RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-02

TITLE: Approving With Conditions Applications for **Public Development** (Application Numbers 1987-1121.004, 1993-0341.007, 2016-0035.001 & 2016-0147.001)

Commissioner Galletta moves and Commissioner McGlinchey seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Reports and the recommendation of the Executive Director that the following applications for Public Development be approved with conditions:

1987-1121.004

Applicant:	**Barnegat Township**
Municipality:	Barnegat Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	January 25, 2017
Proposed Development:	Construction of approximately 1,415 linear feet of bicycle path;

1993-0341.007

Applicant:	**Evesham Township c/o Friends of the Black Run Preserve**
Municipality:	Evesham Township
Management Area:	Pinelands Rural Development Area
Date of Report:	January 25, 2017
Proposed Development:	Establishment of 13,200 linear feet of hiking trail;

2016-0035.001

Applicant:	**Shamong Township**
Municipality:	Shamong Township
Management Area:	Pinelands Village
Date of Report:	January 25, 2017
Proposed Development:	Establishment of a 6.26 acre cemetery; and

2016-0147.001

Applicant:	**Egg Harbor Township Municipal Utilities Authority**
Municipality:	Egg Harbor Township
Management Area:	Pinelands Regional Growth Area
Date of Report:	January 25, 2017
Proposed Development:	Installation of 3,179 linear feet of sanitary sewer main.

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for each of the proposed developments; and

WHEREAS, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that Application Numbers 1987-1121.004, 1993-0341.007, 2016-0035.001 & 2016-0147.001 for public development are hereby approved subject to the conditions recommended by the Executive Director.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				Galletta	X				McGlinchey	X			
Avery	X				Hays	X				Prickett	X			
Barr	X				Jannarone	X				Quinn	X			
Brown	X				Lloyd	X				Rohan Green	X			
Chila	X				Lohbauer	X				Earlen	X			

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 24, 2017

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

State of New Jersey
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Application Specific Information: AppInfo@njpines.state.nj.us

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

January 25, 2017

Albert Bille, Mayor
Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

Re: Application # 1987-1121.004
West Bay Avenue
Barnegat Township

Dear Mayor Bille:

The Commission staff has completed its review of this application for construction of approximately 1,415 linear feet of bicycle path along West Bay Avenue. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure
c: Secretary, Barnegat Township Planning Board (via email)
Barnegat Township Construction Code Official (via email)
Barnegat Township Environmental Commission (via email)
Secretary, Ocean County Planning Board (via email)
John Helbig, PP, AICP (via email)

1987 1121.004

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Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Albert Bille, Mayor
Barnegat Township
900 West Bay Avenue
Barnegat, NJ 08005

Application No.: 1987-1121.004
West Bay Avenue
Barnegat Township

This application proposes construction of two non-contiguous sections of 10 foot wide bicycle path, totalling approximately 1,415 linear feet, within the West Bay Avenue right-of-way in Barnegat Township.

The first section of approximately 980 linear feet of bicycle path is located between Marshfield Hills Boulevard and Heritage Point Boulevard. The second section of approximately 435 linear feet of bicycle path is located between South Point Boulevard and Westport Boulevard. The two proposed sections of bicycle path will connect to existing sections of bicycle path located along West Bay Avenue.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The proposed development is located in a Pinelands Regional Growth Area. The proposed development is a permitted land use in a Pinelands Regional Growth Area.

Wetlands Protection Standards (N.J.A.C. 7:50-6.13)

There are wetlands located within the project area. The CMP prohibits most development in wetlands and requires a buffer of up to 300 feet to wetlands.

Approximately 1,058 linear feet of the proposed 1,415 linear foot bicycle path will be located within 300 feet of wetlands. The CMP permits linear improvements, such as bicycle paths, in the buffer to wetlands provided an applicant demonstrates that certain conditions are met. The applicant has demonstrated that

there is no feasible alternative for the proposed development that does not involve development in the buffer to wetlands or that will result in a less significant adverse impact to wetlands. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures will be taken to mitigate the impact on the required buffer to wetlands. The applicant has indicated that the proposed bicycle path location is necessary to provide for a safe corridor for bicycle traffic by separating motor vehicle traffic from bicycle traffic. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the concerned wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located in a maintained grass road shoulder. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards of the CMP. To meet the stormwater management standards, the application proposes to construct five stormwater infiltration basins.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on April 29, 2016. The application was designated as complete on the Commission's website on December 20, 2016. The Commission's public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 17 sheets, prepared by Adams, Rehmann & Heggan Associates and dated as follows:

   Sheets 1 - dated March 2016; revised to September 9, 2016
   Sheets 2 & 9-15 - dated March 2015; revised to March 31, 2016
   Sheets 3-8 & 16 - dated March 2015; revised to September 9, 2016
   Sheet 17 - dated March 2015; revised April 23, 2016.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

State of New Jersey
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Chris Christie
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Kim Guadagno
Lt. Governor

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing and received at the Commission office no later than 5:00 PM on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;

2. the application number;

3. the date on which the determination to be appealed was made;

4. a brief statement of the basis for the appeal; and

5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

January 26, 2017

Evesham Township
c/o John Volpa
Friends of the Black Run Preserve
4 Eustace Road
Marlton, NJ 08053

Re: Application # 1993-0341.007
Block 54, Lots 1 & 2
Evesham Township

Dear Mr. Volpa:

The Commission staff has completed its review of this application to establish 13,200 linear feet of hiking trail. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure
c: Secretary, Evesham Township Planning Board (via email)
Evesham Township Construction Code Official (via email)
Evesham Township Environmental Commission (via email)
Secretary, Burlington County Planning Board (via email)
Joseph Michiels (via email)
Nancy W. Jamanow, PE, CME (via email)

1993034 1.007

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Evesham Township
c/o John Volpa
Friends of the Black Run Preserve
4 Eustace Road
Marlton, NJ 08053

Application No.: 1993-0341.007
Block 54, Lots 1 & 2
Evesham Township

This application proposes the establishment of a 2.5 foot wide, 13,200 foot long hiking trail located on the above referenced 896.22 acre parcel in Evesham Township. Proposed improvements to establish the hiking trail are limited to the hand cutting of understory vegetation. The parcel is owned by Evesham Township.

The above referenced parcel is subject of an existing conservation easement that was required as part of a Memorandum of Agreement between the Evesham Township Municipal Utilities Authority, Evesham Township and the Pinelands Commission. That MOA authorized the discharge of treated wastewater generated from the Kings Grant Wastewater Treatment Facility to three additional groundwater recharge basins on Block 57, Lots 1 and 2 in Evesham Township. The existing conservation easement permits low intensity recreational facilities, such as the hiking trail proposed in this application.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.26)

The parcel is located in a Pinelands Rural Development Area. The proposed hiking trail is a permitted land use in a Pinelands Rural Development Area.

