for plant industry and marketing and development staff.

New Jersey's agricultural industry is growing and expanding each year. In order for this growth to continue, the industry requires certain basic services and programs from the Department of Agriculture. New Jersey Farm Bureau recognizes the difficult financial situation of the state; however, the Department of Agriculture should not be forced to make further cuts if they mean cutting vital services. The past few budget cycles have seen the department take budget cuts of 22% 18% and 24% with the last two budgets at level funding there have been many impacted programs and services. With a hiring freeze in place and the retirement of key individuals at the department the core functions of the Department are at risk.

New Jersey Farm Bureau should work with the Governor, the legislature and the State Board of Agriculture and the Secretary of Agriculture to ensure there is the necessary funding for critical department functions, successful programs and services to the agricultural community and the citizens of the state, and to ensure that no cuts are made in the upcoming budget.

### **EDUCATION POLICIES**

All farmers and landowners in the state should be concerned with the enormous investment of public tax dollars invested by the state in its educational system. The financing of elementary

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and high school education is largely based on the property tax placing constant upward pressure on property taxes.

New Jersey Farm Bureau shall seek legislation and the support of the state Department of Education and the New Jersey State Board of Education for a proposal making "Ag in the Classroom" a required part of the State Core curriculum Standards in the first through sixth grades.

### FFA/Agricultural Education

Agricultural education prepares people for careers and professional leadership in production, processing, marketing, and distribution of agricultural products, and for related careers in plant and animal technology (including aquatic life), economics, education, mechanics and engineering, natural resources and environmental technology, politics, sociology, and international relations and trade.

Agricultural Education's components are: classroom and laboratory instruction by a certified teacher of agriculture; work-based learning through supervised agricultural experience programs; and personal and professional career development activities of the FFA.

The National Agricultural Education Council has identified a need for additional trained, qualified, certified teachers of agriculture. It has become a national issue due to:

- The increased number of retirement-age teachers
- The decreased number of newly certified teachers nationally
- The increased interest for new middle school and secondary school agricultural education programs

It is recommended that both Rutgers School of Environmental and Biological Sciences and Rutgers Graduate School of Education take a more aggressive effort to re-establish a quality and expand the agriculture teacher education program both for undergraduate and graduate levels, and not limit the GSE program to certification only for SEBS graduates.

Of the critical issues facing the nation, few are more compelling than ensuring a stable, safe and affordable food supply, improving the academic performance of public schools and providing leadership for local community development. The National Council for Agricultural Education is contributing substantially in these areas through its major national initiative "10 x 15: The Long-Range Goal for Agricultural Education." The national goal states:

By 2015 there will be in operation 10,000 quality agricultural education programs serving students through an integrated model of classroom/laboratory instruction, experiential learning, and leadership and personal skill development. Further, all students will be members of the FFA and have a supervised agricultural experience that supports classroom and laboratory instruction.

New Jersey Farm Bureau is concerned about successfully meeting growing domestic and global demands for food and fiber; and seeks to identify the future managers, producers, leaders and workers who will ensure the future security and productivity of agriculture. We recognize that local communities expect higher academic achievement among their students, especially in

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math and science, and increases in accountability, standards, rigor and relevance throughout the education systems.

To achieve these goals, New Jersey Farm Bureau endorses the long range goal for agricultural education and urges its members to provide active support for its projects and activities on local, state and national levels that will help create new programs in communities not yet served by agricultural education and FFA and ensure the quality and high performance of current programs providing personal, academic and career education in agriculture.

Steps must be taken to insure that all residents of New Jersey have a better understanding of “What is agriculture” and a better appreciation of the contributions that a strong agriculture makes to the quality of life for all residents.

The New Jersey Farm Bureau supports the development of a coalition of New Jersey agricultural organizations which would have as a primary focus the support of agricultural education, thus increasing the number of quality instructional programs and therefore increasing the number of qualified graduates to pursue agriculture, food and natural resources careers as defined by the career cluster model. The coalition would function as “Team Ag Ed” and would support programs, projects, and initiatives which will improve the image of agriculture state-wide, inform the public about the benefits of a strong agricultural community, and encourage young people to consider the rewards of pursuing a career in an agricultural occupation.

### **COLLEGIATE FARM BUREAU**

In an effort to expand Farm Bureau’s presence to new members, particularly those just entering the field of agriculture, New Jersey Farm Bureau supports the creation of a collegiate Farm Bureau. A collegiate group has been formed at Rutgers School of Environmental and Biological Sciences. NJFB will continue working with Rutgers faculty to continue the development of this group and its activities.

