

VIII-6 ✓

STATE AGRICULTURE DEVELOPMENT COMMITTEE
REVIEW OF A NON-AGRICULTURAL DEVELOPMENT PROJECT IN AN
AGRICULTURAL DEVELOPMENT AREA
NEW JERSEY NATURAL GAS SOUTHERN RELIABILITY LINK PROJECT IN
BURLINGTON, MONMOUTH AND OCEAN COUNTIES

RESOLUTION FY2016R4(6) - AMENDED

September 22, 2016

WHEREAS, pursuant to the Agriculture Retention and Development Act (ARDA), N.J.S.A. 4:1C-19, any public body or public utility which intends to exercise the power of eminent domain within an Agricultural Development Area (ADA), or which intends to advance a grant, loan, interest subsidy or other funds within an ADA for the construction of dwellings, commercial or industrial facilities, transportation facilities or water or sewer facilities to serve nonfarm structures, shall file a Notice of Intent (NOI) with the County Agriculture Development Board (CADB) and the State Agriculture Development Committee (SADC) 30 days prior to the initiation of the action; and

WHEREAS, CADBs and the SADC are charged with the responsibility, pursuant to N.J.S.A. 4:1C-19, to review the proposed action to determine its effect upon the preservation and enhancement of agriculture in the ADA, the municipally approved program, and overall State agriculture preservation and development policies; and

WHEREAS, while N.J.S.A. 4:1C-25 of ARDA gives public bodies the authority to condemn preserved farmland, the statute does not provide such authority to public utilities; accordingly, public utilities such as natural gas companies can only institute condemnation proceedings on preserved farmland for interstate transmission of natural gas pursuant to the Natural Gas Act, 15 U.S.C.A. § 717, et seq. (Natural Gas Act), and after obtaining a Certificate of Public Convenience and Necessity from the Federal Energy Regulatory Commission (FERC); and

WHEREAS, New Jersey Natural Gas (NJNG), through its environmental consultants, submitted initial NOI documents to the Burlington, Monmouth and Ocean CADBs and the SADC in June 2015 for a new natural gas pipeline project proposal, the Southern Reliability Link (SRL), identified in Schedule A; and

WHEREAS, as the SRL project is not an interstate natural gas transmission project, it is not regulated under the Natural Gas Act and, therefore, NJNG does not possess the power of eminent domain on preserved farmland in implementing the project; and

WHEREAS, according to NJNG, the SRL is needed to provide NJNG's Ocean, Burlington and southern Monmouth County customers an alternate interstate natural gas transmission source for the southern end of its distribution system; and

WHEREAS, the proposed 30-inch diameter steel pipeline would connect the NJNG transmission system in Manchester Township, Ocean County with a proposed compressor station associated with the Transcontinental Pipeline Company (Transco) interstate pipeline in Chesterfield Township, Burlington County; and

WHEREAS, as shown on Schedule B, and documented in the Southern Reliability Link Alternatives Analysis dated April 2015, before selecting the final alignment the environmental consultants evaluated a number of alternative pipeline routes to select a route that avoids or minimizes adverse impacts to agriculture, the cultural / built environment and the natural environment to the extent possible while maintaining the viability and technical feasibility of the SRL project; and

WHEREAS, due to the extensive presence of preserved farmland in the project study area outside of the New Jersey Pinelands, few "cross-country" opportunities were identified and the 30-mile pipeline project has been designed to be placed largely within existing County and Municipal road rights-of-way; and

WHEREAS, once the pipeline route was selected, the environmental consultants identified 2 non-preserved parcels within the Burlington County ADA that would be directly impacted by the construction of the pipeline; and

WHEREAS, the pipeline right-of-way will traverse Block 502, Lot 16.01 in Chesterfield Township, as shown on Schedule C, to avoid impacts to the historic village of Chesterfield and to preserved farmland, resulting in a permanent easement approximately 1,215 feet in length with an associated 1.7 acres of temporary workspace required; and

WHEREAS, a valve site with an easement area of approximately 50 feet x 50 feet (0.06 acres) was also proposed on Block 1000, Lot 1 in Chesterfield Township; and

