

Green Sergeant's Bridge

New Jersey's Only Remaining Covered Bridge

Delaware Township

Hunterdon County, New Jersey

www.DelawareTwpNJ.org

OFFICE OF TOWNSHIP COMMITTEE

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VIA OVERNIGHT MAIL

February 24, 2015

The Honorable Cheryl A. LaFleur, Chairwoman
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Re: Docket No. PF15-1-000
Proposed PennEast Pipeline Project
Delaware Township, Hunterdon County, NJ
Scoping Comments

Dear Chairwoman LaFleur:

The Delaware Township Committee is submitting comments during the scoping period on the potential impacts that the proposed PennEast Pipeline may have on the preserved lands and water and wetland resources in Delaware Township, Hunterdon County, New Jersey. In addition, the Delaware Township Committee is submitting comments on the proof of Public Convenience and Necessity. Please see the enclosed comments with the supporting figures, tables and appendices.

The Delaware Township Committee would like the Federal Energy Regulatory Commission to address these comments during the scoping period and when preparing the Environmental Impact Statement.

Very truly yours,

Joseph Vocke, Deputy Mayor

Enclosed:

Delaware Township's Scoping Comments on Open Space and Preserved Farmland

Resources

Open Space and Preserved Farmland Resources Tables 1 and 2
Open Space and Preserved Farmland Resources Figures 1 through 6
Open Space and Preserved Farmland Resources Appendices 1 through 3
Delaware Township's Scoping Comments on Water and Wetland Resources
Water and Wetlands Resources Figures 1 through 6
Delaware Township's Scoping Comments on Proof of Public Convenience and Necessity

cc: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission (via overnight mail)
Ruth Foster, NJ Department of Environmental Protection
Timothy Brill, NJ State Agricultural Development Committee
Pam Bush, Delaware River Basin Commission
Marlen Dooley, Delaware and Raritan Canal Commission
NJ Water Supply Authority
Anthony C. Cox, PennEast Pipeline LLC
Congressman Leonard Lance
Senator Cory Booker
Senator Robert Menendez
Assemblyman Jack M. Ciattarelli
Assemblywoman Donna Simon
Senator Christopher "Kip" Bateman

Preserved Open Space and Farmland Resources
Delaware Township, Hunterdon County, New Jersey

Introduction

As compared to other states, the total landmass of New Jersey, the Garden State, is relatively small and much of that total area has already been given over to industrial development and urban/suburban sprawl. This worrisome trend was recognized by New Jersey's Legislature in 1981 when it passed N.J.S.A. 4:1C-11 (cited as the "Agriculture Retention and Development Act"). This Act established the funding and necessary governmental infrastructure to assist New Jersey's county and municipal governments in preserving the remaining agricultural lands in their communities.

Farmers and landowners in Delaware Township were some of the first in the state to participate in the farmland preservation program. As stated in the opening of the Delaware Township Comprehensive Farmland Preservation Plan¹:

"Delaware Township has been historically, and remains, an agricultural community. Traditional farm production has followed along the lines of the State as a whole. Livestock production, such as cattle, sheep, horses, and the dairy industry and traditional field crops, such as corn, hay, wheat, and soybeans have played a role in the municipality's agricultural heritage."

During the 29 years since the first three farms in Delaware Township were preserved, the Township has invested \$8,432,423.00 in municipal funding for farmland preservation to preserve open space in the Township. In addition, the Township has also undertaken approximately \$150,000.00 in unreimbursed ancillary costs (legal fees, appraisals, surveys, and the salary of a part-time Open Space Coordinator).

Over the years, Delaware Township has been regarded as a reliable preservation funding partner and has acted in concert with State, County, Federal, and the Non-Profit Land Trust agencies to preserve farmland and open space.

¹ Delaware Township, Hunterdon County, New Jersey Comprehensive Farmland Preservation Plan, December 10, 2007 Amended December 16, 2011

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A parallel state agency, the New Jersey Green Acres Program also works directly with Delaware Township to preserve valuable recreational and conservation land. The Mission Statement of the Green Acres Program reads as follows:

“To Achieve, in partnership with others, a system of interconnected open spaces, whose protection will preserve and enhance New Jersey’s natural environment and its historic, scenic, and recreational resources for public use and enjoyment”

Since the program was created in 1961, the Green Acres Program has directly protected 650,000 acres of open space and provided hundreds of outdoor recreational facilities in communities around the state. Over the years, New Jersey voters have authorized \$3.3 billion in Green Acres funding. Delaware Township has partnered in multiple Green Acres projects over the last 50 years and is regarded by the Green Acres Program as an active and reliable participant².

Currently, Delaware Township’s preservation efforts have resulted in preserving 74 farms comprising 4,660.26 acres³. According to the Delaware Township Comprehensive Farmland Preservation Plan, this preservation ranks the Township at # 2 in Hunterdon County and # 7 in the State in terms of preserved agricultural acreage. Moreover, when the other preserved open space properties (State Parkland, Municipal Parkland, wildlife and habitat preserves) are added to that acreage, 7,358 acres within Delaware Township are in some type of deeded preservation as of October 2013, which amounts to approximately 31% of the Township’s total land area⁴.

Both the 10/7/14 proposed pipeline route and the 1/16/15 preferred alternate pipeline route slash through the heart of multiple preserved properties (see Figures 1 and 2) that have cost millions of private and public sector funding to preserve for future generations. The PennEast pipeline is a direct threat to that public/private investment.

The 10/07/2014 PennEast Pipeline Route through Delaware Township

The originally proposed PennEast pipeline route through Delaware Township would impact fourteen (14) preserved properties totaling approximately 1,132.02 acres (see Table 1). This includes 11 preserved farms and three natural habitat wildlife areas that represent a total public

² State of New Jersey Green Acres Website; www.state.nj.us/dep/greenacres

³ Delaware Township Municipal PIG Report and Application, December 15, 2014

⁴ Open Space Preservation Component, Delaware Township Master Plan Section 2:11, October 7, 2014 Amendment, page 3

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investment of \$9,361,114.30 by municipal, county, state, and non-profit funding partners (see Table 1). Delaware Township alone had invested \$1,725,193.75 in preserving these properties. These farms represent some of the most valuable farmland in the Township with many of them having prime agricultural soils⁵ (see Figure 3) that would be disrupted by the pipeline construction.

At least two of the preserved open space properties are owned by the New Jersey Conservation Foundation and form the banks of a NJ State protected C-1 stream, the Wickecheoke Creek (see Figures 4 and 5), a stream that directly flows into the Delaware & Raritan Canal and the Delaware River and its water resources are controlled and maintained by the New Jersey Water Supply Authority.

The original PennEast route would result in economic disruption, degradation of both soil and environmental resources, including many farms designated as having prime agricultural soils, and would represent an industrial intrusion on some of the most valuable and scenic farmland in the nation.

The 01/16/2015 “Preferred Alternate” PennEast Pipeline Route

On 01/16/2015, PennEast proposed a different pipeline routing through Delaware Township that has been identified as the “Preferred Alternate” route. This change in the route would impact eleven (11) preserved properties totaling 1,014.35 acres that represent a total of \$6,053,432.54 in public/private preservation investment (see Table 2). This route also impinges on 130.66 acres that were preserved using the US Department of Agriculture’s Natural Resource Conservation Service (NCRS) Farm and Ranch Protection Program funding totaling \$747,911.60.

The majority of the preserved properties in the “Preferred Alternate” route are agricultural preservations, with two (2) properties consisting of agricultural/wildlife habitat properties. While this route does not impact the same preserved farms as the original route, most of these farms also have been designated as having prime agricultural soils⁶ (see Figure 6) and would suffer the same deleterious effects to agricultural production and the limitations on the types of crops that could be planted.

⁵ Figure 7, Delaware Township, Hunterdon County, New Jersey Comprehensive Farmland Preservation Plan, December 10, 2007 Amended December 16, 2011

⁶ Figure 7, Delaware Township, Hunterdon County, New Jersey Comprehensive Farmland Preservation Plan, December 10, 2007 Amended December 16, 2011

The Importance of Preserving the Cultural Aspects of Farming in Delaware Township

At its heart, Delaware Township is a community that has always been sustained by its agricultural heritage. It was founded as an agricultural community by the earliest European immigrants to this area of New Jersey and has continued since its incorporation as a Township in 1838 as an agricultural community, and looks to its future as a model of agricultural sustainability into the 21st Century.

In the state that is known as “The Garden State”, much of New Jersey’s land area has been highly developed and industrialized. Delaware Township, however, holds a unique place in New Jersey land use history by resisting that trend toward development and industrialization. As stated in the Delaware Township Comprehensive Farmland Preservation Plan, Delaware Township is number one (1) in Hunterdon County number seven (7) in New Jersey for acreage in agricultural use. In 2014, approximately 14,873 acres (71.99%) in the Township are in some type of agricultural use⁷.

In keeping with the importance of agriculture in the community, locally, the Township continues to review its ordinances to see what, if any, barriers to farming and direct marketing of farm produce can be removed. Additionally, the Planning Board has identified the merits of broadening the range of permitted accessory uses in conjunction with a farm so that farmers can develop secondary and tertiary sources of income to help support the farming operation. Delaware Township is unique in that farm labor housing is permitted as a right in connection with a farm.

Delaware Township’s Right to Farm ordinance also allows farm markets and farm stands. There is one farmers market in Sergeantsville and many farm stands throughout the community during the growing season. The Right to Farm ordinance covers agritourism as a protected use. The Sergeantsville Farmers' Market has proven to be an excellent way of developing community awareness of and appreciation for local farm produce. The Sergeantsville Farmers' Market is actively marketed with mailers, web postings and flyers and serves as a hub of community gathering during the months that it is in operation.

The future of agriculture in Delaware Township is summed up in the Comprehensive Farmland Preservation Plan’s Agricultural Vision Statement⁸, which reads:

⁷ Open Space Preservation Component, Delaware Township Master Plan Section 2:11, October 7, 2014 Amendment, page 4

⁸ Delaware Township, Hunterdon County, New Jersey Comprehensive Farmland Preservation Plan, December 10, 2007 Amended December 16, 2011, page 1

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“Delaware Township has been historically, and remains today, an agricultural community. Traditional farm production has followed along the lines of the State as a whole. Livestock production, such as cattle, sheep, horses, and the dairy industry and traditional field crops, such as corn, hay, wheat, and soybeans have played a role in the municipality’s agricultural heritage.

While many of these traditional agricultural pursuits are fading away or have recently left the agricultural landscape, such as dairy production, other traditional agricultural production remain viable. Corn, hay, and soybeans provide a consistent source of agricultural production. Hay supports the new trend of equestrian operations, such as horse boarding and the attendant riding lessons. Other new trends in agriculture that remain viable into the future are niche farms, such as organically grown popcorn, herbs and vegetables. Livestock niche production is also emerging with such animals as alpacas, goats, and organically grown cattle. These new agricultural efforts are activities that will sustain agriculture in Delaware Township into the future. The Township has encouraged Community Supported Agriculture (CSA) projects, established and maintained local farmers markets, and has enacted ordinances to encourage and create opportunities for agricultural retention and activities. As identified in the introduction, the Township’s long-term goals are to expand the base of preserved farmland and encourage and support the continuation of agricultural production throughout the Township. The AAC strives to promote innovation and high value crops to ensure a renewed interest in farming and locally grown products and to protect and expand large contiguous areas of active farmland, support diverse agricultural activities and protect vital agricultural resources will help to ensure a sustained farming community into the future.”

Delaware Township had done more than just plan for an agricultural future. Over the last thirty years, the Township has invested approximately \$8.5 million in Open Space and Farmland Preservation, and has leveraged over \$34 million in external funding from state, county, non-profit, and private donors in the preservation effort. To pay for this preservation effort, the Township has enacted a \$0.06 /\$100 of assessed value municipal Open Space Tax that is used to pay off Open Space indebtedness and continue to fund current Open Space projects. This investment in preserving a community’s agricultural future is not small undertaking for a municipality with a population of less than 4,500.

Moreover, Delaware Township authorized the expenditure of more than \$10,000 to hire a consultant to help establish the Rosemont Rural Agricultural Historic District, a historically designated district that is listed on both the State and Federal Registers of Historic Places in 2010. A detailed commentary on the breadth and extent of the Rosemont Rural Agricultural District has been reported to FERC in scoping comments in the Delaware Township Committee’s February 10, 2015 letter. It is merely mentioned here as another indicator of the extent that Delaware Township has taken its agricultural past, present, and future as a central community value. Both the original and the “preferred alternative” PennEast pipeline route create a slash directly through the heart of the Rosemont Rural Agricultural District.

Federal Agricultural Land Preservation Law Usage in Delaware Township

As noted in Tables 1 and 2, the 10/7/14 original PennEast pipeline route cuts across eleven (11) preserved farms and the 1/16/15 preferred alternative route cuts across a different eleven (11) preserved farms. Both routes disrupt agricultural land that has been preserved using funding from the State of New Jersey, Hunterdon County, Delaware Township, the New Jersey Water Supply Authority, and the New Jersey Conservation Foundation. The 1/16/15 preferred alternate route also crosses land preserved by the Federal Government in the form of easements held by the US Department of Agriculture's Natural Resource Conservation Service. H. R. 2419 cited as the "*Food, Conservation and Energy Act of 2008*" Section 2401 establishes the Federal government's "Farmland Protection Program". Under Sec. 12381, part (b) it states,

"The purpose of the program is to protect the agricultural use and related conservation values of eligible land by limiting nonagricultural uses of that land."

The language in the sample Deed of Easement (Appendix 1) for a property preserved with Federal funding as provided by the New Jersey's State Agriculture Development Committee states in part:

2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the Committee. Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing. However, no activities shall be permitted on the land in violation of Federal criminal statutes, even if these activities do not violate state criminal statutes or are specifically authorized by the State of New Jersey.

In addition, the Easement also states:

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

The sample Deed of Easement goes on to declare:

i.

This Deed of Easement must be interpreted under the laws of the State of New Jersey and the United States. Any general rule of construction to the contrary notwithstanding, the Deed of Easement must be liberally construed to effectuate the purposes and intent of the Agriculture

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Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1, et seq., P.L.1999, c.152, the Green Acres, Farmland, Blue Acres and Historic Preservation Bond Act of 2007, P.L. 2007, c. 119, the Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009, P.L. 2009, c. 117, all supplements and amendments thereto, and all attendant regulations. If any provision of this Deed of Easement is found to be ambiguous, then an interpretation consistent with the purposes of the above-referenced statutes and attendant regulations must be favored over any interpretation that would render the provision invalid.