Wetlands Standards (N.J.A.C. 7:50-6.11)

There are wetlands located on the parcel. The prosed hiking trail will not be located in wetlands, but it will be located within 300 feet of wetlands. The proposed hiking trail is defined by the CMP as a low intensity recreational use. The CMP permits low intensity recreational uses in the required buffer to

wetlands provided the development will not have a significant adverse impact on wetlands. The applicant has demonstrated that the proposed hiking trail will not have a significant adverse impact on wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed hiking trail will be located within an existing wooded area. In wooded areas, the applicant proposes that the trail will be diverted around existing trees. Understory vegetation will be hand cut flush to the ground to create a trail 2.5 feet in width. The proposed vegetation cutting is limited to that which is necessary to accommodate the proposed hiking trail.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant, droughty, nutrient poor conditions. The applicant does not propose any revegetation.

Threatened and Endangered Species Standards (N.J.A.C. 7:50-6.27 & 6.33)

Information available to the Commission staff indicates that local populations of Northern pine snake, Timber rattlesnake, and Pine Barrens treefrog occur on the parcel. To maintain consistency with the threatened and endangered species protection standards, the applicant proposes to prohibit understory vegetation cutting between April 15 to November 1, in any year.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on October 21, 2016. The application was designated as complete on the Commission's website on January 5, 2017. The Commission's public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by Don Morrison, dated August 2016, and revised to December 29, 2016.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

5. To address the presence of threatened and endangered species on the parcel, the applicant proposes that no cutting of vegetation shall occur between April 15 and November 1 of any year.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

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PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing and received at the Commission office no later than 5:00 PM on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;

2. the application number;

3. the date on which the determination to be appealed was made;

4. a brief statement of the basis for the appeal; and

5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

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Nancy Wittenberg
Executive Director

January 25, 2017

Susan Onorato, Administrator
Shamong Township
105 Willow Grove Road
Shamong, NJ 08088

Re: Application # 2016-0035.001
Block 18, Lot 19
Shamong Township

Dear Ms. Onorato:

The Commission staff has completed its review of this application for a cemetery on the above referenced 7.49 acre parcel. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc (2): Appeal Procedure
Public Comment Letter

c: Secretary, Shamong Township Planning Board (via email)
Shamong Township Construction Code Official (via email)
Secretary, Burlington County Planning Board (via email)
Michael Dupras (via email)
Sylvia M. Williams (via email)

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Susan Onorato, Administrator
Shamong Township
105 Willow Grove Road
Shamong, NJ 08088

Application No.: 2016-0035.001
Block 18, Lot 19
Shamong Township

This application proposes a 6.26 acre cemetery on the above referenced 7.49 acre parcel in Shamong Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.27)

The parcel is located in the Pinelands Village of Indian Mills. The proposed cemetery is a permitted land use in a Pinelands Village.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located within an existing cleared agricultural field. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The proposed development is consistent with the CMP stormwater management standards. To meet the stormwater management standards, this application proposes the construction of two stormwater infiltration basins.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

A cultural resource survey was completed for this application. No cultural resources eligible for Pinelands designation were found within the project area.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Notice to required land owners within 200 feet of the above referenced parcel was completed on November 18, 2016. Newspaper public notice was completed on November 21, 2016. The application was designated as complete on the Commission's website on December 29, 2016. The Commission's public comment period closed on January 24, 2017. The Commission received one written public comment (enclosed) regarding this application.

Public Comment One: The commenter expressed concern regarding the impacts the cemetery would have on the view from their home and on property values. The commenter also expressed concern regarding potential vandalism and other illicit activities at the proposed cemetery.

Staff Response: The Commission staff appreciates the commenter's interest in the Pinelands. The commenter expressed concerns regarding visual impact, the commenter's property value, vandalism and partying that may occur in the cemetery. The Commission does not have regulations applicable to the commenter's concerns. The municipality is proposing the cemetery. The commenter may wish to discuss these concerns with an appropriate municipal official.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of four sheets, prepared by Consulting Engineer Services and dated as follows:

   Sheets 1 & 3 - dated 9/23/2016 and last revised 11/30/2016;
   Sheets 2 & 4 - dated 9/23/2016.

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

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1. the name and address of the person requesting the appeal;

2. the application number;

3. the date on which the determination to be appealed was made;

4. a brief statement of the basis for the appeal; and

5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

Sylvia M. Williams
72 Willow Grove Road
Shamong, NJ 08088
609-706-1666 (cell)
609-268-4485 (fax)

Pinelands Commission
PO Box 359
New Lisbon, NJ 08064

RE: Pinelands Application No. 2016-0036.001

To Whom It May Concern:

I received a letter post marked September 29, 2016, however due to work obligations, I was unable to pick up the certified, return receipt letter until yesterday, October 7, 2016. So I am responding as quickly as possible to the Pineslands Commission regarding Shamong Township's application for development of a cemetery on Block 18, Lot 10 on Willow Grove Road.

This lot and block is directly connected to my block and lot at 72 Willow Grove Road. Unfortunately, my home's "front" looks directly onto what would be a cemetery. It is the view from my kitchen windows, my two front porches and will run directly along my driveway.

I am adverse to the cemetery being my view and it further concerns me, that I have a very nice home, on an otherwise lovely lot and I am very concerned about what that cemetery will do to my property value should I wish to sell. I also have concerns regarding vandalism, which can often happen in cemetery's at night, as well as other party activities that may find a good place in a cemetery. I object to this use so close to my property. I would request a copy of the findings and conclusions of the executive director, and the process required for the right to appeal the determination.

There is a field across the street on Willow Grove Road that also is now owned by the township and at least the house across the road has a 5 acre buffer around the property, whereas my home/driveway has in some spots less that a 2 foot buffer to the cemetery.

Sincerely,

Sylvia M. Williams

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Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

January 25, 2017

Nathan Davis, Jr.
Egg Harbor Township Municipal Utilities Authority
3515 Bargaintown Road
Egg Harbor, NJ 08234

Re: Application # 2016-0147.001
North Mount Airy Avenue & Allen Street
Egg Harbor Township

Dear Mr. Davis:

The Commission staff has completed its review of this application for installation of 3,179 linear feet of sanitary sewer main. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its first meeting on or after February 14, 2017.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
Director of Regulatory Programs

Enc: Appeal Procedure
c: Secretary, Egg Harbor Township Planning Board (via email)
Egg Harbor Township Construction Code Official (via email)
Egg Harbor Township Environmental Commission (via email)
Atlantic County Department of Regional Planning and Development (via email)
Vincent J. Polistina, PE, PP, CME (via email)

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General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Chris Christie
Governor

Kim Guadagno
Lt. Governor

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

January 25, 2017

Nathan Davis, Jr.
Egg Harbor Township Municipal Utilities Authority
3515 Bargaintown Road
Egg Harbor, NJ 08234

Application No.: 2016-0147.001
North Mount Airy Avenue & Allen Street
Egg Harbor Township

This application proposes installation of 3,179 linear feet of sanitary sewer main within the North Mount Airy Avenue and Allen Street rights-of-way in Egg Harbor Township.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.28)

The project is located in a Pinelands Regional Growth Area. The proposed sanitary sewer main is a permitted land use in a Regional Growth Area.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed development will be located under existing pavement. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. The applicant does not propose any revegetation.