WHEREAS, the NOI indicates that for all potential sites in the ADA:

1. Best management practices set forth in Soil Conservation District approved Soil Erosion and Sediment Control Plans will be implemented to prevent soil erosion and sedimentation.
2. The top 12 inches of topsoil within the entire right-of-way will be removed, stockpiled in a windrow parallel to the pipeline trench, and replaced following construction to avoid soil mixing, rutting and compaction.
3. Temporary fencing will be provided as necessary to restrict access to active work areas by livestock until adequate vegetative cover over the work area is reestablished
4. Following construction, disturbed areas will be regraded, revegetated and otherwise restored to pre-existing conditions in accordance with Soil Erosion and Sediment Control Plans unless variations on typical practice are requested by the landowner.

5. NJNG will employ third party environmental inspectors to monitor all construction and restoration to ensure consistency with Soil Erosion and Sediment Control Plans and landowner agreements.
6. NJNG will provide each landowner, landowner's designee and/or tenant a single point of contact to address concerns; and

WHEREAS, the NOI provides that on agricultural lands, the pipeline will be constructed with a minimum of 4 feet of cover, allowing most regular field cultivation activities to continue unrestricted; and

WHEREAS, the NOI indicates that easement agreements with landowners will identify certain restrictions to be placed on agricultural uses in the permanent right of way, including a prohibition on permanent structures built over the pipeline, limitations on tree height and tree placement over and within 5 feet of the pipeline, and use of certain heavy machinery; and

WHEREAS, the NOI states that for all potential sites in the ADA, the pipeline project and the temporary impact areas have been designed to allow farmer access to remaining fields during construction and to avoid or minimize impacts to existing buffer areas, surface waters and groundwater aquifers; and

WHEREAS, the NOI states that traffic control will be set up to provide either a safe travel way for passing traffic while maintaining adequate workspace or a roadway detour to permit local traffic property access; and

WHEREAS, at its July 30, 2015 meeting, the Ocean CADB found the SRL project, as described in the NOI, would not cause unreasonably adverse effects on preserved farms, the ADA, or State agricultural preservation and development policies. This finding was transmitted to NJNG via letter dated August 4, 2015; and

WHEREAS, on January 12, 2016 the Monmouth CADB issued a similar finding as memorialized in Monmouth CADB resolution #2016-1-1; and

WHEREAS, at its meeting of January 14, 2016, the Burlington CADB found the SRL project would cause unreasonably adverse effects on the ADA, citing the need for additional information regarding the restoration of agricultural drainage systems and soil, and concerns regarding impacts of road closure and/or detours on local farm markets. This finding was transmitted to NJNG via letter dated March 3, 2016; and

WHEREAS, NJNG issued a response and, pursuant to N.J.S.A. 4:1C-19(b), a public hearing was held by the Burlington CADB on March 10, 2016 and a report outlining recommendations of the CADB to address concerns discussed at the hearing was issued; and

WHEREAS, the SADC reviewed the project at its April 22, 2016 meeting and issued a finding, via Resolution FY2016R4(6), that the project would not cause unreasonably adverse


effects on preserved farmland, ADAs or State agricultural preservation and development policies pursuant to N.J.S.A. 4:1C-19; and


WHEREAS, on June 28, 2016 consultants for NJNG submitted revised plans showing removal of the proposed valve site on Block 1000, Lot 1 in Chesterfield Township and the addition of four additional temporary work areas on the following lots:

- Block 108, Lot 2.01, Chesterfield Township, Burlington County
- Block 500, Lot 1.01, Chesterfield Township, Burlington County
- Block 500, Lot 9.01, North Hanover Township, Burlington County
- Block 53, Lot 11, Upper Freehold Township, Monmouth County; and

WHEREAS, upon review Burlington County CADB staff determined that each of the 3 proposed Burlington County work areas were located on parcels that are below the 20 acre minimum acreage criteria required for inclusion in the Burlington County ADA and therefore further review of the project pursuant to N.J.S.A. 4:1C-19 was not required; and

WHEREAS, Block 53, Lot 11 in Upper Freehold Township is within the Monmouth County ADA but is owned by the Monmouth County Park System and listed on the County's Recreation and Open Space Inventory; and