Given that PennEast wishes to introduce widespread heavy industrial construction to land that is preserved with Federal funding, Delaware Township contends that the proposed pipeline is:

- a. A profound example of “Non-Agricultural Use” of agricultural land preserved with Federal funding under the Farm and Ranch Lands Protection Program.
- b. The necessary removal, demolition, and disruption of soils (many of those soils having been designated as “Prime Agricultural Soils”) as a consequence of pipeline construction along the “preferred alternate” route through Federally preserved land is definitely not for an agricultural purpose.
- c. That the industrial disruption of the construction and operation of the PennEast pipeline would not be consistent with a liberal construction to effectuate the purpose and intent of the various farmland preservation laws under which these farms were preserved.

New Jersey Farmland Preservation Statute Usage in Delaware Township

In 1981, the New Jersey Legislature established N.J.S.A. 4:1C-11 known and cited as the “Agriculture Retention and Development Act”, to protect and promote agricultural activity in New Jersey. Under this act, agricultural lands are protected by Deeds of Easement using language similar to the language used to protect lands under the Federal Farm and Ranch Lands Protection Program. The statute also defines the term “agricultural use” as:

“Agricultural use” means the use of land for common farmsite activities, including but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management, and grazing;

Two different sample Deeds of Easement (Appendices 2 and 3) used for direct acquisitions by the New Jersey’s State Agriculture Development Committee and County/State/Municipal acquisitions, respectively, contain provisions and language that basically identical to those properties that are preserved under the Federal statutes.

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Following the direction of the Deed of Easement language, the statutory definitions, and the informational materials, there can be no doubt that the intent of the New Jersey farmland preservation statutes is to limit the non-agricultural use of preserved farmland and would not be supportive of the temporary and permanent disruption of agricultural activity across those preserved lands.

Conclusion and Points to be Addressed During the EIS Process

Delaware Township's community identity is focused on remembering and preserving its agricultural heritage, maintaining and supporting its agricultural present, and planning and investing in its agricultural future. This identity as an agricultural community is incompatible with large-scale industrial development, which the PennEast pipeline project represents.

The following facts are important to remember when considering the PennEast pipeline routes through Delaware Township:

1. Both the PennEast pipeline 10/7/14 original route and the 1/16/15 preferred alternate route cut across a large number of both open space acreage and preserved farms in Delaware Township.
2. These preserved environmentally sensitive open space parcels and valuable agricultural lands, many with prime agricultural soils, have been preserved through a reasoned and planned preservation process at great private and public expense. Funding resources have included Federal, State, Hunterdon County, Delaware Township, and non-profit organizations such as the New Jersey Conservation Foundation, as well as independent State agencies such as the New Jersey Water Supply Authority.
3. Both pipeline routes slash directly through the heart of the Rosemont Rural Agricultural District (note the word "Agricultural" in the title, emphasizing the role of agriculture in the District's historical importance); a historic district that is fully listed on the State and Federal Registers of Historic Places.
4. Some of the properties included in the 1/16/15 preferred alternate route have been preserved with Federal Farm and Ranch Land Protection Program funding, and should be considered as Federal preserved land, lands that should be handled with "sensitivity" by FERC.
5. The other preserved agricultural properties that used State, County and Municipal funding and are threatened by the PennEast pipeline routes have essentially the identical Deed of Easement language as the Deed of Easement language of agricultural properties preserved through the Federal Farm and Ranch Land Protection Program, and should be treated with the same "sensitivity" that FERC applies to lands preserved by the Federal

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government. Lands preserved under the New Jersey Agriculture Retention and Development Act prohibit the same non-agricultural uses as the Federal program and should be treated with equal "sensitivity".

The Delaware Township Committee wishes FERC to recognize that the PennEast pipeline is an industrial project that presents a direct threat to the rural, agricultural way of life in Delaware Township. The Delaware Township Committee requests FERC to consider the cumulative impacts to the preserved Open Space and Farmlands not only in Delaware Township but throughout the entire pipeline project area.

Table 1

Preserved Properties Affected by the 10/7/14 Original PennEast Pipeline Route
 Delaware Township, Hunterdon County, New Jersey

<u>Block-Lot</u>	<u>Gross Acres</u>	<u>Total Cost</u>	<u>Twp. Share</u>	<u>County Share</u>	<u>State Share</u>	<u>Federal Share</u>	<u>Non-Profit</u>
B19-L37							
B19-L33	138	\$311,767.30		\$155,883.65	\$155,883.65		
B19-L26	33	\$4,117,500.00	\$963,000.00	\$1,911,008.00	\$1,143,492.00		\$100,000.00
B31-L9-01							
B31-L9	213	\$974,088.00	\$141,788.00	\$141,788.00	\$630,512.00		
B32-L30	98.65	\$503,992.00			\$503,992.00		
B32-L13	69	\$269,813.00	\$40,126.00	\$40,126.00	\$189,561.00		
B32-L11.01	33.6						
B32-L11.02	16.84						\$579,397.00
B53-L5	208.16	\$897,536.00	\$165,921.00	\$183,871.00	\$547,744.00		
B56-L19	37	\$500,384.00	\$153,640.00	\$153,640.00	\$193,104.00		
B59-L1	92	\$664,169.00	\$138,595.00	\$111,963.00	\$413,611.00		
B60-L15.02	139.57	\$739,721.00	\$122,123.75	\$122,123.75	\$495,473.50		
B61-L10	53.2	\$382,144.00			\$382,144.00		
Totals	1,132.02	\$9,361,114.30	\$1,725,193.75	\$2,820,403.40	\$4,655,517.15	\$0.00	\$679,397.00

Table 2

Preserved Properties Affected by the 1/16/15 Preferred Alternate PennEast Pipeline Route
 Delaware Township, Hunterdon County, New Jersey

<u>Block-Lot</u>	<u>Gross Acres</u>	<u>Total Cost</u>	<u>Twp. Share</u>	<u>County Share</u>	<u>State Share</u>	<u>Federal Share</u>	<u>Non-Profit</u>
B19-L21							
B31-L10	137	\$543,244.00	\$81,486.60	\$81,486.60	\$380,270.80		
B19-L37	138	\$311,767.30		\$155,883.65	\$155,883.65		
B31-L3	73	\$153,402.90		\$76,701.45	\$76,701.45		
B31-L4	83	\$175,995.74		\$87,997.88	\$87,997.88		
B32-L4	31.3						
B32-L32	67	\$1,308,825.00	\$156,250.00	\$251,100.00	\$627,750.00	\$273,725.00	
B32-L33	50.72	\$545,000.00					\$545,000.00
B33-L2	215.67	\$1,271,928.00	\$220,971.00	\$220,971.00	\$829,987.00		
B33-L4	38.24						
B33-L4.02	25.42	\$1,003,548.60	\$317,617.20	\$211,744.80		\$474,186.60	
B60-L12	155	\$739,721.00	\$122,123.75	\$122,123.75	\$495,473.50		
Totals	1,014.35	\$6,053,432.54	\$898,448.55	\$1,208,009.13	\$2,654,064.28	\$747,911.60	\$545,000.00

Figure 1
 Open Space and Preserved Farmland
 Delaware Township, Hunterdon County, New Jersey

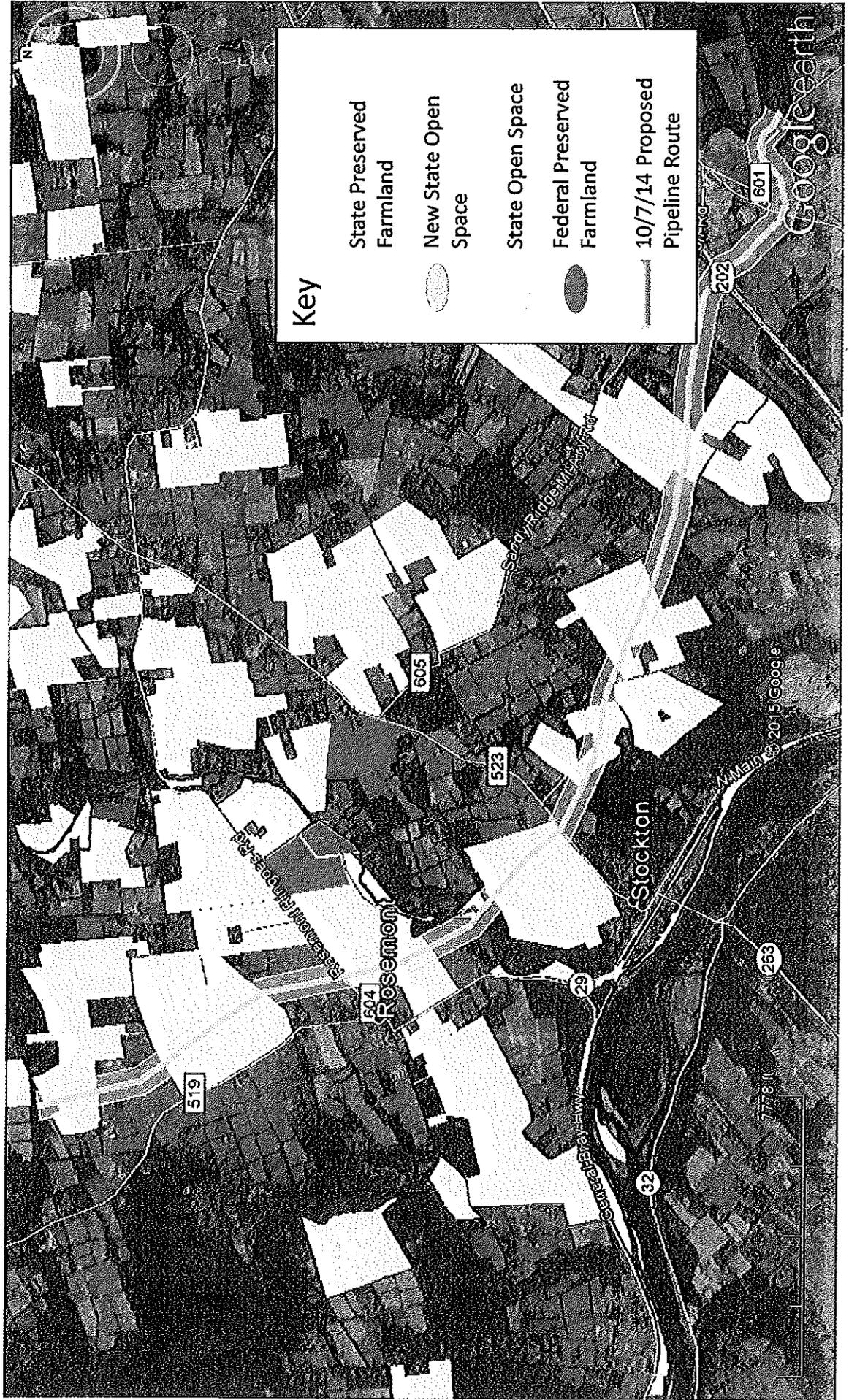


Figure 2
 Open Space and Preserved Farmland
 Delaware Township, Hunterdon County, New Jersey

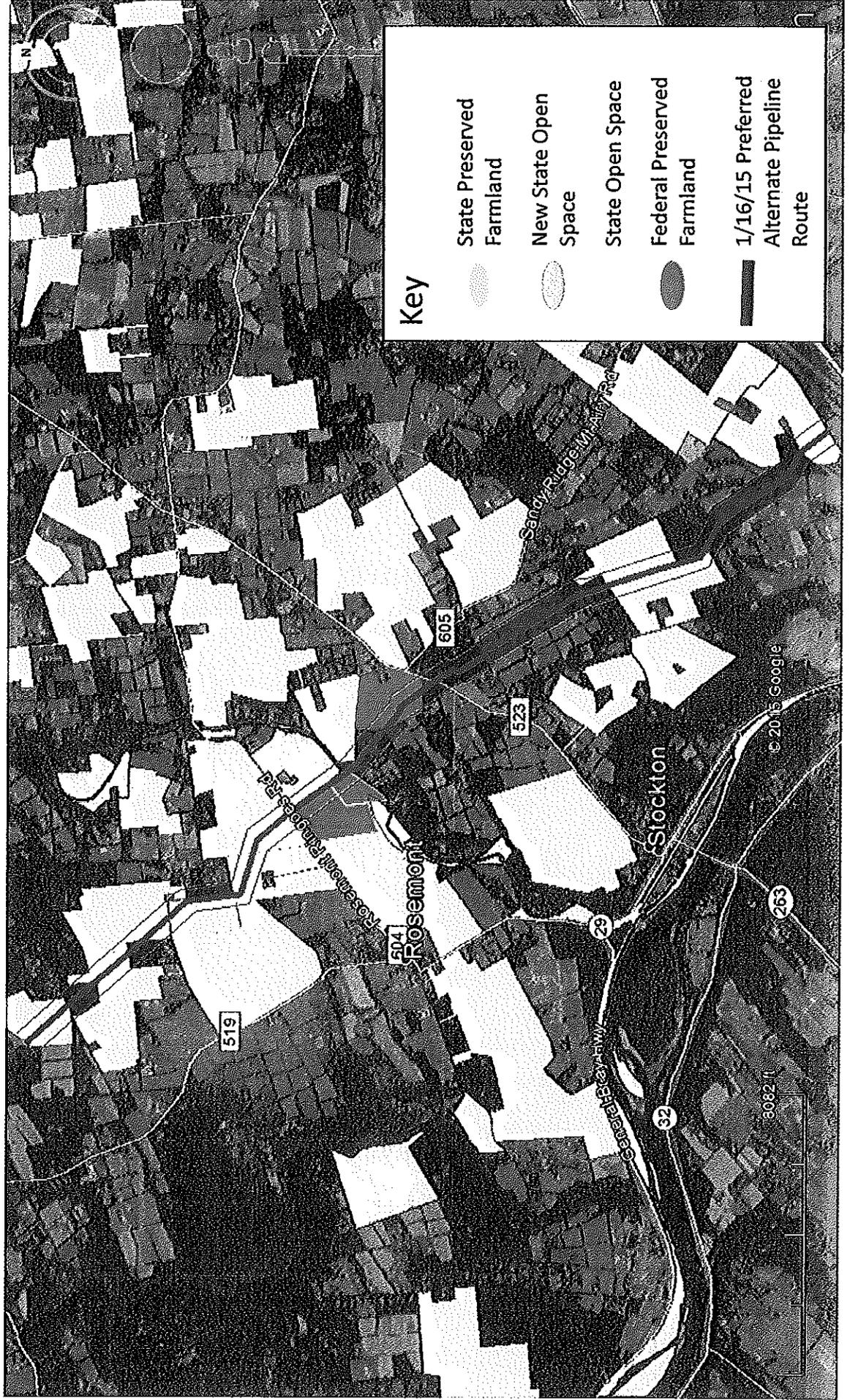


Figure 3
Prime Agricultural Soils
Delaware Township, Hunterdon County, New Jersey