PUBLIC COMMENT

The applicant has provided the requisite public notices. Newspaper public notice was completed on November 7, 2016. The application was designated as complete on the Commission's website on December 15, 2016. The Commission's public comment period closed on January 24, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of six sheets, prepared by Polistina Associates, LLC, and dated as follows:

   Sheet 1 – November 2016
   Sheets 2-6 – November 2, 2016

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed development subject to the above conditions.

State of New Jersey
THE PINELANDS COMMISSION
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PINELANDS COMMISSION
APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made the by Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission no later than 5:00 p.m. on February 13, 2017. The appeal must include the following information:

1. the name and address of the person requesting the appeal;

2. the application number;

3. the date on which the determination to be appealed was made;

4. a brief statement of the basis for the appeal; and

5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-03

TITLE: Approving With Conditions Pinelands Development Application Number 2012-0056.001

Commissioner McGinley **moves and Commissioner** Galletta **seconds the motion that:**

WHEREAS, on November 7, 2016, to the Appellate Division's decision in In re Petition of South Jersey Gas Company, 447 N.J. Super 459 (App. Div. 2016), remanded the following application to the Pinelands Commission to determine whether it conforms with the standards of the Pinelands Comprehensive Management Plan:

2012-0056.001	
Applicants:	**South Jersey Gas Company**
Municipalities:	City of Estell Manor Maurice River Township Upper Township
Date of Report:	February 17, 2017
Proposed Development:	Installation of approximately 15-miles of an approximately 22-mile, 24-inch high pressure natural gas pipeline.

WHEREAS, in response to the Appellate Division's remand, on December 9, 2016, the Pinelands Commission passed Pinelands Resolution No. PC4-16-42 setting forth the process it would utilize to review the application; and

WHEREAS, in accordance with Pinelands Resolution PC4-16-42, the Pinelands Commission has accepted verbal comments at its January 24, 2017 meeting and accepted written comments until February 8, 2017; and

WHEREAS, the Pinelands Commission has had the opportunity to review the public comments submitted, the record, and the Executive Director's Recommendation Report dated February 17, 2017; and

WHEREAS, the Pinelands Commission hereby finds that there is ample evidence in the record that demonstrates that the proposed development with the conditions recommended by the Executive Director conforms to the minimum standards of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission hereby finds that the proposed development with the conditions recommended by the Executive Director is consistent with the intent and objectives of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Pinelands Comprehensive Management Plan, N.J.A.C. 7:50; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission **Adopts** the recommendation of the Executive Director including the conditions contained within the Executive Director's Recommendation Report dated February 17, 2017; and

BE IT FURTHER RESOLVED that the Pinelands Commission hereby **determines** that the development proposed in Pinelands Development Application No. 2012-0056.001 is **Consistent** with the minimum standards of the Pinelands Comprehensive Management Plan.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun		X			Galletta	X				McGlinchey	X			
Avery	X				Hays	X			A	Prickett		X		
Barr	X				Jannarone	X				Quinn	X			
Brown	X				Lloyd		X			Rohan Green		X		
Chila	X				Lohbauer		X			Earlen	X			

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: February 24, 2017

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman

State of New Jersey
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Executive Director

EXECUTIVE DIRECTOR'S RECOMMENDATION REPORT

February 17, 2017

Application No.: 2012-0056.001

Location: City of Estell Manor
Road Rights-of-Way
Maurice River Township
Road Rights-of-Way
Upper Township
Block 10, Lots 202 & 212
Block 289, Lot 1
Block, 306, Lot 13
Block 307, Lot 1
Block 308, Lot 1
Block 350, Lot 12
Block 382, Lot 21
Block 415, Lot 1

This application proposes the installation of approximately 15-miles of an approximately 22-mile, 24-inch high pressure natural gas pipeline from just outside the intersection of Union Road and State Highway Route 49 in Maurice River Township, Cumberland County, through the City of Estell Manor, Atlantic County to Beesley's Point in Upper Township, Cape May County. The 22-mile natural gas pipeline project is proposed to be installed within the Pinelands (15 miles within the State designated Pinelands Area and 7 miles solely within the federally designated Pinelands National Reserve). Only the 15 miles to be installed in the Pinelands Area is subject to the Pinelands Commission's regulatory authority and, therefore, only this portion of the proposed pipeline project is discussed in this report.

The proposed natural gas pipeline will be located entirely within the following improved road rights-of-way: Union Road (CR 671), N.J. Route 49, Cedar Avenue, Mill Road/Reading Avenue (CR 557), N.J. Route 50, Mt. Pleasant-Tuckahoe Road (CR 664) and Marshall/New York Avenue. Specifically, 6 miles of the proposed gas pipeline will be located under existing road pavement. The remaining, approximately 9 miles of the proposed gas pipeline will be located in disturbed and maintained shoulder, within four feet of the edge of the existing road pavement. Within the Pinelands Area, the proposed natural gas pipeline will be located within a Pinelands Village (2.8 miles), a Rural Development Area (2.54 miles) and a Forest Area (9.51 miles).

As part of the proposed pipeline project, South Jersey Gas Company (SJG) is proposing to construct a natural gas interconnect station on Block 350, Lot 12. A remote operated valve station is also proposed to be constructed on Block 10, Lot 212, both in Upper Township.

The proposed natural gas pipeline is intended to provide the natural gas required to repower the BL England electrical generation plant (BLE plant), as well as providing supply feeder redundancy to address the vulnerability of the entire southernmost portion of SJG's service territory, which is currently served by a single feed.

BACKGROUND

In order to comply with air quality standards, in 2006, the New Jersey Department of Environmental Protection ("NJDEP") ordered that the B.L. England Electrical Generation plant at Beesleys Point, Upper Township, Cape May County ("BLE Plant or Plant") either cease operations or repower its existing coal-and oil-fired boilers with natural gas combustion turbine technology to significantly reduce air pollution from the BLE Plant[1]. The BLE plant is located within the geographic boundaries of the Pinelands National Reserve, but outside of the geographic boundaries of the Pinelands Area. The BLE plant is currently owned and operated by RC Cape May Holdings, LLC and is located within SGJ's service area. SJG is a public utility subject to the regulatory and supervisory authority of Board of Public Utilities.

SJG initially filed a development application with the Pinelands Commission for the proposed pipeline project in 2012. On August 23, 2012, Commission staff responded to SJG's development application, initially concluding that, based upon the information provided by SJG, the proposed natural gas pipeline did not meet the Pinelands Comprehensive Management Plan (CMP) requirement that any public service infrastructure constructed in a Forest Area primarily serve only the needs of the Pinelands.

Due to this inconsistency, the Commission's staff and the BPU's staff developed a Memorandum of Agreement in accordance with the CMP (N.J.A.C. 7:50-4.52(c)2), which would have allowed construction of the proposed natural gas pipeline. The Commission considered a resolution authorizing its Executive Director to execute the Memorandum of Agreement at its meeting on January 10, 2014. The vote on the resolution was tied 7-7 and the Memorandum of Agreement, therefore, did not advance.

On May 21, 2015, SJG submitted a revised application for the proposed natural gas pipeline to the Commission. This revised application included new information, intended to demonstrate the project was primarily intended to serve only the needs of the Pinelands (N.J.A.C. 7:50-5.23(b)12). The revised application also proposed to change the location of the interconnect station to Block 350, Lot 12 in Upper Township, which is located in a Pinelands Village.