 WHEREAS, pursuant to N.J.A.C. 7:36-25.14, the Monmouth County Park System, in coordination with the New Jersey Green Acres Program, granted NJNG a Temporary Right of Entry for the project; and

 WHEREAS, the Monmouth County CADB reviewed the impacts of the additional 4.3 acres of temporary workspace on Block 53, Lot 11, as shown on Schedule D, at its meeting of August 2, 2016 and concluded that the proposed project would not have an unreasonably adverse effect on Monmouth County's ADA; and

WHEREAS, the SADC has reviewed the NOI documents submitted by NJNG and its environmental consultants, discussed the project amendments submitted June 28, 2016 with the Burlington and Monmouth CADB staffs, and determined that NJNG has adequately addressed all requirements and information about the project pursuant to N.J.S.A. 4:1C-19 and N.J.A.C. 2:76-7.1, et seq.

NOW, THEREFORE, BE IT RESOLVED that the SADC has reviewed the proposed action to determine its effect upon the preservation and enhancement of agriculture in the ADAs, the municipally approved program, and upon overall State agriculture preservation and development policies, and finds that disturbance associated with a permanent easement approximately 1,215 feet in length and an associated 1.7 acres of temporary workspace in the Burlington County ADA and 4.3 acres of temporary workspace in the Monmouth County ADA would not cause unreasonably adverse effects on preserved farmland, ADAs or State agricultural preservation and development policies pursuant to N.J.S.A. 4:1C-19 for the following reasons:

1. The project has been designed to avoid preserved farmlands and, where impacts on non-preserved agricultural land are proposed, practices to minimize disturbance are to be implemented.
2. NJNG and its consultants have evaluated multiple options and proposed a route that is almost exclusively within existing road right-of-ways that will have minor permanent agricultural effects; and

BE IT FURTHER RESOLVED that this finding is conditioned on NJNG updating the SADC should additional workspace, access or staging areas be necessary and ensuring that the following practices not specifically described in the NOI be implemented on all farmland:

1. Subsoil shall not be stored directly on unstripped topsoil without a barrier or spread on the surface of existing farmland as a means of disposal.
2. Should excess backfill be necessary such material shall be of similar texture and quality to existing subsoils and under no circumstance should topsoil be used for this purpose.
3. Should any underground drainage tile or irrigation system be damaged by pipeline construction it will be immediately repaired in a manner that assures pre-construction operation.
4. Should it be necessary to pump water from open trenches NJNG shall do so in a manner that will avoid inundation of crops for more than 24 hours or deposition of sediment upon the surface of farm fields and pasture land or in ditches and other water sources.
5. Testing for post-construction soil compaction should be performed by environmental monitors and, if necessary, mitigation measures taken to ensure restoration to pre-construction conditions.
6. Unless otherwise required by law, the use of pipeline markers should be minimized within active agricultural areas and, if installed, such markers should be located at roads, fence lines and the edges of fields in order to reduce the potential for damage to or interference with normal farming operations.