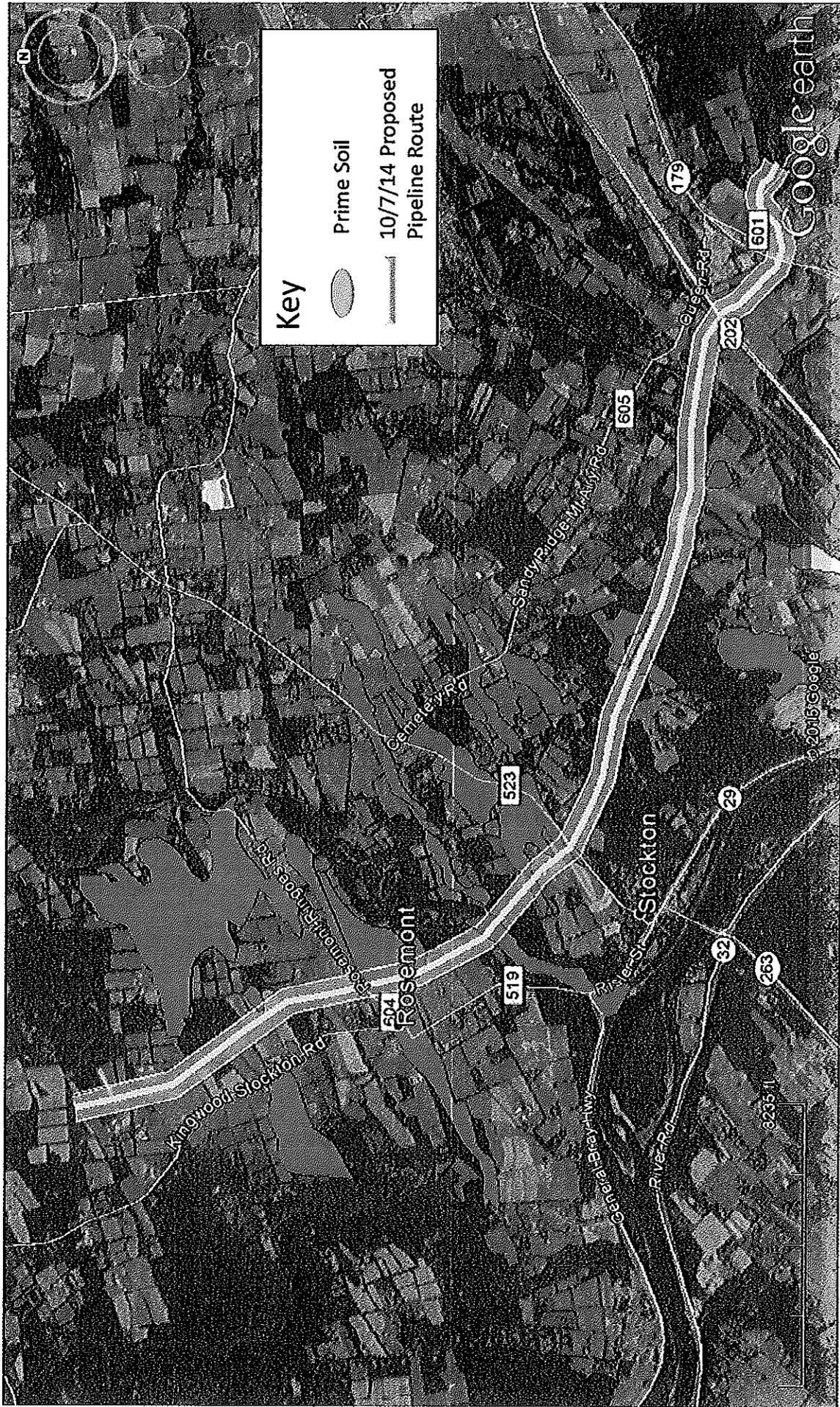


Figure 4
 10/7/14 Proposed PennEast Pipeline Route
 Delaware Township, Hunterdon County, New Jersey

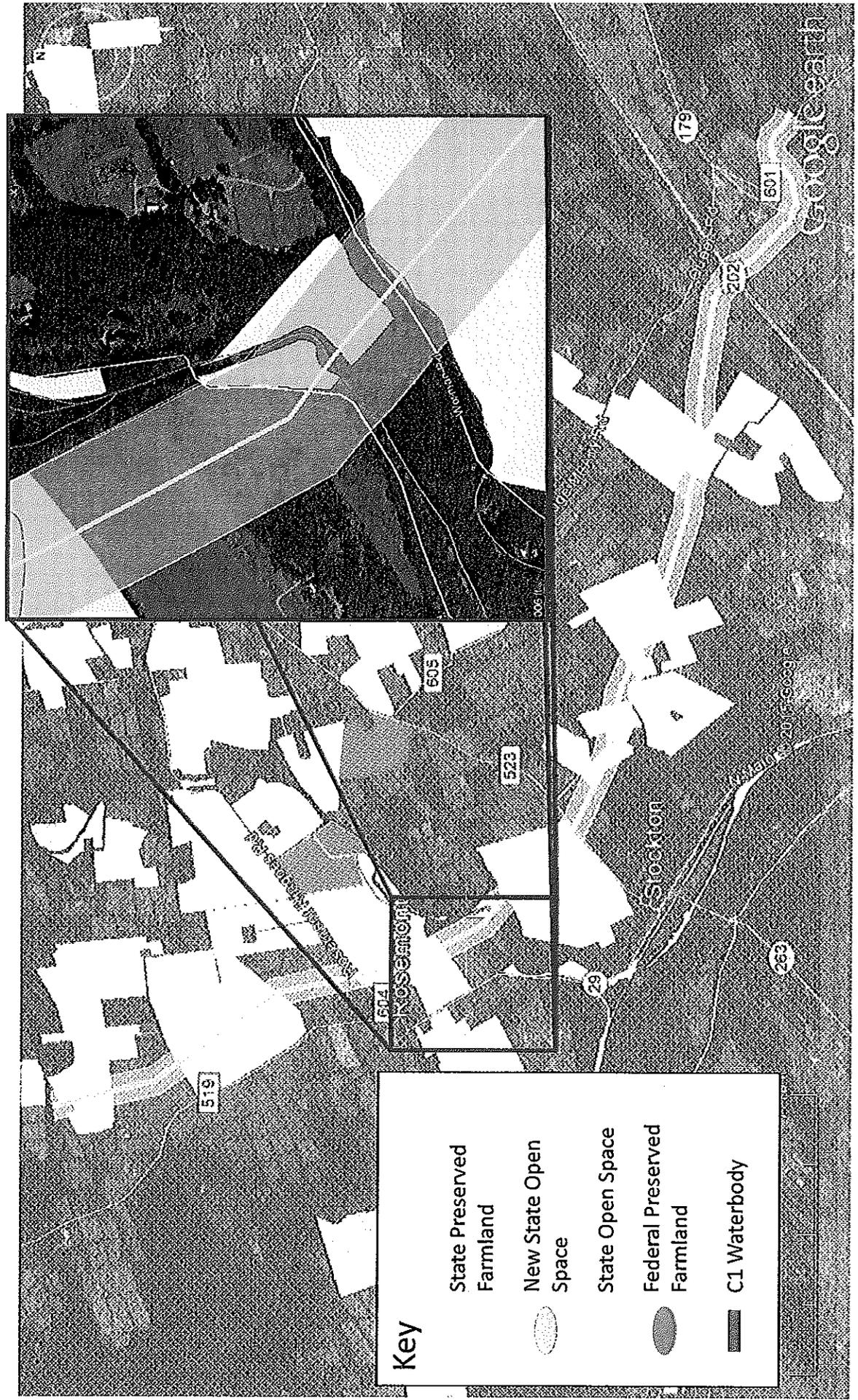


Figure 5
 1/16/15 Proposed PennEast Pipeline Preferred Alternate Route
 Delaware Township, Hunterdon County, New Jersey

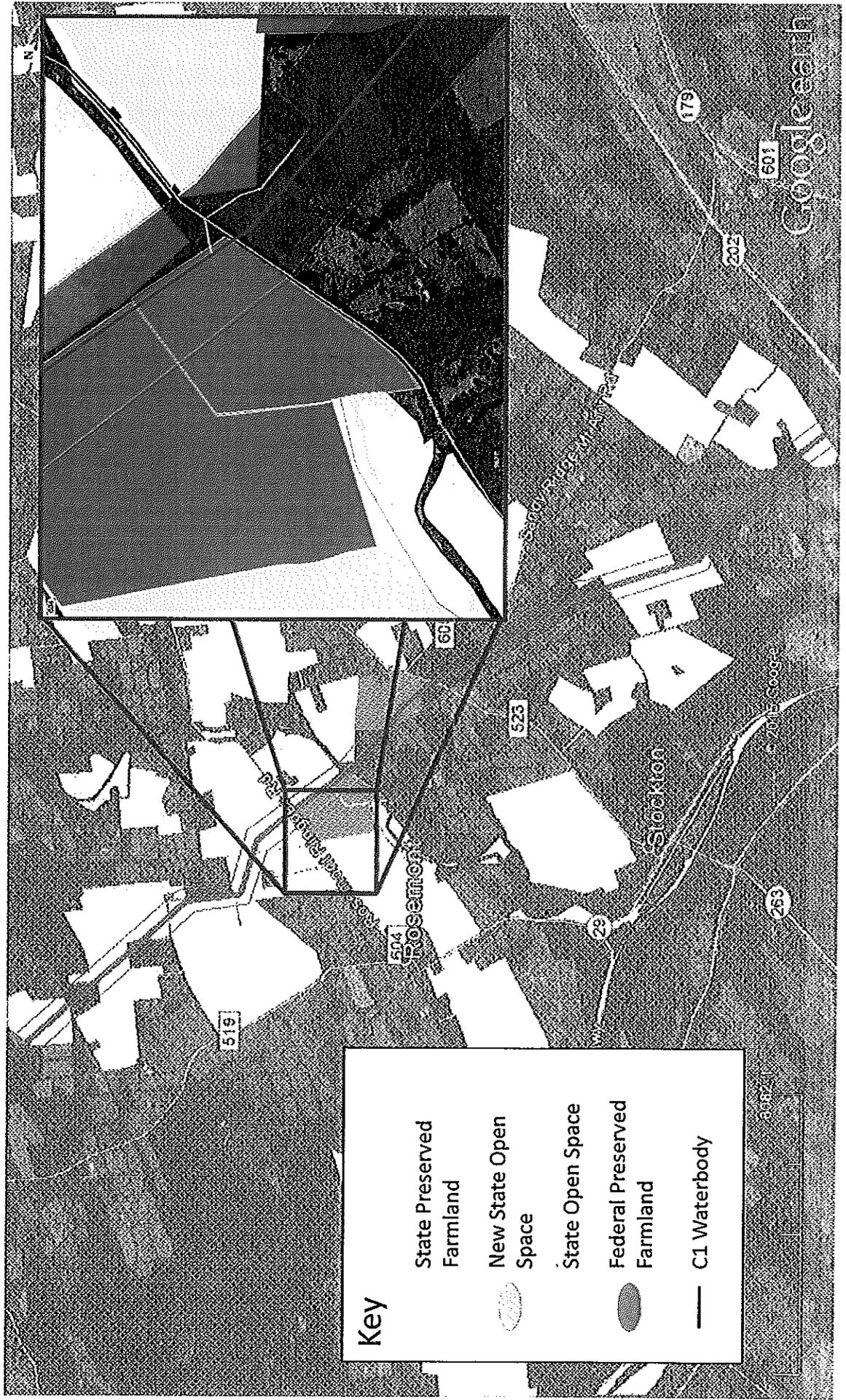
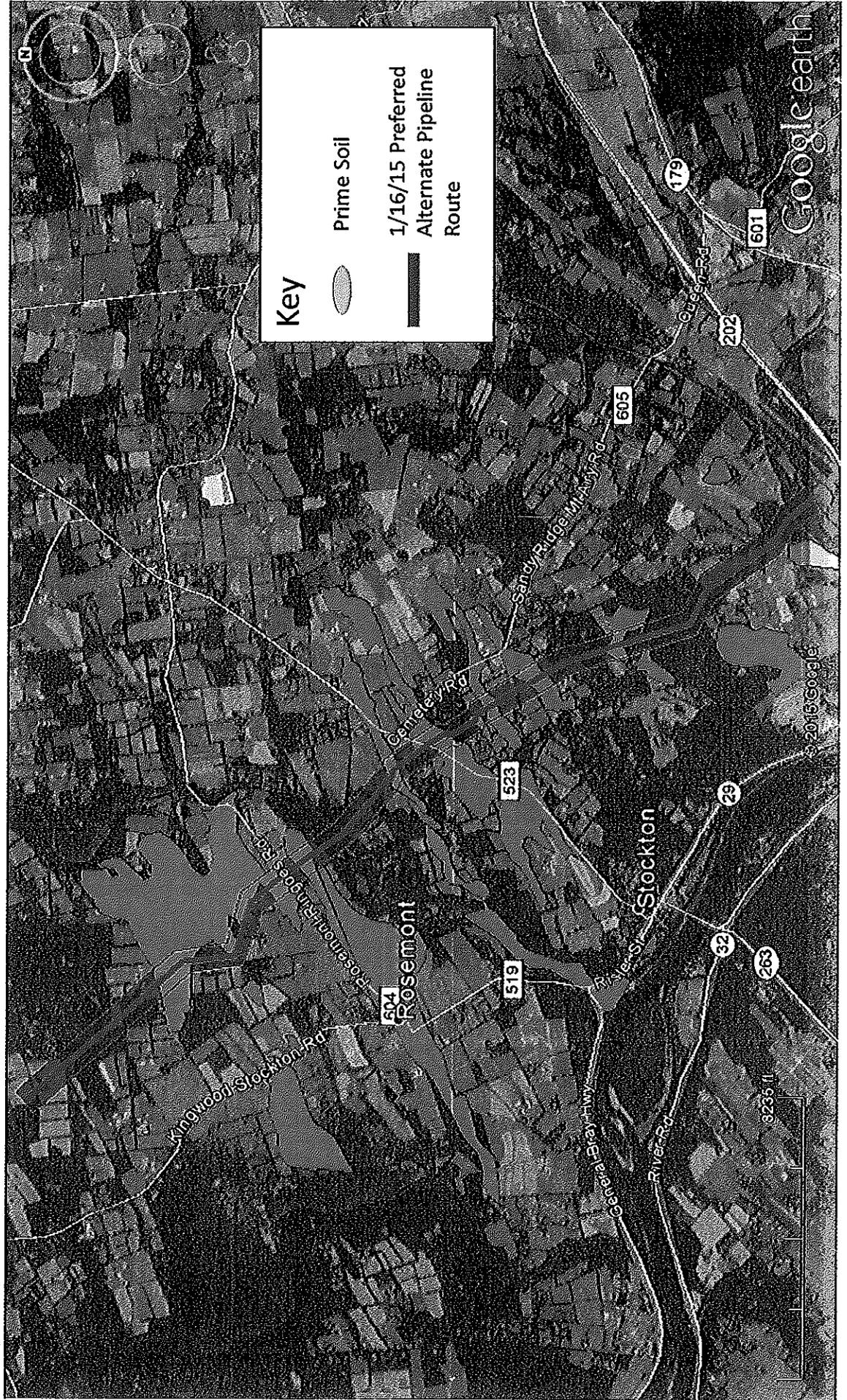