The new information submitted by SJG included a Pinelands Comprehensive Management Plan Compliance Statement dated May 21, 2015, a "Standard Gas Service Agreement" dated September 17, 2010 and a partially-redacted "Standard Gas Service Agreement Addendum" dated April 2013. The applicant supplemented the Compliance Statement with a letter dated July 31, 2015, in order to address questions posed by Commission staff.

[1] The Order was amended in 2012 to extend the compliance deadline until May 2016. The Order was again amended in 2014 to extend the compliance deadline to May 2017.

Because the applicant, SJG, is a private entity, review would have normally proceeded in accordance with the regulatory process for private development whereby the Executive Director determines whether the prerequisite local permitting approval raises substantial issues with respect to conformance with the CMP without a full vote of the Commission unless the Executive Director first found that the application raised substantial issues with respect to compliance with the CMP.[2]

However, in this matter, SJG petitioned the BPU pursuant to N.J.S.A 40:55D-19 to preempt municipal review of the project. Accordingly, the application was reviewed under the coordinated state agency permitting provisions of the CMP at N.J.A.C. 7:50-4.81 through 4.85, which required the Executive Director to issue a Certificate of Filing to the applicant for submission to the BPU.

On August 14, 2015, the Commission staff issued a Certificate of Filing (COF) for the revised application pursuant to N.J.A.C. 7:50-4.34 and 4.82. The COF noted that new information submitted with the revised application established that: 1) the applicant is contractually obligated to provide the capacity for 125,000 MCF per day of natural gas to the BLE plant for a minimum of 350 days per year for 20 years; 2) the 125,000 MCF, as confirmed by BPU, is the maximum flow capacity of the proposed 24-inch pipeline based upon a maximum pressure of 437 psig, and 3) although the natural gas pipeline is designed at a maximum allowable operating pressure of 700 psig, it will operate at a maximum pressure of 437 psig due to constraints in the applicant's gas transmission system. The COF further noted that "[b]ased on review of the application, including [the] newly submitted information, materials in the record and review of prior applications, the applicant has demonstrated that the proposed gas pipeline is consistent with the permitted use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BL England plant (built in 1963) that is located in the Pinelands."

By letter dated August 21, 2015, the Executive Director transmitted a copy of the COF to the BPU. In that letter, the Executive Director requested that BPU provide the Commission with copies of documents issued and filed with BPU as part of its N.J.S.A. 40:55D-19 (Municipal Land Use Law preemption) petition proceedings. BPU subsequently submitted its record to the Commission staff, including all public comments and documents submitted as part of its proceedings. After reviewing these materials, the Executive Director sent a letter to BPU, on December 14, 2015, detailing her review and stating that the finding in the COF remained valid.

The Sierra Club and Environment New Jersey subsequently filed an appeal of the Executive Director's December 14, 2015 letter to the BPU with the Appellate Division. These parties and the Pinelands Preservation Alliance also appealed the BPU's December 16, 2015 Order approving SJG's N.J.S.A. 40:55D-19 petition. These appeals were consolidated.

On November 7, 2016, the Appellate Division issued a published decision that essentially affirmed the BPU's December 14, 2015 Decision and Order[3], but remanded the Executive

[2] If the Executive Director determines the local approval does not raise issue of CMP conformance, the approval may go into effect. However, if further review ("call-up") is necessary, an adjudicatory hearing is conducted by either the Executive Director or the Office of Administrative Law, followed by a vote of the Commission. Conversely, with regard to public development applications, which typically do not include a corresponding local permitting approval, the determination of CMP compliance is made by vote of the Commission.

[3] The Appellate Division remanded the BPU's December 14, 2015 Order for entry of a modified order stating that the approval of SJG's N.J.S.A 40:55D-19 petition was conditioned upon the Commission's issuance of a final

Director's December 14, 2015 determination to the Commission for further proceedings in conformity with its opinion. Id. The court's decision afforded the Commission wide discretion in what procedures it chose to undertake such review provided the Commission afforded the public notice and the opportunity to be heard before it rendered its final decision. Id. at 479.

At its December 9, 2016 meeting, the Commission passed resolution PC4-16-42, detailing the review process that would be followed to implement the Appellate Division's remand instructions and review the SJG's natural gas pipeline application. Following that meeting, the Commission staff posted notice on its website that the public would have the opportunity to provide comment regarding the SJG application at its January 24, 2017 meeting and through submission of written comments until the close of business on that date.

On January 17, 2017, Pinelands Preservation Alliance filed an appeal from Resolution No. PC4-16-42 with the Appellate Division. Pinelands Preservation Alliance also filed a Motion to Stay Resolution No. PC4-16-42 and the Commission's review of the SJG application with the Pinelands Commission in accordance with R. 2:9-7. The Commission denied that request at a special meeting on January 23, 2017. Following the special meeting, on that same day, the Pinelands Preservation Alliance filed an Application for Permission to File an Emergent Motion for Stay with the Appellate Division. That application was denied. The appeal remains pending.

At its January 24, 2017 meeting, the Commission received public comment on the natural gas pipeline for over 7 hours, during which approximately 130 people spoke. Following that meeting, the Commission extended the deadline for submission of written comments until February 8, 2017. Notice of the extension of the deadline was posted on the Commission's website on January 26, 2017. Notice was also sent on that same date to the Burlington County Times, The Press of Atlantic City, the Asbury Park Press and the Courier Post and was published on January, 31, January 30, January 29, and January 29, 2017, respectively.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.23(b) 12, 7:50-5.27(a)2 & 7:50-5.26(b)10)

As indicated in the Commission's August 14, 2015, Certificate of Filing for this application, the overall project consists of the installation of 22 miles of natural gas pipeline, of which 7 miles of the natural gas pipeline are proposed to be constructed in the Pinelands National Reserve and 15 miles are proposed to be constructed in the Pinelands Area. The Pinelands Commission exercises regulatory authority only in the Pinelands Area.

Within the Pinelands Area, the proposed natural gas pipeline will be located in Pinelands Village Management Area (2.8 miles), Rural Development Area (2.54 miles) and a Forest Area (9.51 miles).

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determination finding that the proposed natural gas pipeline meets the minimum standards of the Pinelands CMP. The Appellate Division affirmed the Board's December 14, 2015 Decision and Order in all other respects. In the Matter of the Petition of South Jersey Gas Company, 447 N.J. Super. 459, 484 (App. Div. 2016).

A natural gas pipeline is defined in the CMP as "public service infrastructure." Public service infrastructure is a permitted land use in Pinelands Villages (N.J.A.C. 7:50-5.27(a)2) and in Pinelands Rural Development Areas (N.J.A.C. 7-50-5.26 (b)10). Thus, the natural gas pipeline is a permitted use in these two management areas.

Public service infrastructure is only a permitted land use in a Forest Area if it is demonstrated that the proposed natural gas pipeline is intended to primarily serve only the needs of the "Pinelands" (N.J.A.C. 7:50-5.23(b)12). The CMP defines "Pinelands" as the combined geographic area formed by the state designated Pinelands Area and the federally designated Pinelands National Reserve (N.J.A.C. 7:50-2.11). Thus, the portion of the natural gas pipeline proposed to be installed in a Forest Area will only be a permitted use if it is intended to primarily serve only the needs of the Pinelands.