### **COMMUNICATION AND EDUCATION**

The general public overwhelmingly supports and wants to preserve New Jersey agriculture. We must not allow untruthful or distorted perceptions to cloud or weaken that public support. Farm Bureau, county boards of agriculture, commodity organizations and allied entities like CADB's and units of local government should speak out in support of the adopted policies for the industry. Public relations on behalf of agriculture must be a main priority of New Jersey Farm Bureau.

Farm Bureau again contracted with PublicMind of Farleigh Dickinson University to conduct a public opinion poll on various agricultural issues. Information learned from the results of these polls will be used as Farm Bureau develops and promotes its key messages. The New Jersey Farm Bureau Board of Directors shall continue to authorize additional polls if they deem it necessary throughout the year.

In 2011, NJFB again sponsored “Farmer Appreciation Night at the Trenton Thunder.” The goal for this event was to increase the general public’s awareness about agriculture and Farm Bureau, and to promote the purchase of local farm products.

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Farm Bureau shall continue to work with a media consultant to implement a proactive, planned approach to communicating agriculture's key messages. The media consultant has developed an ongoing relationship with reporters in the print and broadcast media that serve New Jersey many of whom now seek the Farm Bureau's input when reporting on issues and stories that pertain to agriculture.

In addition, Farm Bureau staff and members shall all take an active role in daily scanning of newspapers for agriculturally-related items, and sharing those clips with the entire staff to ensure that current media coverage is being fully monitored and responded to in a timely manor when appropriate.

In addition to communicating our policy issues, New Jersey Farm Bureau must also promote the agricultural industry and the organization of Farm Bureau to the non-agricultural community. Agriculture needs to continue to build alliances and support outside the farm community to ensure that emerging issues are identified and addressed early by a strong coalition of support.

After several years of funding cuts, the funding for the New Jersey Museum of Agriculture was completely eliminated. Without adequate funding, the museum was forced to cease its exhibitions and educational programs.

New Jersey Farm Bureau continues to believe that education of students in the relationship of agriculture to food, fiber, science, technology and the environment is very beneficial to the long-term goals of New Jersey farmers. Therefore, New Jersey Farm Bureau strongly supports the appropriate disposition of the museum's artifacts, preferably to new locations where they could still be viewed by the public.

NJFB shall work with the county boards and other agricultural organizations to develop a network of well-informed farmers with strong communication skills to disseminate the industry's key messages. NJFB should specifically target graduates of the New Jersey Agricultural Leadership Development Program to participate in this network, in order to capitalize on the training they've received.

### **COMMUNICATION WITH THE AGRICULTURAL COMMUNITY**

Farm Bureau will continue and expand its use of the New Jersey Farm Bureau website as a communication tool within the organization. Farm Bureau shall develop an online forum for farmers to discuss current issues of interest and concern with other farmers. Wherever possible Farm Bureau should encourage the adoption of Internet use and e-mail communication by its members. This can include workshops on this information technology if needed. Brochures and self-help advisory documents on topics like motor vehicle regulations, sales tax rules, farmland assessment, and other issues shall be developed and/or updated as necessary and made available to Farm Bureau members.

#### **Farmers Contact with Congress**

To keep federal legislators aware of how policy decisions in Washington may affect farmers, producers must be active in communicating with their congressional representatives. New Jersey Farm Bureau shall:

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- aid in this communication process by identifying key issues of importance to agriculture and relaying that information to Farm Bureau members;
- assist its members by providing additional information about who New Jersey's legislators are and how they can be reached most effectively; and
- continue to participate in Farm Bureau's Agricultural Contact Team (FB ACT), AFBF's grassroots legislative action network, to help achieve this increased communication with Congress.

### Farm Bureau Membership Recruitment and Retention

The implementation of membership recruitment activities must be a priority for Farm Bureau. Farm Bureau staff shall work with county leaders to develop and conduct recruitment and retention activities, focusing on the "regular" Farm Bureau membership classification. NJFB will assist county leaders in this recruitment and retention effort by sharing membership renewal information with them regularly and by supplying them with applications and benefit brochures as needed. In addition, to ease membership renewal, and increase the opportunities for new members to sign up, New Jersey Farm Bureau shall make the sign-up and payment process available on the New Jersey Farm Bureau website.

In 2009, the NJFB Board of Directors created, as a pilot program, a new "student" membership category. The category was created to reach out to potential new members and to also strengthen the organization's current relationship with agricultural youth organizations.

### **PROBLEM SOLVING SERVICES**

One of the core services provided by Farm Bureau for its members is informal constituent assistance when help is needed. Many farmers call or write letters to the Farmhouse with questions, requests for information or ideas about how to handle problem situations. Some of these questions involve compliance status with government regulations. Others are in regard to miscellaneous aspects of farm operations and management. Farm Bureau shall respond to these farmer calls within 24 hours. This interaction is an excellent way to surface information about the need to create, modify or eliminate current regulations through formal contact with government agencies or the legislature.