Figure 6
Prime Agricultural Soils
Delaware Township, Hunterdon County New Jersey



Appendix 1

DEED OF EASEMENT

STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

This Deed is made as of _____, 20____, between _____,

whose address is _____, referred to as the "Grantor";

the _____, whose address is _____; referred to as

the "Grantee",

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, N.J.S.A. 4:1C-11, et seq., P.L. 1983, c.32 authorizes the State Agriculture Development Committee (Committee) and the Grantee to acquire and enforce deeds of easement that retain farmland for agricultural use and production, and

WHEREAS, the United States acting through the United States Department of Agriculture, is authorized under the Farm and Ranch Lands Protection Program (FRPP), 16 U.S.C. 3838h. and 3838i. to fund, in part, the purchase of conservation easements (hereinafter "development easements") for the purpose of protecting agricultural use and related conservation uses by limiting nonagricultural uses of the land in accordance with the cooperative agreement between the United States and the Committee [or name of nonprofit organization, if applicable], Agreement No. _____; and

WHEREAS, the land is evaluated to determine the percent of prime, unique and important farmland, percent of cropland, pastureland, grassland and forest land, proximity to other important farmlands and environmentally sensitive areas, other beneficial conservation values associated with the Premises, and compliance with other required federal criteria; and

WHEREAS, the Premises have been evaluated and ranked under both local and state assessment processes and have met all eligibility criteria for participation in the State Farmland Preservation Program; and

WHEREAS, Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of the State of New Jersey,

NOW THEREFORE, the Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee in perpetuity a development easement and all of the nonagricultural development rights and credits on the Premises, located in the Township of _____, County of _____, consisting of approximately _____ acres, as more particularly described in the attached Schedule A and, for the limited purpose of the restrictions contained in Paragraph 14(b), the tract of land described in the attached Schedule C, which schedules are incorporated by reference in this Deed of Easement, for and in consideration of the sum of _____ Dollars (\$ _____).

Grantor and Grantee also agree that the United States of America (referred to as the "United States"), acting by and through the United States Department of Agriculture, Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation, and the Committee, shall have certain enforcement rights as more fully set forth below.

Prepared by:

Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A, and, for the limited purpose of the restrictions contained in Paragraph 14(b), to the tract of land described in Schedule C.

The tax map reference for the Premises is:

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns promises that the Premises will be owned, used and conveyed subject to, and not in violation of, the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the Committee. Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing. However, no activities shall be permitted on the land in violation of Federal criminal statutes, even if these activities do not violate state criminal statutes or are specifically authorized by the State of New Jersey.
3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule B existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.
4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:
 - i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
 - ii. No change in the pre-existing nonagricultural use is permitted;
 - iii. No expansion of the pre-existing nonagricultural use is permitted; and
 - iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.
5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.
6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an Agricultural Management Practice pursuant to N.J.S.A. 4:1C-9.
7. No motorized vehicle use shall be allowed, except for reasonable access to the farmstead complex and agricultural use. Any commercial operation of dune buggies, motorcycles, all-terrain vehicles, hang gliders, aircraft, helicopters, jet skis, motorized boats, or any types of mechanized vehicles shall be prohibited. Construction of landing strips or helicopter pads is also prohibited.
8. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.
9. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises. To the extent provided by the New Jersey Water Supply Management Act, N.J.S.A. 58:1A-1, et seq., P.L.1981, c. 262, and the regulations promulgated pursuant thereto, the Grantor shall not convey any

rights to the water associated with the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.
- iii. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, his heirs, successors, or assigns, shall conduct agricultural operations on the highly erodible land on the Premises in a manner consistent with a conservation plan prepared in consultation with the NRCS and approved by the appropriate Conservation District. This conservation plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this easement was executed. However, the Grantor may develop and implement a conservation plan that proposes a higher level of conservation and is consistent with the NRCS Field Office Technical Guide standards and specifications. NRCS shall have the right to enter upon the Property, with advance notice to the Grantor, to monitor compliance with the conservation plan.

In the event of noncompliance with the conservation plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed 12 months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform Grantee of the Grantor's noncompliance. The Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following notification from NRCS that (a) there is a substantial, ongoing event or circumstance of noncompliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations.

If the NRCS standards and specifications for highly erodible lands are revised after the date of this Deed of Easement based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised conservation plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farmland Protection Program and are not intended to affect any other natural resources conservation requirements to which the Grantor may be or become subject.

- iv. Forest management and timber harvesting activities shall be performed in accordance with a New Jersey forest stewardship or forest management plan consistent with the Deed of Easement and prepared by a licensed professional forester. Said plan must have been prepared not more than 10 years prior to the date any harvesting is expected to commence or must have been reviewed and updated as required by such a forester at least 30 days prior to said date.

10. Grantee, Committee, the United States and their respective agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor, at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

11. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

12. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

13. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct unpaved roadways necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

14(a). At the time of this conveyance, Grantor has _____ existing single family residential buildings on the Premises and _____ residential building used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;

- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

14(b). Grantor, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use and maintain the Exception Area, as described in the attached Schedule C, subject to the following conditions:

- i. the Exception Area shall not be moved to another portion of the Premises and shall not be swapped with other land.

sample conditions (edit as appropriate):

- the Exception Area shall not be severed or subdivided from the Premises
- the Exception Area may be severed and subdivided from the Premises
- the Exception Area shall be limited to one single-family residential unit
- (Right to Farm Language if Exception is Non-Severable)

Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person who is occupying or residing on the Exception Area as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons occupying or residing on the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

- (Right to Farm Language if Exception is Severable)

Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person to whom title to the Exception Area is transferred as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons taking title to the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

15(a). Grantor may construct new buildings and other structures for agricultural purposes, subject to the following:

- i. Such buildings and structures must be typical for the kind of agricultural operations being conducted on the Premises. The opinion of the Committee as to whether or not a particular building or structure satisfies this requirement shall be binding on all parties.
- ii. Existing fences may be repaired and replaced and new fences may be built on the Premises as is necessary for agricultural operations on the Premises, including customary management of livestock.

15(b). The construction of any new buildings for residential use, regardless of their purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee and the Committee. If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's

parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and

- ii. To construct a single family residential building in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee and Committee.

[If a "residual dwelling site opportunity" has been allocated, insert a subparagraph iii. here, other appropriate language and definitions regarding RDSOs from N.J.A.C. 2:76-6.15, and delete paragraph 15(d) below.

15(c). Buildings and structures permitted pursuant to 15(a) and 15(b) above shall be subject to the following additional provisions:

- i. All such buildings and structures shall be located within the designated building envelope (Farm Building Area) as described in the Baseline Report as set forth in Section 19ii. An official copy of the building envelope location map shall be maintained in the NRCS State Office, which shall provide a copy of same and all written, NRCS-approved location map revisions to the Committee. Changes in the location or extent of the Farm Building Area, or buildings and structures to be located outside of the Farm Building Area, except as provided for under section 15(a)ii above, must be approved in advance by the United States.
- ii. At the time of acquisition of this development easement, there exists _____ percent of impervious surface on the Premises as identified on the survey plat prepared by _____, dated _____. Any improvements to existing residential buildings, agricultural labor housing, agricultural buildings or any new residential buildings, agricultural labor housing or agricultural buildings or other improvements resulting in an increase in impervious surface as defined below shall not, in combination with existing improvements cause the total impervious surface coverage to exceed a maximum of _____ percent (___ %) of the Premises as authorized by the United States Department of Agriculture's Natural Resources Conservation Service. Any impervious surface in excess of _____ percent (___%) is expressly prohibited.
- iii. Impervious surface, for purposes of this Deed of Easement, is defined as any structure or surface that prevents the infiltration of precipitation into the land. Examples of impervious surface include, but are not limited to, pavement, sidewalks, permanent driveways, machine compacted soil, compacted stone areas, roof tops, barns, sheds, houses, garages, commercial buildings, agricultural buildings, hoop houses, greenhouses, plastic or other impermeable ground cover, and foundations. This term shall not include seasonal structures or ground covers that remain in place for no more than ten months per calendar year, unimproved farm lanes, or areas in field-based crop production. Conservation practices listed in the United States Department of Agriculture's Natural Resources Conservation Service Field Office Technical Guide are not considered impervious surface when implemented according to the practice standard.
- iv. No building or structure shall be constructed hereunder if doing so would violate the impervious coverage limitation set forth in Paragraph 15(c)ii.

15(d). No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

- i. For the purpose of this Deed of Easement, "residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

16. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the joint approval in writing of the Grantee, the Committee and the United States. In order for the Grantor to receive approval, the Grantee and Committee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels, and the United States must find that each parcel qualifies for the Farm and Ranchlands Protection Program (16 U.S.C. 3838h and 3838i). Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

17. The Grantor shall not sell, lease, or grant an easement covering any portion of the premises where such sale, lease or easement is for the purpose of construction and installation of underground or above-ground public utility systems, including, but not limited to water, sewer, power, fuel, sewerage, pumping systems, windmills, commercial satellite dishes, and cellular telephone or other communication towers. The Grantor may install utilities or grant easements to utility companies in order for those companies to install utilities necessary for the permitted residential and agricultural uses of the premises.

18. No historic building or structure located on the Premises may be demolished by the grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et seq.

19. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee may institute, in its own name, or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

- i. This Deed of Easement must be interpreted under the laws of the State of New Jersey and the United States. Any general rule of construction to the contrary notwithstanding, the Deed of Easement must be liberally construed to effectuate the purposes and intent of the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1, et seq., P.L.1999, c.152, the Green Acres, Farmland, Blue Acres and Historic Preservation Bond Act of 2007, P.L. 2007, c. 119, the Green Acres, Water Supply and Floodplain Protection, and Farmland and Historic Preservation Bond Act of 2009, P.L. 2009, c. 117, all supplements and amendments thereto, and all attendant regulations. If any provision of this Deed of Easement is found to be ambiguous, then an interpretation consistent with the purposes of the above-referenced statutes and attendant regulations must be favored over any interpretation that would render the provision invalid.
- ii. The determination of a violation may, in part, be based on the Baseline Report developed by the Grantee, acknowledged by the Grantor on or about the effective date of this Deed of Easement, and incorporated into this Deed of Easement by reference. The Baseline Report consists of a checklist with appropriate narrative, maps, photographs, and other documentation describing the soils, slopes, water features, water use, and land use conditions, and the location of a Farm Building Area that the parties agree provide an accurate representation of the Premises at the time of the granting of this Deed of Easement. The Baseline Report is maintained by the Committee, Grantee and the United States, and is available to the Grantor and any subsequent landowner upon request.
- iii. The Baseline Report shall remain unchanged from the date of signature by the Grantor and the Grantee, except that changes to the location of the Farm Building Area, requested by the landowner and approved by the United States as per section 15(c)i, will be allowed and included as updates to the Baseline Report.

20. If any or all of the Grantees at some future time acquire the underlying fee title in the Premises, the interest conveyed by this Easement will not merge with fee title but will continue to exist and be managed as a separate estate.

21. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Premises. Nothing in this Deed of Easement shall be construed as giving rise to any right or ability of the Grantee, the Committee or the United States to exercise physical or managerial control over the day-to-day operations of the Premises, or any responsibility to the

Premises within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended (42 U.S.C. 9601 et. seq.).

22. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee. This Deed of Easement shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons. This Deed of Easement shall be referenced by deed book and page number, instrument number or other appropriate reference in any deed or other instrument conveying any interest in the Premises. Grantor's failure to comply with this requirement shall not impair the validity of this Deed of Easement or limit its enforceability in any way. Any mortgage or lien arising after the date of this Deed of Easement is subordinate to the terms of this Deed of Easement.

23. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

24. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

25. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words "heirs, executors, administrators, personal or legal representatives, successors and assigns" have been inserted after each and every designation.

26. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future.

27. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the fair market value of the development easement as certified by the Committee at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (/).

Furthermore, the Grantee's proceeds shall be distributed between the Committee, the Grantee, and the United States in proportion to their respective cost share grants on the date of execution of this Deed of Easement. (For example, if the Committee's contribution was 50 percent of the certified value of the development easement, the United States' contribution was 25 percent, and the Grantee's contribution was 25 percent, the proceeds from the sale of the development rights shall be distributed among the parties based on these percentages.)