The applicant submitted a revised application on May 21, 2015 that included a Pinelands Comprehensive Management Plan Compliance Statement, a July 31, 2015 letter, a "Standard Gas Service Agreement" dated September 17, 2010 and a "Standard Gas Service Agreement Addendum" dated April 2013. The submitted information was intended to demonstrate that the proposed natural gas pipeline is intended to primarily serve only the needs of the "Pinelands."

In particular, the submitted information states that, although the pipeline is designed at a maximum allowable operating pressure of 700 psig, the 24 inch pipeline will operate at a maximum pressure of 437 psig due to constraints in the applicant's natural gas transmission system. The submitted information further establishes that the applicant is contractually obligated to provide the capacity for 125,000 MCF per day of natural gas to the existing BL England Plant electric generating facility for a minimum of 350 days per year for 20 years. Lastly, the applicant has established and the New Jersey Board of Public Utilities has confirmed that 125,000 MCF is the maximum flow capacity of the proposed 24 inch pipe based upon a maximum pressure of 437 psig. These representations were confirmed by the BPU in its December 16, 2015 Order.

Based on review of the application, including newly submitted information, materials in the record and review of prior applications, the applicant has demonstrated that the proposed gas pipeline is consistent with the permitted land use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BL England plant (built in 1963) that is located in the Pinelands.

Serving the needs of an existing Pinelands business alone satisfies the CMP's Forest Area land use standards for public service infrastructure, based on existing Commission precedent. Thus, on this basis, because the proposed pipeline serves the BLE plant, an existing Pinelands business, more than 95% of the time, it primarily serves only the needs of the Pinelands.

Additionally, comments were received regarding whether the energy generated by the BLE plant will serve the residents of the Pinelands. While not necessary to demonstrate CMP conformance, this argument is discussed further below and further evidences conformance of the proposed natural gas pipeline with the standards of the Pinelands CMP.

<u>Wetlands Protection Standards (N.J.A.C. 7:50-6.7 & 6.13)</u>

The CMP prohibits most development in wetlands and requires a 300 foot buffer to wetlands unless it is demonstrated that a lesser buffer will not result in a significant adverse impact on the wetland. No development is proposed in wetlands.

Portions of the proposed development are located within 300 feet of wetlands. However, these segments will be constructed either under existing road pavement or under existing disturbed and maintained road shoulders. To the extent that the proposed natural gas pipeline will be installed under existing road pavement, it will not result in a significant adverse impact on wetlands.

With regard to the portion of the proposed natural gas pipeline that will be located under existing disturbed and maintained road shoulders, those portions will be located a maximum of four feet from the edge of existing road pavement. The CMP (N.J.A.C. 7:50-6.13(a)) permits the installation of public service infrastructure in the required buffer to wetlands provided certain conditions are met. The information submitted by the applicant and verified by the Commission staff demonstrates compliance with these conditions.

The applicant has demonstrated that a proposed natural gas interconnect station located approximately 110 feet from a wetland located on the opposite side of Mt. Pleasant-Tuckahoe Road and a proposed natural gas remote operating valve station located along State Highway 49, approximately 200 feet from a wetland, will not result in a significant adverse impact on wetlands.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed gas pipeline will be located under existing road pavement and under existing disturbed and maintained road shoulders. The proposed clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. To stabilize the disturbed areas associated with the natural gas interconnect station and the remote operating valve station, the applicant proposes to utilize a seed mixture which meets that recommendation.

Threatened and Endangered Species Protection Standards (N.J.A.C. 7:50-6.27 & 6.33)

The applicant completed a habitat suitability assessment and threatened and endangered (T&E) species surveys for Pinelands designated T&E animals and plants. No T&E animal species were identified within the immediate vicinity of the proposed development. The survey identified a population of Pine Barren boneset (Eupatorium resinosum), a Pinelands endangered plant species, located adjacent to the proposed development. The plant population is located approximately 100 feet from the edge of existing road pavement. In this area, the proposed natural gas pipeline will be located under the existing disturbed and maintained road shoulder. Based upon the location of the proposed natural gas pipeline under the existing disturbed and maintained road shoulder, the proposed development will not result in an irreversible, adverse impact on the survival of the local population of this T&E plant species.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The proposed natural gas pipeline will be installed under existing road pavement and under

existing disturbed and maintained road shoulders. No stormwater management facilities are required for the installation of underground utilities. At the site of the proposed natural gas interconnect station, the application proposes the construction of a stormwater infiltration area. The Commission staff reviewed the plans and calculations submitted for the proposed stormwater management facility and determined that it is consistent with the CMP stormwater management standards.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

Cultural resource surveys were completed for this application. The submitted survey concluded that known significant historic resources exits within the project area, but that the proposed development will not impact these resources. Commission staff reviewed the survey and concurred with its findings. The proposed development is consistent with the CMP cultural resource standards.

PUBLIC COMMENT

As noted above, the Commission provided an opportunity for the public to provide comment in person at its January 24, 2017 meeting and, initially, through the submission of written comments until close of business of that same date. Notice of these public comment opportunities was provided on the Commission's website on December 9, 2017.

In order to accommodate the anticipated public interest in the application, the Commission sought an alternative venue as the normal meeting space within the Richard J. Sullivan Center at the Commission's offices in New Lisbon accommodates approximately 60 people when set up in its normal meeting configuration. The Commission made arrangements to hold the meeting at the Ocean Acres Community Center in Stafford Township, which the Commission was told accommodated approximately 277 people. The arrangement with the Community Center was cancelled due to conflicts with the bus schedule of the neighboring school. The Commission then made arrangements to hold the meeting at the St Ann's Parish Center in Browns Mills, with a capacity of 260 people. Based on the parameters of holding the meeting during the day, having adequate space and parking, cost and ideally being located in the Pinelands, this was the largest venue the Commission was able to obtain for the meeting[4]. The Commission believed it would accommodate the expected attendance based on attendance at past proceedings held regarding the proposed Memorandum of Agreement[5].

At its January 24, 2017 meeting, the Commission received public comment from approximately 130 individuals. Attendance initially exceeded capacity, and Commission staff collected a list of those waiting to enter, and allowed those people to enter as others left. All those wishing to attend the meeting were able to enter by approximately 12:30 P.M., and the Commission continued the meeting until past 5:00 P.M. to give all those who wished to speak an opportunity. Following the meeting, the Commission also extended the written comment period until February 8, 2017, in order to afford members of the public, who could not wait or decided not to wait to provide comment at the January 24, 2017 meeting, an opportunity to submit their comments. Notice of the extension of the deadline for submission of written comments was posted on the Commission's website on January 26, 2017 and also sent notice on that date to the

[4] Although not required, the Commission generally endeavors to hold its meetings in the Pinelands.
[5] The Commission did receive one email stating the venue capacity was insufficient, but that commenter mistakenly believed the venue's capacity was only 120 people.

following newspapers: the Burlington County Times, The Press of Atlantic City, the Asbury Park Press and the Courier Post.