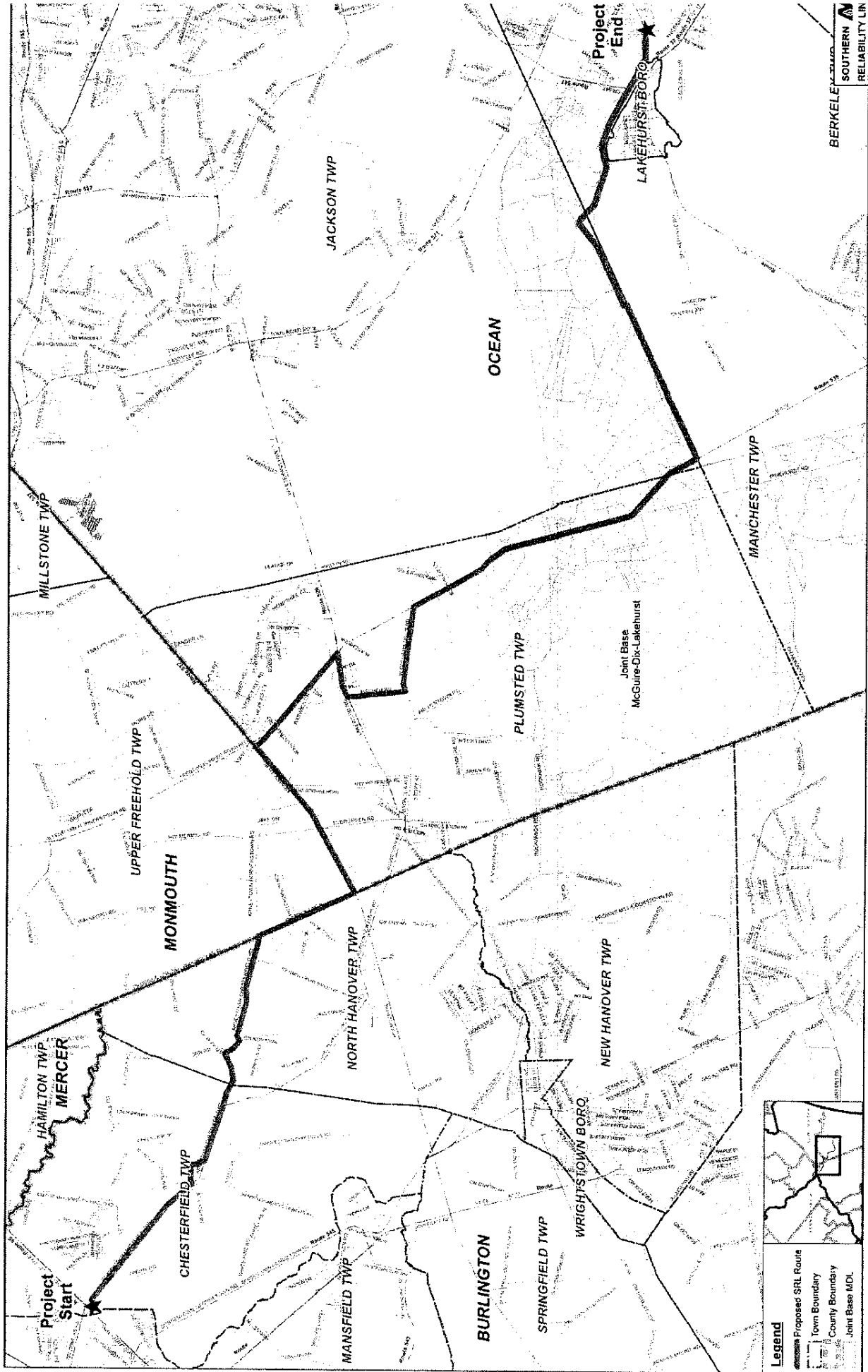
BE IT FURTHER RESOLVED that the SADC will work with NJNG, the Burlington, Monmouth and Ocean CADBs, farmers and landowners as needed to resolve site-specific impacts to farms in the ADAs, particularly with respect to soils in agricultural production and surface and subsurface drainage systems, during and after construction; and

BE IT FURTHER RESOLVED that this action is considered a final agency decision appealable to the Appellate Division of the Superior Court of New Jersey.

Date

Susan E. Payne, Executive Director
State Agriculture Development Committee

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Legend

- Proposed SRL Route
- Town Boundary
- County Boundary
- Joint Base MDL

Schedule B



SOUTHERN
RELIABILITY LINK

Schedule C



9/16/15

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
AMENDING RESOLUTION 2016-1-1 REGARDING THE PROPOSED NEW
JERSEY NATURAL GAS SOUTHERN RELIABILITY LINK**

Mr. DeFelice offered the following resolution and moved its adoption:

WHEREAS, New Jersey Natural Gas (NJNG) is a natural gas service provider that serves over half a million customers in New Jersey; and

WHEREAS, NJNG's distribution system is currently served by one primary interstate pipeline feed that supplies natural gas to customers in 49 municipalities in Monmouth County; and

WHEREAS, NJNG is planning to construct and operate the Southern Reliability Link (SRL), a 30-mile, 30" transmission pipeline, that will connect to a second interstate pipeline feed; and