The Committee and Grantee shall use their share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

28. Amendments to this Deed of Easement are prohibited except to correct technical errors in the survey and/or legal description. No such amendments shall be effective unless in writing, signed by the Grantor and the Grantee and acknowledged by the United States and the Committee, and duly recorded by the parties in compliance with all applicable laws and regulations.

29. Under this Deed of Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary), on behalf of the United States, will exercise these rights under the following circumstances: In the event that the Committee or the Grantee fails to enforce any of the terms of this Deed of Easement, as determined in the sole discretion of the Secretary, the Secretary and his or her successors or assigns may exercise the United States' rights to enforce the terms of this Deed of Easement through any and all authorities available under Federal or State law.

The United States shall be provided with a copy of all requests for approval submitted by Grantor and all written approvals, or denials thereof, issued pursuant to this Deed of Easement by the Grantee and the Committee. The United States shall also be provided with copies of all enforcement actions authorized by the Grantee and the Committee and a copy of the annual monitoring report. These documents and any other documents or notices shall be provided to the United States, Natural Resources Conservation Service, New Jersey State Conservationist.

In the event a public body proposes to exercise the power of eminent domain for the acquisition of all or any part of the Premises pursuant to N.J.S.A. 4:1C-25, the Committee shall immediately notify the United States in writing. If the Governor declares that the said eminent domain action is necessary for the public health and safety and that there is no immediately apparent feasible alternative, then the Committee shall request the consent of the United States to the eminent domain action.

30. Grantee shall not convey the development easement except to the Federal government, the State, a local unit of government, or another qualifying tax exempt nonprofit organization for farmland preservation purposes. Any conveyance shall be approved in writing by the United States and the Committee, or their respective successors or assigns, and executed in recordable form.

30. Grantee shall not convey the development easement unless pursuant to N.J.S.A. 4:1C-32a. Any conveyance shall be approved in writing by the United States and the Committee, or their respective successors or assigns, and executed in recordable form.

31. Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Premises. Grantor warrants that it has no actual knowledge of a release or threatened release of any hazardous materials on, at, beneath or from the Premises.

Moreover Grantor hereby promises to defend and indemnify the Grantee, the Committee and the United States against all litigation, claims, demands, penalties, and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Premises, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Premises. Grantor's indemnification obligation shall not be affected by any authorizations provided by the Grantee, the Committee, or the United States to Grantor with respect to the Premises or any restoration activities carried out by Grantee at the Premises; provided, however that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Premises by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or potential hazard to human health or the environment, or as otherwise defined in Federal and State laws and regulations.

32. Grantor shall indemnify and hold harmless the Grantee, the Committee, and the United States, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee, the Committee, and the United States may be subject or incur relating to the Premises, which may arise from, but are not limited to, Grantor's negligent acts or omissions or Grantor's breach of any representation, warranty, covenant, agreements contained in the Deed of Easement, or violations of any Federal, State, or local laws, including all Environmental Laws.

33. Signs are prohibited except for those necessitated by the agricultural operation and/or authorized by the Committee in accordance with state laws and regulations.

TO HAVE AND TO HOLD unto the Grantee and the United States, its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor signs this Deed of Easement as of the date of the top of the first page. By signing this Deed of Easement, the Grantor warrants good title to the Premises, the right to convey this Deed of Easement, and that the Premises is free and clear of any encumbrances not acceptable to the Grantee, the United States and the Committee. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

WITNESS:

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20__,

_____ personally came before me and acknowledged under oath, to my satisfaction, this that person (or if more than one, each person):

- (a) is named in and personally signed this DEED OF EASEMENT;
- (b) signed, sealed and delivered this DEED OF EASEMENT as his or her act and deed;
- (c) made this DEED OF EASEMENT for and in consideration of mutual obligations and benefits to each party; and
- (d) the actual and true consideration paid for this instrument is \$ _____.

(CORPORATE ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20__ , the subscriber

_____, personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary of _____, the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$ _____ and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Print name and title below signature

(MUNICIPAL ACKNOWLEDGMENT)

THE UNDERSIGNED, being Mayor of the Township of _____ and acting on the authority of the governing body of the Township of _____ does hereby make, accept and approve the foregoing Deed of Easement.

ACCEPTED AND APPROVED this _____ day of _____, 20__.

_____, RMC _____, Mayor

(Municipal seal)

STATE OF NEW JERSEY

SS:

COUNTY OF _____

I CERTIFY that on _____, 20__, _____ personally came before me and this person acknowledged under oath, to my satisfaction, that: (a) this person is the Clerk of the Township of _____, a municipal corporation and body politic, named in the attached DEED OF EASEMENT; (b) this person is the attesting witness to the signing of this DEED OF EASEMENT by the proper municipal official who is Mayor of _____ Township; (c) this DEED OF EASEMENT was signed and delivered by the Township as its voluntary act duly authorized by a proper resolution of the Township Committee; (d) this person knows the proper seal of the Township which was affixed to this DEED OF EASEMENT; and (e) this person signed this proof to attest to the truth of these facts.

_____, RMC

Signed and sworn to before me on

_____, 20__

(Notary Public)

(Seal)

(COUNTY AGRICULTURE DEVELOPMENT BOARD),

THE UNDERSIGNED, being Chairperson of the _____ County Agriculture Development Board, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20__.

_____, Chairperson
_____ County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20__, _____ personally came before me and acknowledged under oath, to my satisfaction that this person: (a) is named in and personally signed this DEED OF EASEMENT, (b) signed, sealed and delivered this DEED OF EASEMENT as the Board's act and deed; and (c) is the Chairperson of the _____ County Agriculture Development Board.

Print name and title below signature

(COUNTY BOARD OF CHOSEN FREEHOLDERS)

THE UNDERSIGNED, being _____ of the _____ County Board of Chosen Freeholders, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20__.

Print name and title below signature

_____ County Board of Chosen Freeholders

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20__.

_____ personally came before me and acknowledged under oath, to my satisfaction that this person:

- (a) is named in and personally signed this Deed of Easement;
- (b) signed, sealed and delivered this Deed of Easement as the Freeholder Board's act and deed; and
- (c) Is the Administrator / Freeholder Clerk of the _____ County Board of Chosen Freeholders.

Signed and sworn to before me on _____,

Print name and title below signature

(NAME OF NONPROFIT ORGANIZATION, if Grantee)

THE UNDERSIGNED, being President of the [name of nonprofit], hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20____.

Attest:

[Name of nonprofit] President

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____, _____, personally appeared before me, who, being by me duly sworn on his oath, deposes and makes proof to my satisfaction, that _____ is the President of [name of nonprofit]; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Trustees of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid under this Project Agreement is \$_____.

Sworn to and subscribed before me, the date aforesaid

Print name and title below signature

(UNITED STATES DEPARTMENT OF AGRICULTURE,
NATURAL RESOURCES CONSERVATION SERVICE)

The U.S. Department of Agriculture, Natural Resources Conservation Service, acting on behalf of the Commodity Credit Corporation, does hereby make, accept and approve the foregoing Deed of Easement pursuant to the terms of the Cooperative Agreement entered into with the State Agriculture Development Committee [or name of nonprofit organization, if applicable] and has authorized a grant in the amount of _____, representing __ percent of the purchase price of the development easement through the State Agriculture Development Committee [or name of nonprofit organization, if applicable] to the _____ [name of county, CADB or nonprofit grantee].

Print Name and Title Below Signature

DATE

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on 20____, _____ personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is the person whose signature appears above,
- (b) is the Assistant State Conservationist of the U.S. Department of Agriculture, Natural Resources Conservation Service, and
- (c) is authorized to sign on behalf of the agency, and
- (d) accepted the rights conveyed by this Deed of Easement to be his or her voluntary act and deed.

Print Name and Title Below Signature

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32 and has authorized a grant in the amount of \$_____ to the [entity], representing ____ percent of the purchase price of the development easement. This grant includes funding the Committee has received from the United States Department of Agriculture, Natural Resources Conservation Service, in the amount of _____, representing ____ percent of the total purchase price.

Susan E. Payne, Executive Director
State Agriculture Development Committee

Date

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on _____, 20__, Susan E. Payne personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this Deed of Easement,
- (b) signed, sealed and delivered this Deed of Easement as the Committee's act and deed,
and
- (c) is the Executive Director of the State Agriculture Development Committee.

Print name and title below signature

Appendix 2

DEED OF EASEMENT

STATE OF NEW JERSEY
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

This Deed is made _____, 20 _____

BETWEEN _____
whose address is _____, and is referred to as the Grantor;

AND the State Agriculture Development Committee, whose address is, PO Box 330,
Trenton, New Jersey 08625 and is referred to as the Grantee or Committee.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives,
successors and assigns grants and conveys to the Grantee a development easement and all
of the nonagricultural development rights and credits on the Premises, located in the
_____ of _____, County of _____,
described in the attached Schedule A, incorporated by reference in this Deed of
Easement, for and in consideration of the sum of \$ _____ Dollars. Any reference in this
Deed of Easement to "Premises" refers to the property described in Schedule A.

The tax map reference for the Premises is:

_____ of _____

Block _____, Lot(s) _____

WHEREAS, the legislature of the State of New Jersey has declared that the development
of agriculture and the retention of farmlands are important to the present and future
economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands
is beneficial to the public health, safety and welfare of the citizens of the State of New
Jersey.

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS,
ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS
AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject
to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

Prepared by: _____

Print name and title

Record and Return to:

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and its agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13. At the time of this conveyance, Grantor has (____) existing single family residential buildings on the Premises and (____) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Committee. If the Committee grants approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and
- ii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Committee.
- iii. _____ residual dwelling site opportunity(ies) have been allocated to the Premises pursuant to the provisions of N.J.A.C. 2:76-6.17, "Residual Dwelling Site Opportunity". The Grantor's request to exercise a residual dwelling site opportunity shall comply with the rules promulgated by the Committee in effect at the time the request is initiated.

In the event a division of the Premises occurs in compliance with deed restriction No. 15 below, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement reflecting the reallocation of the residual dwelling site opportunities to the respective divided lots. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Committee.

In the event a residual dwelling site opportunity has been approved by the Grantee, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement at the time of Grantee's approval. The Corrective Deed of Easement shall reflect the reduction of residual dwelling site opportunities allocated to the Premises. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Committee.

(OR)

- iii. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

"Residual dwelling site" means the location of the residential unit and other appurtenant structures.

"Residential unit" means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

"Use for agricultural purposes" as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the approval in writing of the Grantee. In order for the Grantor to receive approval, the Grantee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee does not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the fair market value of the development easement as certified by the Committee at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (/).

24. No historic building or structure located on the Premises may be demolished by the grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et seq.

Appendix 3

DEED OF EASEMENT

STATE OF NEW JERSEY AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM

This Deed is made _____, 20 _____.

BETWEEN _____, Whose address is _____ and is referred to as the Grantor;

AND _____, Whose address is _____ and is referred to as the Grantee and/or Board.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement and all of the nonagricultural development rights and credits on the Premises, located in the Township of Knowlton, County of Warren described in the attached Schedule A, incorporated by reference in this Deed of Easement, for and in consideration of the sum of _____ Dollars (\$ _____). Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A.

The tax map reference for the Premises is:

_____ of _____

Block _____, Lot _____

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of _____ County;

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.

Prepared by: _____
PRINT NAME AND TITLE

3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and Committee and their agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor, at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13. At the time of this conveyance, Grantor has one (1) existing single family residential buildings on the Premises and no (0) residential buildings used for agricultural labor purposes. Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed

agricultural labor is employed on the Premises; and

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- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee and the Committee. If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and
- ii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee and Committee.
- iii. _____ residual dwelling site opportunity(ies) have been allocated to the Premises pursuant to the provisions of N.J.A.C. 2:76-6.17, "Residual Dwelling Site Opportunity". The Grantor's request to exercise a residual dwelling site opportunity shall comply with the rules promulgated by the Committee in effect at the time the request is initiated.

In the event a division of the Premises occurs in compliance with deed restriction No. 15 below, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement reflecting the reallocation of the residual dwelling site opportunities to the respective divided lots. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

In the event a residual dwelling site opportunity has been approved by the Grantee, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement at the time of Grantee's approval. The Corrective Deed of Easement shall reflect the reduction of residual dwelling site opportunities allocated to the Premises. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

(OR)

- iii. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

"Residual dwelling site" means the location of the residential unit and other appurtenant structures.

"Residential unit" means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

"Use for agricultural purposes" as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. In order for the Grantor to receive approval, the Grantee and Committee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, "heirs, executors, administrators, personal or legal representatives, successors and assigns" have been inserted after each and every designation.

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22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. In the event that the law permits the conveyance of said development rights, Grantee agrees to reimburse the Committee (_____) percent of the value of the development rights as determined at the time of the subsequent conveyance.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the fair market value of the development easement as certified by the Committee at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as (_____/_____).

Furthermore, the Grantee's proceeds shall be distributed among the Grantee and the Committee in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

24. No historic building or structure located on the Premises may be demolished by the grantor or any other person without the prior approval of the State Agriculture Development

Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et seq.

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers, and its corporate seal, if any, is affixed.

_____(L.S.)

_____(L.S.)

_____(Corporate Seal)
Secretary
(For use by corporations only)

(INDIVIDUAL ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20 _____,

_____ personally came before me and acknowledged under oath, to my satisfaction, this that person (or if more than one, each person):

- (a) is named in and personally signed this DEED OF EASEMENT;
- (b) signed, sealed and delivered this DEED OF EASEMENT as his or her act and deed;
- (c) made this DEED OF EASEMENT for and in consideration of mutual obligations and benefits to each party; and
- (d) the actual and true consideration paid for this instrument is \$ _____.

Print name and title below signature

(CORPORATE ACKNOWLEDGMENT)

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____ 20 _____, the subscriber _____, personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary of _____,

the Corporation named in the within Instrument; that _____ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$ _____ and the mutual obligations and benefits contained herein.

Sworn to and subscribed before me, the date aforesaid

Print name and title below signature

(COUNTY AGRICULTURE DEVELOPMENT BOARD)

THE UNDERSIGNED, being Chairperson of the _____ County Agriculture Development Board, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 20__.

Chairperson
_____ County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20__.