Ultimately, the Commission received a total of 6,055 written comments, the vast majority of which, 4,524, were received by January 24, 2017. An additional, 1,531 written comments were received during the extension period.

As is evident from the transcript of the Commission's January 24, 2017 meeting and the written comments the Commission received, commenters cited a variety of reasons for supporting or for opposing SJG's proposed natural gas pipeline. Because the Pinelands CMP does not contain standards regarding some of these comments (such as job creation benefits, fracking, climate change, alternative energy sources, cost, etc.), they were not germane to the Commission's decision as to whether the proposed natural gas pipeline is consistent with its standards.

A number of other points were raised by commenters that do bear upon the Commission's decision in this matter. These generally relate to the consistency of the proposed natural gas pipeline with the standards and objectives of the Pinelands CMP and the Pinelands Protection Act; the need for the BLE plant; whether the proposed natural gas pipeline primarily serves only the needs of the Pinelands; past Commission precedent concerning the installation of natural gas infrastructure in the Pinelands Area, generally and a Forest Area, specifically; and potential environmental impacts as a result of construction and operation of the proposed natural gas pipeline. To more fully inform the Commission's decision making process, the Executive Director has focused the response to public comment on these issues that directly pertain to the conformance of the proposed natural gas pipeline with the standards of the Pinelands CMP.

I. Pipelines are not Permitted under the CMP

Comment

Commenters stated that the Pinelands CMP forbids pipelines. Others felt that the proposed project violates the Pinelands CMP. Many commenters felt there should be no pipelines in the Pinelands. It was stated that the Pinelands CMP must be implemented consistently and in a manner that respects the underlying goals and intention of the Act and the Pinelands CMP. Commenters opined that approving the application would compromise the integrity of the Pinelands CMP.

Comment was submitted noting that the Pinelands Protection Act was created in an attempt to balance economic and environmental interests.

Commenters noted that the proposed project would serve to encourage future development contrary to the vision the CMP sets out for growth and conservation in the Pinelands.

Response:

The Pinelands CMP does not prohibit public service infrastructure, such as natural gas pipelines, in the Pinelands Area nor does such infrastructure, in every instance, violate the CMP. In the Agricultural Production Areas, Rural Development Areas, Pinelands Villages and Towns, and Regional Growth Areas, public service infrastructure is permitted. In the remaining areas,

Special Agriculture Production Areas, Preservation Area and Forest Areas, public service infrastructure is permitted but only under certain conditions. (N.J.A.C. 7:50-5.21 et seq)

Review of SJG's application for the proposed natural gas pipeline was conducted in a manner consistent with the reviews conducted for all applications submitted to the Commission. Staff review was thorough and addressed all relevant CMP requirements, as discussed in greater detail elsewhere in the report. The applicant submitted sufficient information in its revised development application to demonstrate compliance with the relevant requirements of the Pinelands CMP.

With regard to the vision of the CMP the original CMP included a discussion regarding energy needs. The CMP notes that the New Jersey Department of Energy (now the BPU) was responsible for developing a state energy master plan. The CMP discussion says that State agencies are to give proper consideration in their administrative action to the siting policies in the master plan. The siting policy statement with regard to the Pinelands was included in the DEP Coastal Management Program.

These siting polices address pipeline corridors for landing oil; prohibiting them in certain areas and discouraging their siting in other areas of the Pinelands. Natural gas pipelines are discouraged in the "critical area" unless it can be shown that the activity will meet non-degradation water quality standards and cause no long-term adverse environmental impacts. The plan does not address areas outside the critical area with regard to natural gas pipelines.

The original CMP and the current version include different standards regarding natural gas pipelines depending on the Pinelands management area. In the most protected Preservation Area, public service infrastructure is a permitted use if necessary to serve only the needs of the Preservation Area District uses. In the Forests Area, permitted use for public service infrastructure had a different standard: necessary to serve the needs of the Pinelands. Thus the CMP as originally drafted included a less restrictive standard for the Forest Area.

The discussion in the 1980 CMP regarding this standard says "Land uses must be allocated with discretion within the Forest Areas to protect the valuable resources they contain. Forestry, agriculture, horticulture, agricultural employee housing, low intensity and selective intensive recreational uses, and public service infrastructure to serve the region's needs are permitted uses".

The proposed project is in accord with the original vision of the CMP.

The Pinelands Protection Act was adopted to address concerns regarding the impacts associated with the pace of random and uncoordinated development that was occurring at the time. N.J.S.A. 13:18A-2. Additionally, the Legislature was concerned that there was a portion of the pinelands area, the preservation area that was especially vulnerable to environmental degradation that would be occasioned by its improper development or use. Id. The Legislature noted that more stringent restrictions on development and use of land should be utilized in the preservation area and that the public acquisition of land or interests should be concentrated therein. Id The Pinelands Protection Act, thus, divided the pinelands area in to two different sections, the preservation area and the protection area[6], and adopted different goals for each. N.J.S.A. 13:18A-9. In this respect, the Pinelands Protection Act attempts to balance economic and environmental interests. The goals for the Pinelands CMP with respect to the

[6] The Pinelands Protection Act at N.J..S.A. 13:18A-3 defines the "preservation area" as the portion of the pinelands area designated by subsection b. of section 10 (N.J.S.A. 13:18A-11.b.) of this act and defines "protection area" as that portion of the pinelands area not included within the preservation area.

preservation area are to encourage preservation of extensive and contiguous land in its natural state and prohibit construction and development which is incompatible with the preservation of this unique area. Id. In contrast, the goals for the Pinelands CMP with respect to the protection area discourage piecemeal and scattered development and encourage appropriate patterns or compatible residential, commercial and industrial development, in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influence in an orderly way while protecting the Pinelands environment from individual and cumulative adverse impacts.

II. Staff's Prior Determination Should Not Be Reversed

Comment:

Commenters noted that in 2014 Commission staff determined that the application was inconsistent with one provision of the CMP. Commenters stated that this decision should not have been changed. Commenters stated that there was no basis to change the prior determination.

Response:

Staff's initial finding of inconsistency was based on the lack of documentation regarding the details of the gas service to be provided to the BLE plant. At that time, staff was not provided with documentation on the amount of gas or the number of days the gas would be provided to the BLE plant. When the application was resubmitted in May 2015, it included the Standard Gas Service Agreement – Firm Electric Service (FES) and Standard Gas Service Agreement Addendum between SJG and RC Cape May Holdings LLC. RC Cape May owns the BLE plant. Without the details on gas supply, staff felt there was insufficient information to demonstrate the projects compliance with the CMP requirement that the portion of the proposed natural gas pipeline proposed to be installed in a Forest Area primarily served only the needs of the Pinelands. This information was needed to confirm that the B.L. England facility would be the primary user of the gas being transported in the proposed pipeline.

With the contractual details on the gas supply included in the FES and FES Addendum, staff had new information that allowed for a fact-based, comprehensive finding to address the CMP requirement that the project primarily serve only the needs of the Pinelands. This information resulted in the revised determination.

III. Need for the B.L. England Plant

Comment:

Comments included general statements that the BLE plant is no longer needed as a source of electric generation in New Jersey. Reasons expressed included: energy demand has decreased, PJM will make sure there is supply by bringing other suppliers in and the BLE plant is not needed now and will not be needed in the future.