WHEREAS, the proposed route of the Southern Reliability Link traverses portions of Burlington, Ocean, and Monmouth counties; and

WHEREAS, the current proposed route of the Southern Reliability Link passes through sections of Province Line Road and Arneytown-Hornerstown Road in Upper Freehold Township; and

WHEREAS, there are several preserved farms and Monmouth County Park System-owned parcels near the proposed pipeline route; and

WHEREAS, the majority of Upper Freehold Township lies within a Monmouth County Agriculture Development Board (MCADB) designated Agricultural Development Area; and

WHEREAS, N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-7 dictates that NJNG submit a Notice of Intent (NOI) for Non-Agricultural Development in Agricultural Development Areas so the MCADB and State Agriculture Development Committee can determine if the proposed project would result in "unreasonably adverse effects on the agriculture development area, or State agricultural preservation and development policies..."; and

WHEREAS, New Jersey Natural Gas submitted a Notice of Intent to the MCADB on June 22, 2015; and

WHEREAS, the MCADB deemed the initial submission incomplete and requested additional information and revisions on July 15, 2015 and again on

November 19, 2015; and

WHEREAS, on July 19, 2016 New Jersey Natural Gas submitted additional documentation describing a proposed 4.3-acre construction yard to be used for twelve months during the Southern Reliability Link Project; and

WHEREAS, the construction yard will be located on a portion of Block 53 Lot 11 in Upper Freehold Township; and

WHEREAS, the lot is owned by Monmouth County and managed by the Monmouth County Park System; and

WHEREAS, the lot is listed on the County's Recreation and Open Space Inventory, and therefore comes under the oversight of the NJ DEP Green Acres Program; and

WHEREAS, the Monmouth County Park System has granted New Jersey Natural Gas a Temporary Right of Entry for Block 53 Lot 11; and

WHEREAS, due to the temporary nature of the construction yard, NJ DEP Green Acres Program coordination is occurring under N.J.A.C. 7:36-25.14 (leases or use agreements regarding funded or unfunded parkland for purposes other than recreation or conservation); and

WHEREAS, after reviewing the NOI and supplemental submissions, the Board makes the following findings of fact:

1. Within Monmouth County, the proposed pipeline shown on the December 7, 2015 plans is to be housed solely within road rights of way.
2. Within Monmouth County, the temporary construction yard on Block 53 Lot 11 in Upper Freehold is being coordinated with the Monmouth County Park System and NJ DEP Green Acres Program.
3. Within Monmouth County, as long as the pipeline route and construction footprint do not exceed the boundaries shown on the plans dated December 7, 2015 and July 18, 2016, no condemnation action would be required.

NOW, THEREFORE, BE IT RESOLVED by the Monmouth County Agriculture Development Board that the proposed pipeline would not have an unreasonably adverse effect on Monmouth County's Agricultural Development Areas.

BE IT FURTHER RESOLVED that NJNG must obtain a road opening permit from the Monmouth County Division of Engineering as well as any other approvals deemed necessary by local, county, and State authorities.

BE IT FURTHER RESOLVED that NJNG is encouraged to use every means and method possible to ensure that construction of the pipeline results in minimal impacts to the historic resources that may be adjacent to the proposed pipeline.

BE IT FURTHER RESOLVED that the Secretary of the Board forward a certified true copy of this resolution to NJNG, the State Agriculture Development Committee, Upper Freehold Township, Burlington County, Ocean County, and the Monmouth County Park System.

Seconded by Mr. Dill and adopted by the following roll call vote:

	Yes	No	Abstain	Absent
Mr. Bullock				X
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton*	X			
Mr. DeFelice	X			
Mr. Dill*	X			
Mr. Foster	X			
Mr. Giambrone				X
Ms. Grbelja	X			
Mr. Holmes	X			
Mr. Potter	X			

* Alternate member

I do hereby certify that the foregoing is a true copy of a resolution adopted and memorialized by the Monmouth County Agriculture Development Board at a meeting on August 2, 2016.



Gary DeFelice, Secretary