_____ personally came before me and acknowledged under oath, to my satisfaction that this person: (a) is named in and personally signed this DEED OF EASEMENT, (b) signed, sealed and delivered this DEED OF EASEMENT as the Board's act and deed; and (c) is the Chairperson of the _____ County Agriculture Development Board.

Print name and title below signature

(COUNTY BOARD OF CHOSEN FREEHOLDERS)

THE UNDERSIGNED, being _____ of the _____ County Board of Chosen Freeholders, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this _____ day of _____, 2003.

Print name and title below signature
_____ County Board of Chosen Freeholders

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 2003,

_____ personally came before me and acknowledged under oath, to my satisfaction that this person:
(a) is named in and personally signed this Deed of Easement;
(b) signed, sealed and delivered this Deed of Easement as the Freeholder Board's act and deed; and
(c) is the Administrator / Freeholder Clerk of the _____ County Board of Chosen Freeholders.

Signed and sworn to before me on _____.

Print name and title below signature
_____ County Board of Chosen Freeholders

(STATE AGRICULTURE DEVELOPMENT COMMITTEE)

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and has authorized a grant of _____% of the purchase price of the development easement to _____ County in the amount of \$ _____.

Gregory Romano, Executive Director
State Agriculture Development Committee

Date

STATE OF NEW JERSEY, COUNTY OF _____ SS.:

I CERTIFY that on _____, 20____,

_____ personally came before me and acknowledged under oath, to my satisfaction, that this person:

- (a) is named in and personally signed this DEED OF EASEMENT,
- (b) signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- (c) is the Executive Director of the State Agriculture Development Committee.

Print name and title below signature

PennEast Pipeline Company LLC Docket# PF15-1-000
Scoping Comments
Delaware Township Committee
P.O. Box 500
Sergeantsville, NJ 08557
(609)397-3240

Water and Wetland Resources
Delaware Township, Hunterdon County, New Jersey

Water Resources

Introduction

Nationwide, the Federal Clean Water Act (FCWA) (33 U.S.C. 1251 et seq.) governs water resources and wetlands. New Jersey adopted its own version of the FCWA, the Water Pollution Control Act, (N.J.S.A. 58:10A-1 et seq.) and several other laws for the protection of State waters and water quality, including the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq. which protects streams and flood plains, and the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et. seq.).

Streams, small streams (such as headwater streams) and their associated wetlands, including streams and wetlands that do not have water year round, play a key role in providing critical habitat, food and shelter for waterfowl, fish, and other aquatic species. They also mitigate damage from floods, provide sources of drinking water, filter pollutants, and support economically important local and downstream recreational and commercial uses.

Delaware Township is focused on, and very protective of, its streams and wetlands because each and every resident depends upon wells for water use, and as previously stated, surface waters help to protect ground water quality. As a result, the streams in Delaware Township are of the highest water quality. The village of Rosemont has a community well, while the remaining residents, potentially affected by the PennEast pipeline, depend upon individual wells. In addition, residents have septic systems (underground wastewater sewage disposal systems) for wastewater disposal. Wells and septic systems are carefully located on oversized lots to ensure protection of water supply.

Surface water classification in New Jersey

Surface waters in New Jersey are classified in accordance with the Surface Water Quality Standards (N.J.S.A. 58:10A-1 et seq., 58:11A-1 et seq., and 13:1D-1 et seq) based on the type of waterbody and the designated use of the waterbody. Freshwaters are classified as FW1 (not subject to any man-made wastewater discharges) and FW2 waters (all other freshwaters except Pinelands waters). Freshwaters are further classified based on trout status: trout production (FW2-TP), trout maintenance (FW2-TM), and nontrout (FW2-NT).

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While the New Jersey State Water Quality Standards (SWQS) protect water quality for all surface waters of the State, the degree of protection varies depending on the **antidegradation** designation of the water resource. Antidegradation means that there shall be no measurable change in the water quality. Category One waters are protected from any measurable change in water quality, including their aesthetic value (color, clarity, scenic setting) and ecological integrity (habitat, water quality and biological functions) because of their exceptional ecological significance, exceptional recreational significance, exceptional water supply significance, or exceptional fisheries resources.

Category One (C1) designation provides additional protection to waterbodies to help prevent water quality degradation, and **discourages development** where it would impair or destroy natural resources and water quality. Under the definition of Exceptional Ecological Significance, the State considers waterbodies supporting certain aquatic-dependent threatened or endangered species (bog turtles and mussels) or an “exceptional aquatic community” as qualifying for C1 status. Waterbodies that support unimpaired benthic macroinvertebrates and indicate exceptional value for two of the four data sources: habitat, physical/chemical water quality data, fish assemblage, and low impervious surface meet the definition of an “exceptional aquatic community” and qualify for C1 protection status. Under the definition of Exceptional Fisheries Resource(s), trout production waters classified as FW2-TP waters qualify for C1 status. Under the definition of Exceptional Water Supply Significance, waterbodies that are part of the water supply system that serves a population greater than 100,000, including any reservoirs and streams that directly flow into those reservoirs can qualify for C1. The majority of the water bodies in Delaware Township that would be affected by the PennEast pipeline—the Wickecheoke Creek, Lockatong Creek, Alexauken Creek and their tributaries—are all designated as C1 waters.

The Importance of C1 Waters in Delaware Township and to New Jersey’s Water Supply

The Wickecheoke and Lockatong Creeks both flow directly to the Delaware and Raritan (D&R) Canal and to the Delaware River, as does the Brookville Creek. Since 1934, the D&R Canal has been used to transfer water from the Delaware River Basin to the Raritan River Basin. The water transported by the Delaware and Raritan Canal in New Jersey is used primarily for public supply to approximately 1.5 million people. The drainage basin of the D&R Canal is comprised of 53,860 acres. The Wickecheoke and Lockatong Creeks provide 31,802 acres--the greatest contribution to the drainage basin of the D&R Canal (*Gibbs, Jacob; Bonnie Gray, Donald E. Rice, Steven Tessler, and Thomas H. Barringer. Water Quality of the Delaware and Raritan Canal, New Jersey, 1998-99. Water-Resource Investigations Report 01-4072; U.S Department of the Interior, U.S. Geological Survey; prepared in cooperation with the New Jersey Water Supply Authority; 2001*).

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The Wickecheoke and Lockatong Creeks also contain healthy macroinvertebrates, and their watersheds contain low impervious surface, which contribute to their C1 classification. The Lockatong and Wickecheoke Creek Watersheds are characterized by a mostly rural landscape, consisting primarily of agriculture, forest, and wetlands. The Alexauken Creek discharges directly to the Delaware River, also a water supply system for millions of people. All three creeks are also classified as "Trout Maintenance" waters. Therefore, all three of these streams were placed in the category of "exceptional ecological significance" resulting in a C1 classification.

Shallow bedrock, with secondary porosity (fractures) is widespread throughout the watersheds of the Wickecheoke and Lockatong Creeks. In addition to the shallow bedrock, thin soil depths and seasonal high ground water levels create problems throughout these watersheds for locating suitable sites for septic systems, particularly in the lower two-thirds of each watershed. The size, spacing, and orientation of water-bearing fractures within the aquifer presents water supply problems to many well users during the summertime and early fall when recharge is minimal, or non-existent, and water use is maximum. Although fractures near the land surface can provide recharge to the aquifer, they can also provide a fast conveyance for surface and subsurface contaminants to enter nearby well-water supplies. (*Lockatong and Wickecheoke Creek Water Quality and Flow Monitoring Project 2006 Through 2007; Prepared as part of a 319(h) grant for the Lockatong and Wickecheoke Creek Watersheds Restoration and Protection Project; Contract: RP05-082; New Jersey Water Supply Authority; Watershed Protection Programs Unit; December 1, 2008*).

Water purveyors using water from the D&R Canal noticed that the raw water withdrawn from the canal during precipitation events was requiring increased amounts of chemicals for the removal of suspended solids which, in turn, generates increased amounts of sludge or residuals. The increased use of chemicals in treating the water and removing additional sludge or residuals contributes to the increased cost of producing drinking water that meets high quality and stringent regulatory standards.

Actions Taken to Protect the Water Quality of Delaware Township Streams

As a result of the concerns of the water purveyors, the U.S. Geological Survey (USGS), in cooperation with the New Jersey Water Supply Authority, conducted a study in 1999 to determine whether the water quality in the canal is affected by stormwater runoff from basins influent to the canal (*Gibbs, Jacob; Bonnie Gray, Donald E. Rice, Steven Tessler, and Thomas H. Barringer. Water Quality of the Delaware and Raritan Canal, New Jersey, 1998-99. Water-Resource Investigations Report 01-4072; U.S Department of the Interior, U.S. Geological Survey; prepared in cooperation with the New Jersey Water Supply Authority; 2001*). That study was updated in 2008 (*Lockatong and Wickecheoke Creek Water Quality and Flow Monitoring Project 2006 Through 2007; Prepared as part*

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of a 319(h) grant for the Lockatong and Wickecheoke Creek Watersheds Restoration and Protection Project; Contract: RP05-082; New Jersey Water Supply Authority; Watershed Protection Programs Unit; December 1, 2008). When the study results showed that stormwater was affecting water quality, the New Jersey Water Supply Authority, responsible for protecting the water supply provided by the D&R Canal, began acquiring land specifically in the watersheds of the Lockatong and Wickecheoke Creeks so that it would remain **undeveloped** and therefore, protect the exceptional quality of water discharged to the D&R Canal.

In addition, to protect and prevent degradation of water quality for streams classified as C1, New Jersey mandates several requirements through State regulation. Not only are C1 waters to be protected, but they are afforded a 300-foot buffer for added protection. All new development and stormwater management is required to stay outside the 300-foot buffer. Delaware Township has adopted a Stream Corridor ordinance that mirrors the State law by also establishing a 300-foot buffer on these streams and their tributaries.

Also, the State has adopted the Flood Hazard Area Control Act (FHA) rules, which serve to minimize damage to life and property from flooding caused by development within flood hazard areas, to preserve the quality of surface waters, and to protect the wildlife and vegetation that exist within and depend upon such areas for sustenance and habitat. These rules include standards for the construction of utility lines, including pipelines, within and across C1 streams and their 300-foot buffers (riparian zones).

The pipeline is currently proposed to be constructed via open trenches through all watercourses it crosses, with the exception of the Delaware and Schuylkill Rivers. The FHA rules recognize that the construction of an open trench within a watercourse is detrimental to stream health in that it destabilizes the stream channel, results in sedimentation within the watercourse, and destroys aquatic habitat within the channel. The FHA rules therefore require that an entity seeking to construct a utility line must first pursue directionally drilling or "jacking" the proposed utility line under the channel, thereby eliminating the negative impacts associated with open trenches. The rules also require an entity to pursue co-locating the utility line with an existing roadway or bridge crossing the stream. The excavation of open trenches through streams cannot be considered until these more protective alternatives are first pursued.

Additionally, the FHA rules recognize that healthy vegetation adjacent to surface waters is essential for maintaining bank stability and water quality. The indiscriminate disturbance of such vegetation destabilizes the banks of channels and other surface waters, which leads to increased erosion and sedimentation that exacerbates the intensity and frequency of flooding. The loss of vegetation adjacent to surface waters also reduces filtration of stormwater runoff and thus degrades the quality of these waters. Such impacts adversely affect the health and habitat of fish and wildlife that depend upon clean surface waters and therefore disrupt the

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ecological balance that is necessary for life. Humans are ultimately affected by this imbalance, since clean water is essential for all life.

The proposed pipeline will destroy vegetation within the 300-foot riparian zones of C1 streams, which will degrade the quality of these watercourses as mentioned above. The FHA rules require that an entity first pursue locating a utility line outside of any riparian zones. If it can be satisfactorily demonstrated that this is not possible, the rules then require an entity to minimize impacts to stream buffer vegetation by minimizing the width of the utility line and/or locating the utility line within previously disturbed areas of the riparian zone. The drill pit for a directionally drilled utility line must be located outside of the riparian zone. The destruction of riparian zone vegetation for the construction of a utility line is a last resort that can only be considered after these alternatives have been rigorously pursued.

Freshwater Wetlands

Introduction

Nationwide, the Federal Clean Water Act (FCWA) (33 U.S.C. 1251 et seq.) governs water resources and wetlands. Section 404 of the FCWA regulates waters of the United States including wetlands, and is implemented by the Army Corps of Engineers (ACOE). However, the State of New Jersey adopted its own law, the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et. seq. in 1987 in order to provide greater protection to its wetlands.

A provision in the FCWA at Section 404(g) allows a State with a program as stringent as the Federal 404 program to make application to the Federal Environmental Protection Agency (EPA) to operate its State program in place of the Federal program. The Federal State Program Regulations (40 CFR Part 233), governing assumed State wetland programs, provide that States may adopt and enforce requirements which are more stringent and operate a program with greater scope than required by Federal law (40 CFR 233.1(c)). Furthermore, the regulations also state that any approved State program shall, at all times, be conducted in accordance with the requirements of the Federal Clean Water Act. The regulations further provide that while States may impose more stringent requirements, they may not impose any less stringent requirements for any purpose (40 CFR 233.1(d)).

New Jersey applied for, and was granted the authority to operate its own program in place of the Federal program in 1994. Further, New Jersey's program is more stringent than the Federal program in several ways, the greatest of which is because it affords protection for "transition areas" which are upland wetland buffers ranging from zero to 150 feet, depending upon the wetland resource value. The State law also protects vernal habitats,

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and State listed threatened and endangered species in addition to those that are Federally-listed.

Although wetlands located in certain areas of the State remain subject to both State and Federal wetland regulation, (for example, the Delaware River and all waters subject to the ebb and flow of the tide, shoreward to their mean high water mark, including wetlands that are partially or entirely located within 1000 feet of the ordinary high water mark or mean high tide), the wetlands and waters in Delaware Township within the pathway of both alternative routes of the PennEast pipeline are under the authority of the State of New Jersey.

Identification of Freshwater Wetlands

The State of New Jersey provides its own, online, freshwater wetlands map overlay as a courtesy and planning tool for the public. However, it does not regulate freshwater wetlands based on maps. In order to determine if wetlands exist on a property, an onsite determination must be made. As a result, the National Wetlands Inventory that has been cited by PennEast as the source of their wetland information, was not done in conjunction with the State, has never been field verified and is not an acceptable source for regulatory use in New Jersey. Therefore, at this time, PennEast cannot say with any confidence that they have accurately identified all potential impacts to wetlands. This concern applies not only to Delaware Township, but to the entire pipeline route in the State of New Jersey.