There is a benefit to coordinating this effort with similar work being done by the Department of Agriculture and Rutgers Cooperative Extension. Information fact sheets and other "how to" and "do's and don'ts" guidelines can be stored and retrieved on the Farm Bureau communication tools. Farm Bureau shall, during the upcoming year, attempt to strengthen these services through such coordination and documentation of this base of knowledge and experience for the membership.

Members are cautioned that the key to gaining flexibility in the interpretation of rule compliance judgment calls is good faith efforts at using recommended management practices. Farm organization influence is diminished by the few who skirt recommended practices and create undesirable impressions with the public about agriculture.

### **COUNTY BOARDS OF AGRICULTURE**

Farm Bureau will continue to promote farmer participation in the county boards of agriculture. There should be some recruitment of new people to add fresh input to the boards, especially where a few individuals have done most of the work for many years. Farm Bureau will continue

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its project of increasing its farmer membership throughout the organization. This project of farmer member recruitment and retention will necessitate participation on the local level with members from each county board involved.

New Jersey Farm Bureau must continue its effort to provide each county board of agriculture with up-to-date information regarding their legal requirements for tax purposes.

### **LOCAL GOVERNMENT AGRICULTURAL LEADERSHIP**

To assure recognition of the concerns and needs of the agricultural industry at county and municipal levels, Farm Bureau urges county boards of agriculture to develop and maintain information programs to keep local elected leaders informed. While such programs are important and often successful, an even more effective approach is for local agricultural leaders to secure local elective office. Farm Bureau strongly urges farm leaders to seek such elective office.

### **FARM BUREAU POLITICAL POSITION**

Farm Bureau represents all the farmers and rural interests in New Jersey and represents their public policy interests. Farm Bureau should encourage individual farmers or groups of farmers to evaluate positions of candidates for elective office that affect their interests and to publicly express their endorsements therefore.

Agricultural issues are non-partisan and benefit all citizens of the state. When the agriculture community seeks to fill appointments to boards and commissions, political party should not be a factor in the nomination or subsequent appointment.

### **COOPERATIVE ACTION AMONG FARM GROUPS**

Agriculture in the northeast and especially New Jersey in recent years has been marked by increased competition, intrusion by government regulations and declining profitability for many operators. In these times of increased economic competition, farmers should look to innovate with cooperation more than ever before. New Jersey Farm Bureau should be active in developing and/or facilitating collective action among its members where it proves to be feasible.

### **AMERICAN FARM BUREAU**

New Jersey Farm Bureau encourages American Farm Bureau to again increase its dues to maintain a budget that will meet the needs of this national organization. The American Farm Bureau Federation should consider publishing a national publication. Currently, only a small fraction of the membership receives the AFBF News. We recommend that the publication be an extension of our agricultural and free enterprise philosophies.

### **LITIGATION POOL**

New Jersey farmers are sometimes the recipients of unfair and arbitrary enforcement actions arising from either government enforcement agencies or litigation. These normally occur in instances of labor management, environmental issues, land use or farm management practices. Agriculture is a profession dependent on the use of natural resources and a substantial amount of labor, and is therefore, vulnerable to such legal action on many fronts. An individual farmer is

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in an unfair position to defend him or herself from "test cases" brought by advocacy groups or government agencies.

Settling these cases because of financial limitations despite one's feelings of guilt or innocence is undesirable both to the individual farmer and the farm community as a whole. There may be other farmers in the state who have encountered similar problems and should have their information pooled with other farmers' experiences. The Farm Bureau directors will develop a working policy and protocol to educate and assist farmers on legal problems arising from environmental, labor and right to farm disputes. Such a protocol should include swift and strong support from Farm Bureau in any cases that could set a precedent for farmers statewide.

### **ENGLISH - OFFICIAL LANGUAGE**

State legislation is pending that would designate English as the official language of the state. We also support the same for adoption by the Congress of the United States. While we appreciate the ethnic diversity that makes this country great, our government has limited resources and must not be forced to make unnecessary expenditures for the printing of various documents in multiple languages. We should provide public education and training to help those in need to learn English, but at the same time establish the language as the official basis for governmental and business transactions. An important aspect of English as the official language of the United States is that it establishes a common, unifying theme in the world's most widely diverse and constantly changing culture.

### **POLICY IMPLEMENTATION**

To aid in the implementation of the above adopted New Jersey Farm Bureau policies, the NJFB president shall develop a list of actions for farm bureau to undertake, as contained in this policy document. The NJFB Board of Directors then shall, before the end of the calendar year, approve of and prioritize said "action list." NJFB staff will then use this priority listing as a blueprint for actions in the coming year. This list will serve as a slimmed down version of the complete policy book, making it a more usable document. The President should report to the board on any progress made to the list throughout the year.