More specific comments with regard to the need for the BLE plant state that PJM has made findings that the facility is not necessary to ensure reliable electrical service to Pinelands customers or anyone else. Further, reports and statement were submitted containing analyses stating that the natural gas pipeline is sized bigger than what is needed to power the BLE plant

and that the plant cannot even use the quantity of gas that will be provided, thus the need for the plant is called into question.

Commenters explained that the BLE plant is used as a local source of electricity when there are interruptions in service from upstream transmission. Comments were made stating that the plant is needed when there are extreme weather events in other areas that disrupt service. Commenters stated that the BLE plant is a source of localized electric generation that is essential to the area.

Comments stated that locally generated electricity reduces residents' vulnerability to outages and disruptions in service during weather occurrences and helps to stabilize the grid during peak periods.

Response:

The need for the BLE plant has been substantiated by the BPU in its Order dated December 16, 2015 in which it is stated that "the Board FINDS there is a need for capacity in the area of B.L. England. The facility is a significant source of base load power generation in Southern New Jersey." The Order notes that "Under the 2016 PJM RTEP summer pool flow load model, after Oyster Creek retires the repowered plant will be the only significant base load power generation in the coastal area of Southern New Jersey and contribute to reducing congestion and transmission constraints and overloads in that area." Further, the Board Order notes that the Company has demonstrated that the pipeline is necessary to repower B.L. England to alleviate electric transmission constraints that would arise if the plant were to be retired.

The BPU in its July 23, 2015 Order stated that "the failure of New Jersey to build new generation or repower exiting sites will result in the need for additional distribution and transmission facilities to meet the energy needs of New Jersey. In that same Order the BPU notes that "…the Legislature has set forth policies that manifest the State's strong support for in-state generation to meet New Jersey's electricity needs: …the construction of new, efficient generation must be fostered by State policy that ensures sufficient generation is available to the region, and thus the users in the State in a timely and orderly manner".

IV. Permitted Use Standard – Does The Project Primarily Serve The Needs Of The Pinelands.

Comment:
In accordance with the CMP at N.J.A.C. 7:50-5.23 (b) 12 "Public service infrastructure intended to primarily serve only the needs of the Pinelands " is a permitted use in a Forest Area. Comments on this matter covered several issues.

Commenters stated that the BLE plant is not in the Pinelands and therefore the pipeline does not serve only the needs of the Pinelands.

Other commenters stated that the pipeline will serve the BLE plant, a SJ Gas customer located in the Pinelands.

Response:

The BLE plant is located in the Pinelands National Reserve. The CMP at N.J.A.C. 7:50-2.11 defines Pinelands to include both the geographic boundaries of the Pinelands Area and the Pinelands National Reserve.

Comment:

Comments were submitted stating that to meet the standard of primarily serves only the needs of the Pinelands, the public service infrastructure must be needed for the towns or villages within the Pinelands or must be for use by the residents of the Pinelands or must provide gas service to residences or businesses along its route.

Response:

These standards are not included in the CMP. The CMP only states that the public service infrastructure is to primarily serve only the needs of the Pinelands.

Comment:

Comments regarding whether the BLE plant primarily serves only the needs of the Pinelands stated that: the facility primarily serves demand outside the Pinelands; the facility serves other parts of the state; electricity does not go from the facility to customers, it goes to the grid; the electric power generated is not dedicated to the Pinelands, it is part of an auction and regional grid transmission; the pipeline is designed to carry more gas than the BLE plant can use and more than SJ Gas has contracted to supply; and the Standard Gas Service Agreement – Firm Electric Service (FES) is not a firm agreement and therefore SJ Gas intends to supply its existing or new customers and not the facility. Commenters stated that the majority to SJ Gas customers are outside the Pinelands.

Other commenters state that it is clear that the primary user of the pipeline is the BLE plant. Commenters point to the 2013 Firm Electric Service (FES) agreement between SJ Gas and RC Cape May Holdings, L.L.C. as it documents the amount of time the pipeline will be used to serve the BLE plant. A commenter stated that the FES agreement obligates SJG to serve the BLE plant for the next 20 years. Another comment was made noting that the full amount of the pipeline's capacity will be dedicated to a Pinelands use.

Response:

In its Certificate of Filing issued on August 14, 2015, the Commission found that the applicant demonstrated that the proposed natural gas pipeline is consistent with the permitted use standards of the CMP. Specifically, the proposed pipeline is designed to transport gas to an existing facility, the BLE plant (built in 1963) that is located in the Pinelands. The comments submitted raise issues with this finding and also raise issues regarding the end users of the electricity generated by the plant. While the Certificate of Filing identifies that the pipeline serves BLE plant, an electric generating facility located in the Pinelands and as such complies with the permitted use standard, the use of the electricity generated at the BLE plant has now also been included as part of the findings on CMP compliance as it was raised by commenters.

The BPU in its Order dated April 29, 2013 confirmed that the FES agreement does commit SJG to provide natural gas to the BLE plant on all but 15 days each year. Thus, the BLE plant is a

customer, located in the Pinelands, which will use all of the natural gas carried by the proposed pipeline, with the exception of 15 days, at most, out of the year. Statements that this agreement does not commit to provide a firm source of natural gas to the BLE plant are without basis.

Additionally, in its filing with BPU, SJG has provided details regarding the capacity of the pipeline and the amount of gas that will be delivered to the BLE plant. They also provided details on how, even if there is a need to interrupt service to the BLE plant due to extreme weather conditions, this does not mean that there is more gas in the pipeline that would be available for use by other customers. During an interruption in service, it is necessary to maintain adequate pressure in the line. There is no excess gas that could be provided to other customers. The terms of the FES agreement require SJG to provide firm, uninterrupted natural gas service to the BLE plant at least 350 days per year. All the natural gas in the proposed pipeline will be used by the BLE plant.

In its April 29, 2013 Order, the BPU approved the agreement with the provision that SJ Gas would, during the peak winter season, have the option to interrupt service to enforce strict load control and balance requirements This would not allow for the gas to go to other customers. It ensures that existing customers will be served.

Thus, the proposed pipeline would primarily serve BLE, an existing Pinelands business.

With regard to the comment that the electricity generated by BLE plant does not serve residents of the Pinelands, but instead provides electricity to the Regional Grid, the Board Order dated July 23, 2015 states that "Based on the way that energy flows in the transmission system –to the nearest consumer unless redirected—energy produced by B.L. England would ordinarily go through the grid to customers of ACE." (Atlantic City Electric)

ACE serves customers in 39 of the 53 Pinelands municipalities. Based on population numbers alone (no businesses), this customer base represents 69% of the population of the Pinelands. Thus, with regard to electric generation, the BLE plant primarily serves the needs of the Pinelands.

In addition, there are other benefits to the Pinelands as a result of the repowering. These benefits were identified and documented as part of the response to specific submitted comments discussed elsewhere in this document. There will be air quality benefits to local residents living near the BLE plant as the plant ceases burning coal and relies on compressed natural gas. Comments submitted talked about the need to clean "soot" off houses and cars. Regionally, including the Pinelands, there will be overall air quality improvements that will move the state toward meeting the health based national Ambient Air Quality Standards. This was documented by air quality modeling done by the Department of Environmental Protection.