In addition, like the buffer required adjacent to waterways, all wetlands (except manmade ditches and swales, which are classified as "ordinary") in New Jersey are subject to a "transition area" or a buffer of up to 150 feet. This buffer is intended to protect the wetland which in turn protects both surface and ground water quality. Wetlands are afforded a 150-foot buffer when they are classified as "exceptional resource value" and feature threatened or endangered species habitat or are adjacent to FW1-FW2 trout production waters. With few exceptions, all other wetlands in New Jersey are classified as "intermediate resource value" and are afforded a 50-foot buffer. Therefore, without first accurately identifying the presence, extent and location of a wetland, it is impossible to determine how wide the buffer must be. Therefore, considering the lack of credible field data, the total impacts to the wetland system from either the 10-7-14 proposed pipeline route, or the 1-16-15 preferred alternative pipeline route cannot be determined with any confidence.

In addition, the previously-mentioned study by the NJ Water Supply Authority cited historical sightings of the state threatened long-tailed salamander in the vicinity of the Covered Bridge as it crosses the Wickecheoke Creek. State maps also indicate that there may be vernal pools in the alignment of the pipeline route and endangered plants have been document in the vicinity of the quarry. None of these resources have been identified by PennEast.

Delaware Township Committee's Comments on our Water Resources

1. The Delaware Township Committee believes that both of the proposed pipeline routes would seriously, negatively affect the watersheds of the Lockatong and Wickeocheoke Creeks.

The 10-7-14 proposed pipeline route makes approximately 10 stream crossings just in Delaware Township alone. (Figures WR1 and WR2). Of those, the Lockatong Creek, Wickeocheoke Creek, and the Alexauken Creek and their tributaries (C1 stream classifications) are crossed approximately 6 times.

The 1-16-15 preferred alternative pipeline route makes approximately 14 stream crossings. It crosses the Lockatong Creek, Wickeocheoke Creek, and the Alexauken Creek approximately 12 times. (Figures WR3 and WR4).

The large number of stream crossings is an indication that little or no effort was made to minimize or avoid critical water resources nor were alternatives explored that would reduce such impacts. In fact, the preferred alternative route which has been touted as "co-location" has greater impacts on water resources than the original route.

PennEast must be required to identify all streams, including all their tributaries, in the field. Without on-the-ground information provided by PennEast, FERC should not make any decision regarding the appropriateness of the pipeline location.

PennEast should be required to find an alternative route that is outside the watersheds of all C1 streams, especially C1 streams that contribute to water supply such as those in Delaware Township. Contamination of these waters through disturbance, construction activities, accidents, and/or incompetence would result in catastrophic impacts to the water supply provided by the Delaware River and the Delaware and Raritan Canal.

2. If an appropriate location is found, PennEast should be required to pursue jacking or directional drilling for all stream crossings, but especially for crossings of C1 streams and their tributaries.
3. The 10-7-14 proposed pipeline route goes directly through the 2-year travel time portion of the wellhead protection area of the community well serving the residents of Rosemont. Siting a pipeline through the wellhead protection area of a community water supply indicates that little or no consideration was given to protecting water resources. PennEast should be required to find an alternative route and should be precluded from placing a pipeline in any wellhead protection area.

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4. It is unknown how many individual wells and septic systems will ultimately be affected by the pipeline route, because consequences extend beyond the actual 100-foot construction right-of-way. PennEast should be required to identify the locations of all wells and septic systems and to site its pipeline at least 100 feet away from all homes, individual wells and septic systems.
5. Based solely upon aerial mapping, it appears that the 10-7-14 proposed pipeline route would cross 7 wetlands (Figure WR5) in Delaware Township. The 1-16-15 preferred alternative pipeline route would cross 9 wetlands (Figure WR6).

However, no one has made an accurate calculation of the actual, potential wetland impacts associated with either the 10-7-14 proposed pipeline route, or the 1-16-15 preferred alternative pipeline route. This is a major deficiency in the project scoping for the entire pipeline route in the State of New Jersey.

6. PennEast must be required to identify all wetlands in the field in order to provide real information to demonstrate that it has avoided and minimized impacts to wetlands, as required by 18§380.15(e)(2). Without on-the-ground information provided by PennEast, FERC should not make any decision regarding the appropriateness of the pipeline location.
7. PennEast must be required to do on the ground surveys for threatened or endangered species (both plant and animal), and vernal pools within the pipeline route. All need to be identified, documented, and avoided. FERC should not make a decision on the PennEast application without this information.

Conclusion

Delaware Township's master plan and land use ordinances are all designed to protect agricultural uses and the Township's water quality. Ordinances discourage destruction of prime agricultural soils, protect stream corridors, discourage development in large forested tracts, require oversized lots to ensure aquifer recharge and protection of water quality on lots with both septic and wells, limit impervious cover, and direct development out of the floodplain and wetlands. These are the lands that have been targeted by the pipeline company in blatant disregard for the health and safety of Township residents and stakeholders, and for all of these reasons, the PennEast pipeline should be excluded from any location in Delaware Township.

Figure WR1
10/7/14 Proposed Pipeline Route - Stream Crossings
Delaware Township, Hunterdon County, New Jersey

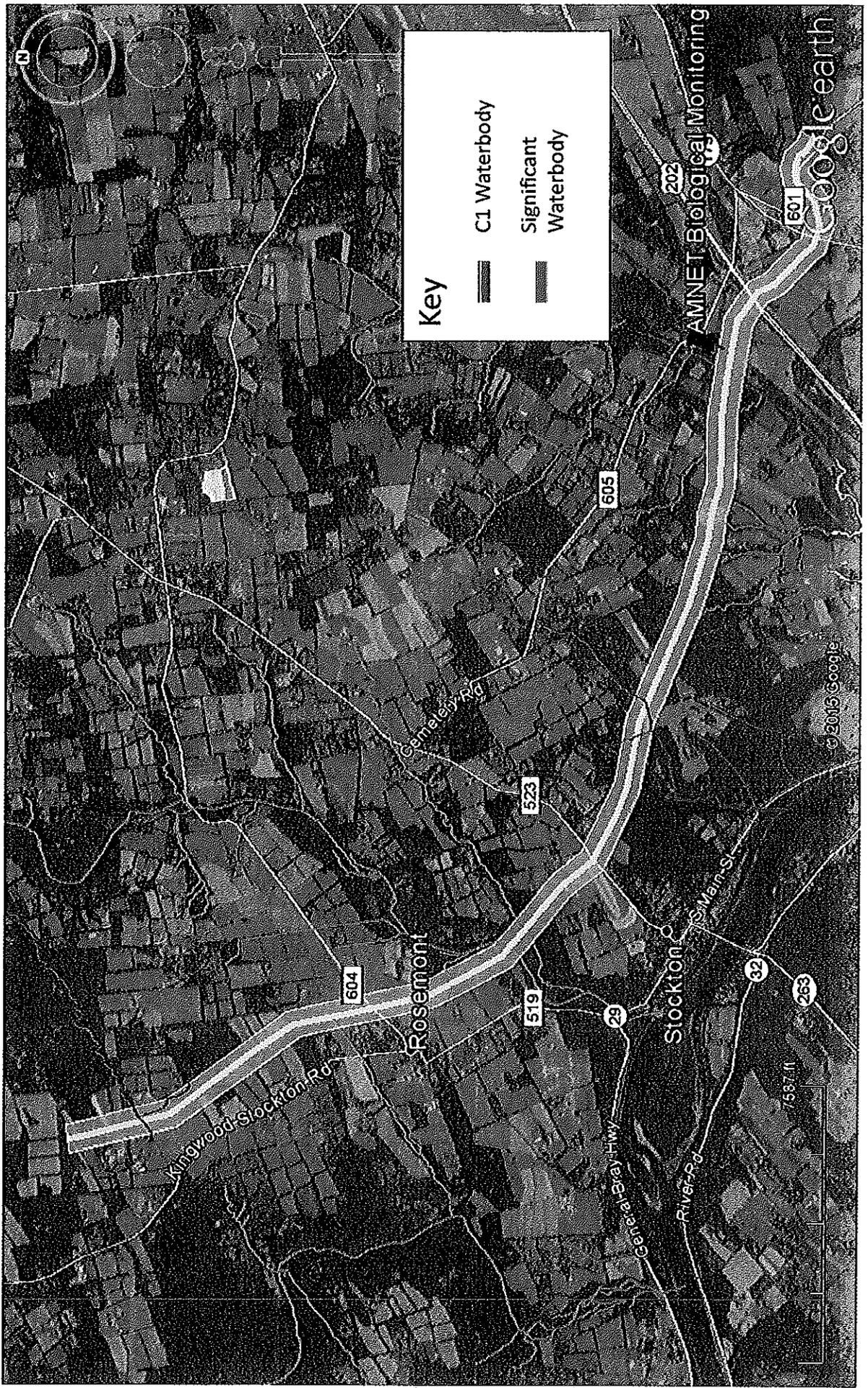


Figure WR3
1/16/15 Preferred Alternate Pipeline Route - Stream Crossings
Delaware Township, Hunterdon County, New Jersey

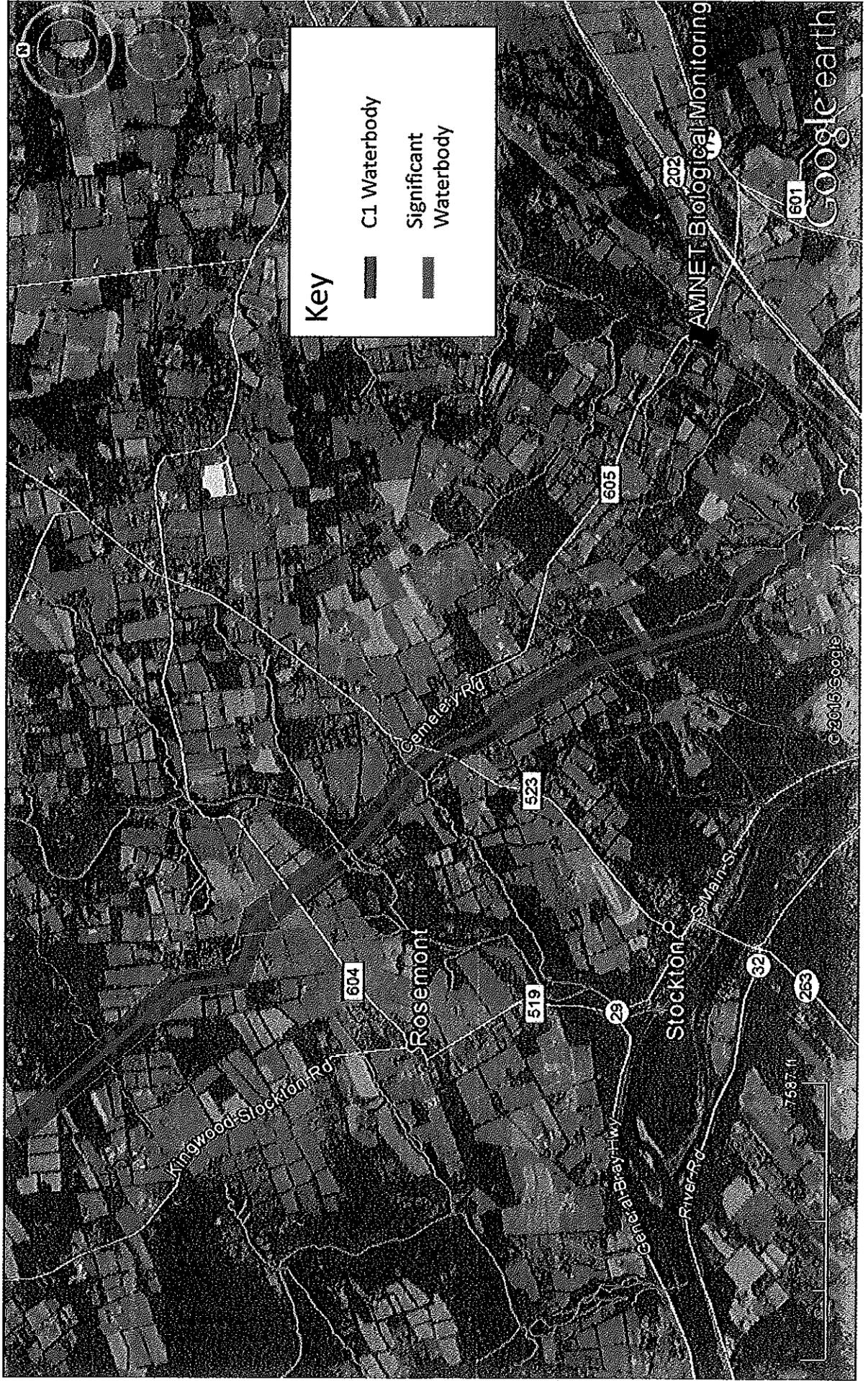


Figure WR4
1/16/15 Preferred Alternate Pipeline Route - Stream Crossings
Delaware Township, Hunterdon County, New Jersey

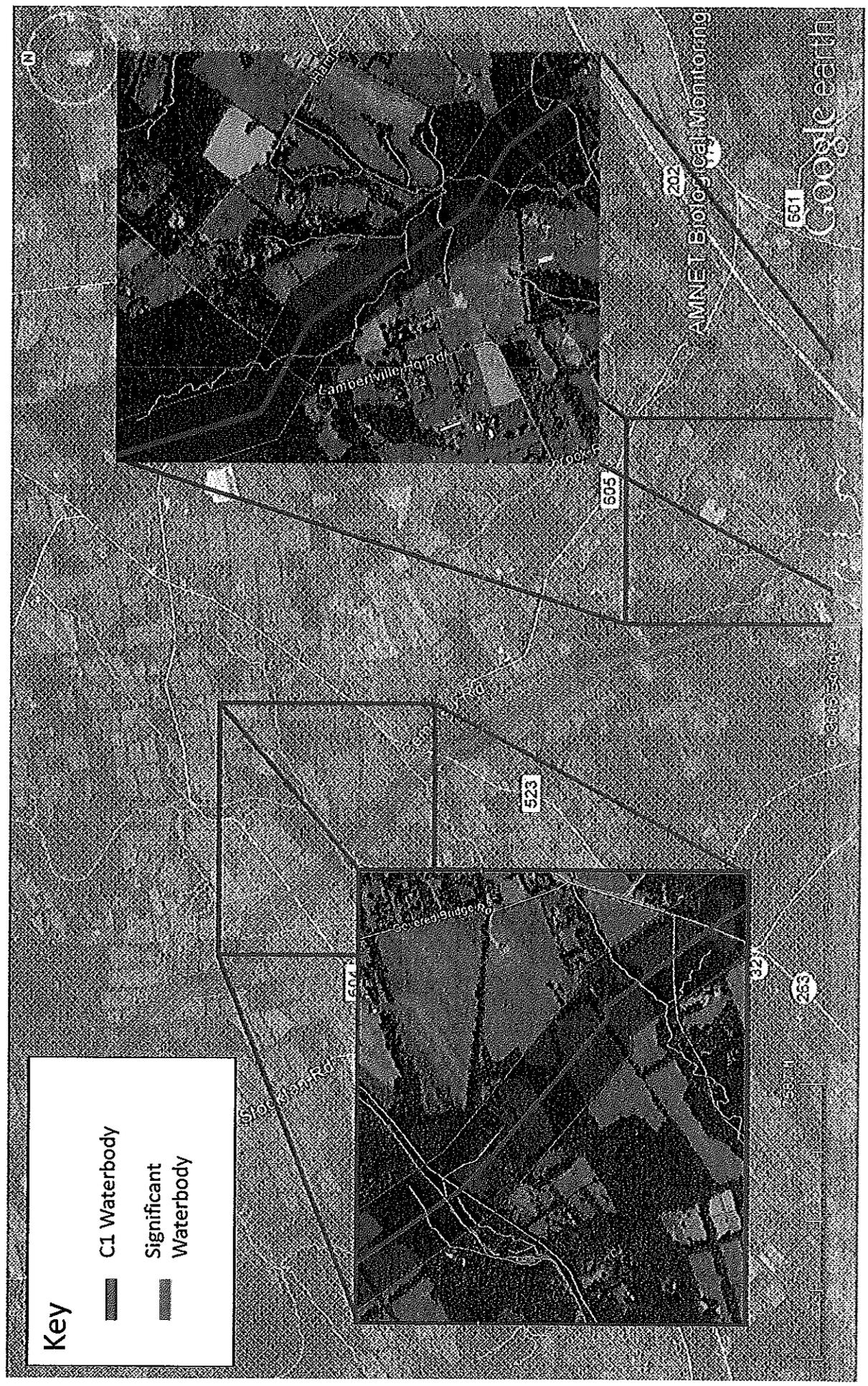


Figure WR5
10/7/14 Proposed Pipeline Route - Wetlands
Delaware Township, Hunterdon County, New Jersey

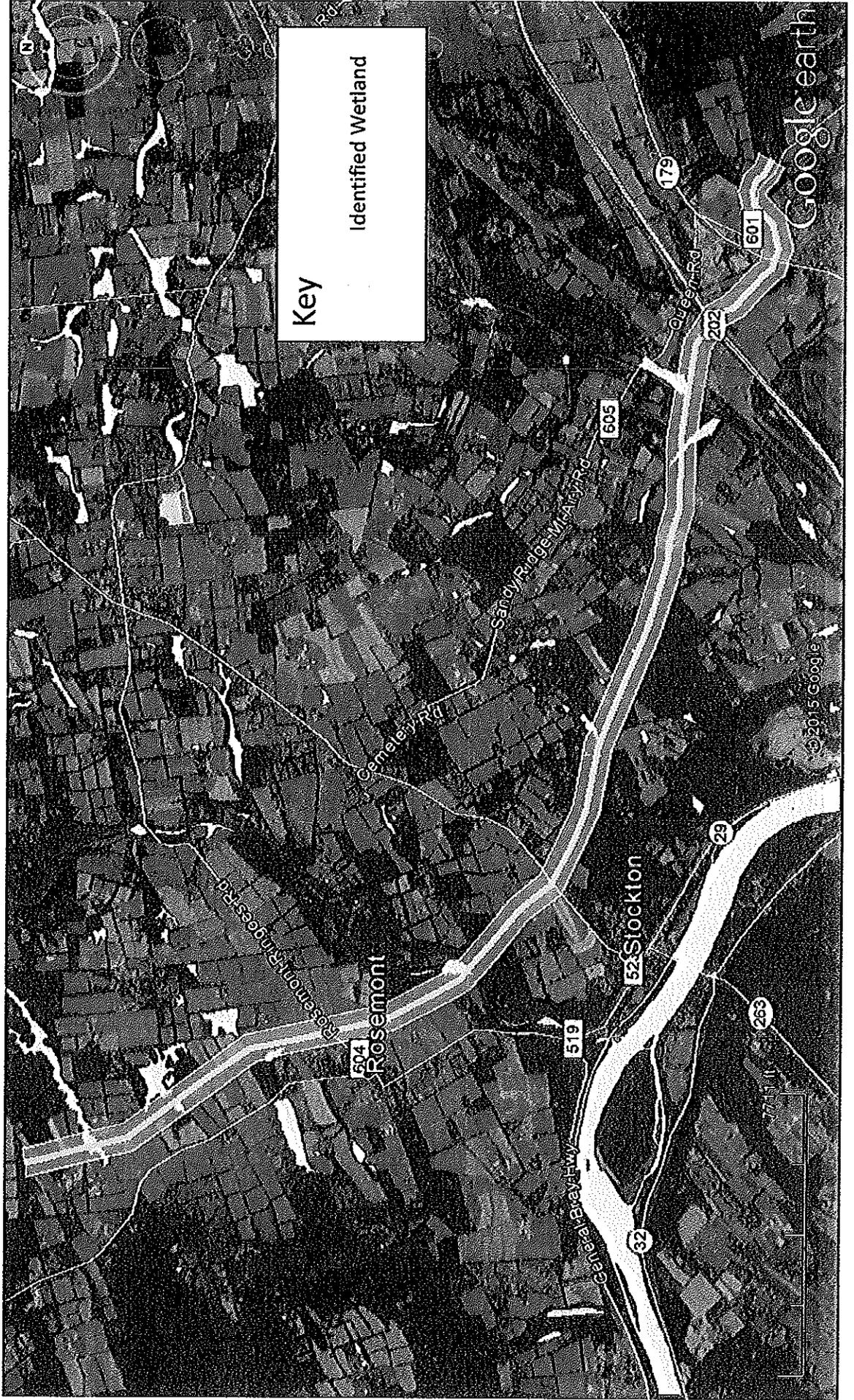
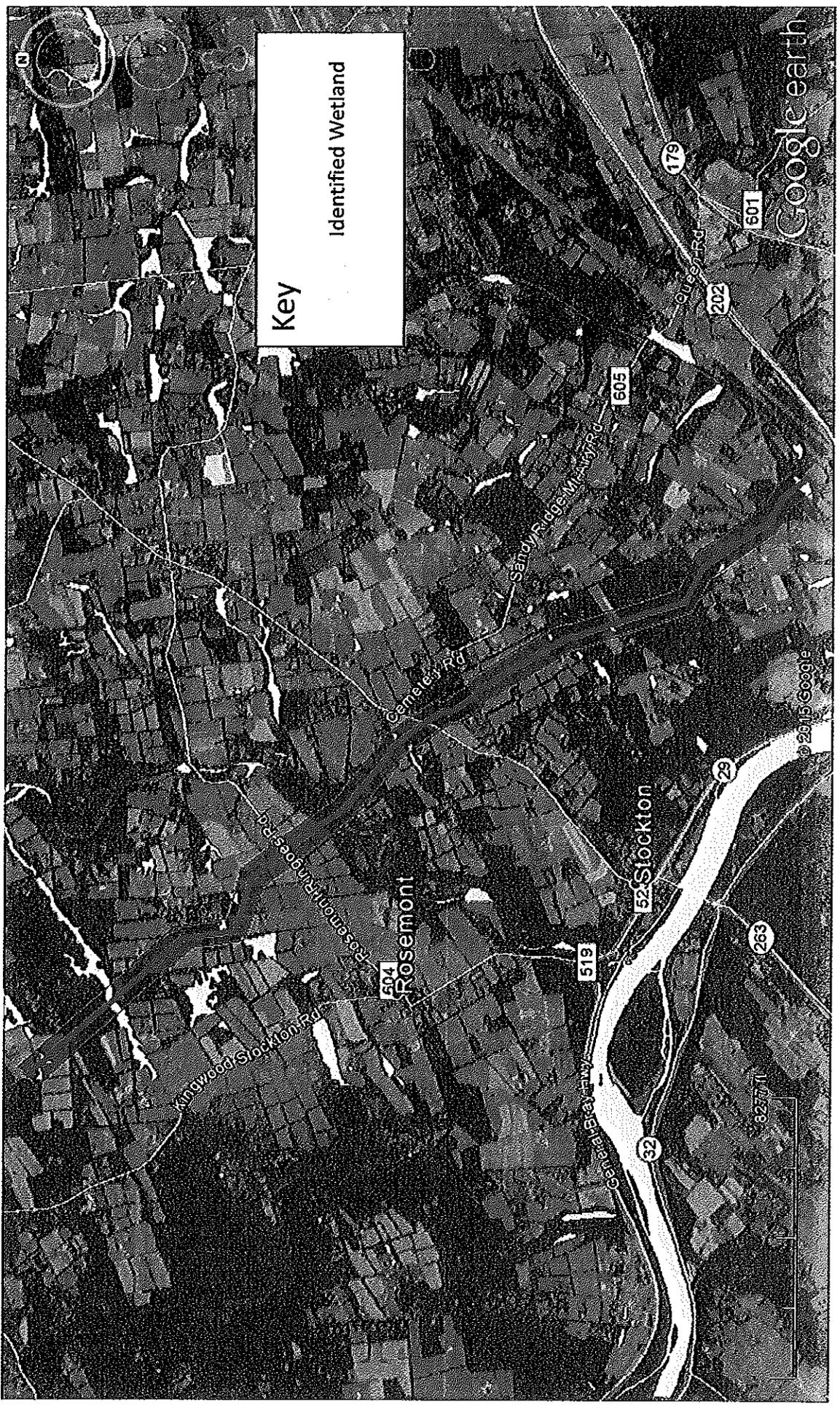


Figure WR6
1/16/15 Preferred Alternate Pipeline Route - Wetlands
Delaware Township, Hunterdon County, New Jersey



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Proof of Public Convenience and Necessity

Eminent Domain is to be applied in limited circumstances, and only when the takeover of a property can be guaranteed to satisfy the greater public good. In the case for Necessity or Public Use, the burden of proof remains with the condemning authority.

Further, the proof of Public Convenience and Necessity must also demonstrate the cumulative economic, environmental (including total carbon footprint) and social effects of this project, and other projects this approximately 110 mile segment will be a part of, from source (point of extraction) to its final destination.

The Economic Impact Report and Analysis ("Report") released by PennEast Pipeline Company, LLC, dated February 9, 2015, (<http://penneastpipeline.com/economic-impact-analysis/>) concludes:

- Almost no direct annual benefit from pipeline operations to the State of New Jersey and impacted Counties, let alone to Delaware Township. The "Report" suggests employment benefits to the Region, and states employment benefits derived from other sources in its projections, as exemplified by Multi-State Research Collaborative in its analysis: (*Multi-State Shale Research Collaborative, date unknown, <http://www.multistatëshale.org/shale-employment-report>*).
- The "Report" does not calculate or address financial regional losses, short term and long term, from the disruption to community rich recreation programs, decreased farming yields, devalued properties, decertification of organic farm status, losses of protected (contiguous) tracts of land, degradation of waterways, and the like.
- The "Report" states: "As new natural gas supply is introduced to the market, prices of natural gas and electricity are likely to decrease". The Report fails to reflect, quantify, compare and justify the Project's specific contribution (long term demand projections, per State and County, and its proportional value, current and projected) to the overall demand in view of the existing pipeline infrastructure in the region, including work planned and in progress.
- PennEast does not disclose, deny or consider its ability to connect into a system that would allow PennEast to directly transmit gas to the recently approved Cove Point export facility. If connected, the gas can and most likely will be destined for export, with no direct economic benefit to the region.
- The "Report" does not explore or consider alternate renewable energy options in its analysis, with direct, long term benefits to the region and beyond.
- The "Report" fails to consider and quantify environmental and safety risks (leaks, explosions and environmental response funding reserve) associated with this proposed project, and its short and long term financial impact on the community. The need to protect the community and public assets trumps the need for new pipelines.

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To date, Delaware Township Committee has found no data to support the claim that the project is necessary or benefits the public convenience.

1. If the intent is to generate electric power, as purported by PennEast at community events, PennEast can do so at the point of source, and transmit the electricity via existing (or improved) power lines, and abandon the proposed PennEast Pipeline. This alternative approach would mitigate many of the adverse impacts from pipeline transmission, storage and distribution, not to mention safety and costs depicted in a study conducted and reported on by the *New York University School of Law, Institute for Public Integrity, December 2014*, http://policyintegrity.org/files/publications/Capturing_Value_-_Methane_Policy_Brief.pdf
2. The National Environmental Policy Act (NEPA) requires the FERC to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA requires (PennEast) a study that effectively demonstrates the project demand, supported by sound technical analysis based on credible facts.

Delaware Township developed and presented multiple relevant comments during the scoping period, supported by technical and credible data and analyses. These include financial, environmental, ecological, cultural, historical, and social impacts for both the proposed and alternate routes will have on our local and regional communities and economies. These permanent and irreversible impacts extend significantly beyond the sought easement boundaries and must be measured and addressed to determine whether the short and long term costs warrant the purported necessity and public use, when the additional regional demand for supply of gas from this Project has not been publically established.

3. The proposed pipeline, if installed, has a lifespan. The proposed program must include funding, in a secured Delaware Township escrow account, to compensate for the pipeline's eventual removal and site restoration efforts including above ground apparatuses, reforestation, site restoration, etc. PennEast's position of "abatement in place" is not acceptable to the Delaware Township Committee and therefore, if installed, its eventual removal must be calculated and included in the cumulative impact study and project design. If not considered and funded, the eventual removal and site restoration will remain the responsibility of the community.