Benefits to the Pinelands will also occur should there be a disruption of gas service that requires the use of the line to serve customers in Atlantic and Cape May County. This will include approximately 20,000 Pinelands residents encompassing 60% of SJG's service area in the Pinelands.

V. Precedent

Comment:

Commenters stated that if this application is approved it will lead to more pipeline applications being submitted to and ultimately approved by the Commission. Comments were made expressing concern that the pipeline would lead to more development in the Forest Area. Some commenters, who were under the impression that no pipelines had been constructed in the Forest Area before, stated that an approval would set a precedent and would open the door for future exceptions and development. Other commenters stated that an approval would set the precedent and make it difficult for successors to deny similar applications. Commenters stated that approval would require the interpretation of the regulations in a way that is not supported by past interpretations.

Response:

Recognizing the concern about future development, SJG requested and the BPU included in its July 23, 2015 Board Order the commitment "that unless ordered to do so by this Board, or other governmental authority having jurisdiction, the Company will not connect any new customer to that portion of the pipeline within the area designated as Forest Area pursuant to the CMP." The Board Order states "This language would serve to curtail development in the area around the Pipeline."

Further, the CMP limitations on development in the Forest Area prescribe the type and intensity of development allowed. The presence of infrastructure of any kind does not alter the requirements of the CMP.

Some of the concern regarding the precedent of this pipeline to prompt the development of future pipelines seems based on a presumption that there have been no pipelines previously approved in the Forest Areas of the Pinelands. In fact, SJG alone has approximately 100 miles of pipeline in the Forest Areas. These projects were approved by the Commission from 1986 to 2005. Thus, there is no basis to assume that approval of this project will lead to more requests to develop natural gas infrastructure.

Comments stating that the approval would require an interpretation of the regulations in a way that is not supported by past interpretations are incorrect. One Commenter included past Commission actions to justify this claim. Citing a 1981 Letter of Interpretation issued by the Commission, the commenter states that an application for electrical transmission lines in the Forest Area was found consistent with the CMP because 82% of the electrical service area was in the Pinelands and the line would serve present and future needs within the region. However, this does not include the entirety of the Letter of Interpretation which notes that "Because of the interrelated nature of transmission of electricity it is not possible to separate the electricity which will serve new and future development in the Pinelands from electricity which will serve new and future development outside the Pinelands". The interpretation concludes by stating that "as the electric service cannot distinguish between user within and outside the Pinelands, the proposed transmission line is necessary to serve the needs of the Pinelands." So even though the applicant did state that 82% of the electrical service area was in the Pinelands, the Commission noted that was not something that could be documented or proven. The consistency with the CMP was based on the fact that the source of electric generation was located near the Pinelands.

This same finding occurs with a Certificate of filing issued in 1990 for a gas main serving an electric generating facility located outside the Pinelands. Again the commenter states that the

Commission relied on the electric service area as the rational for finding consistency with the primarily serves only the needs of the Pinelands standard. In 1990, the Commission did approve a 20" natural gas pipeline within the right-of way of County Route 671 (Union Road). The gas main is located in a Pinelands Forest Area. The natural gas pipeline was proposed to provide natural gas to a 75 MW combustion turbine generating facility located outside the Pinelands. The Certificate of Filing issued in June 12, 1990 states that the 75 MW generating facility located outside the Pinelands Area will provide power to a transmission system grid that provides service to the Pinelands. Again, the Commission did not require any analysis or proof of where the electricity was actually used.

In its August 14, 2015 Certificate of Filing, the finding of consistency with the permitted use standard was focused on the fact that the gas main is intended to serve an existing Pinelands end user. Based on comments submitted, the finding of consistency is strengthened by the fact that proximity of electric generation has justified compliance with this standard since 1981.

Moreover, Certificates of Filing have been issued for natural gas infrastructure in the Forest Areas of the Pinelands to generally serve the residents and businesses of the Pinelands. In these instances, it is based on the fact that the public service infrastructure serves the residents or businesses and thus primarily serves the needs of the Pinelands. There is no discussion of the number of homes or size or type of the businesses.

Indeed, the Commission has explicitly found that service to a single Pinelands business primarily serves the needs of the Pinelands. In April 2011, the Commission issued a Certificate of Filing for the New Lisbon Development Center the proposed natural gas pipeline was necessary to serve one end user as is the case with BLE plant. In the instance of the New Lisbon Development Center, the natural gas pipeline ran through the Preservation and Forest areas within the road rights-of-way. As the proposed pipeline was intended to serve the New Lisbon Development Center, it was found to serve the needs of the Preservation Area and as some of the route travelled through Forest Area the natural gas pipeline was similarly found to serve the needs of the Pinelands.

There is ample precedent for findings of consistency with the primarily serves only the needs of the Pinelands standard for individual end-users, including residents and businesses and for electric generating facilities.

VI. Construction Impacts

Comment:

Commenters stated that the construction would cause harm, disrupt pristine habitat, destroy rare habitat, and would use heavy equipment that will cause damage. Some stated that there would be forest fragmentation. One commenter said that FERC requires a 25 feet of clearance on both sides of the pipeline that would destroy wildlife.

Commenters expressed concern with the Horizontal Hydraulic Drilling (HDD) used to install pipelines in sensitive areas. Concerns include accidents during the process and the use of drilling chemicals (bentonite), dewatering impacts, impacts to stream hydrology and wetlands.

Commenters stated that the technology for safety and prudently laying pipeline across rivers and swamps has been known and in use for years.

Commenters stated that there will be no clearing of forest and no 100 foot disturbances anywhere along the proposed route.

Commenters stated that the pipeline will be along an already cleared roadway and buried beneath the ground.

Commenters stated that the pipeline will carry gas, not a liquid so there will be no issues with seepages or drainage.

Comments were submitted stating that Horizontal Directional Drilling (HDD) is recognized by Federal and State agencies, has been an accepted industry practice for decades. There is no evidence that HDDs pose any threat to ground water quality.

Commenters stated that in the case of another pipeline application, the NJDEP has asked for information regarding air quality impacts, threatened and endangered species, contaminated sites, unexploded ordnances, HDD, and wetlands impacts, and suggested that such information should be part of the SJG application.

A commenter stated that construction dewatering was not addressed and that permits must be obtained from NJDEP.

Response:

Staff review of the proposed project included all aspects and potential impacts of construction. Wetland locations were verified by Commission staff and it was determined that the project was consistent with all wetlands standards. Stormwater management plans and calculations were submitted, reviewed and determined to be consistent with the CMP. The CMP requirements ensure that stormwater is properly managed. As the stormwater must be contained on site, it will not impact the K/C aquifer or nearby wetlands.

Further, the project was also reviewed by the NJDEP, which issued air quality control and various other environmental permits. The following NJDEP programs reviewed this project: Division of Land Use Regulation, Division of Air Quality, Division of Water Quality and the Natural and Historic Resources Program. The NJDEP also facilitated the review conducted by the Army Corps of Engineers, which included federal reviews done by the United States Department of the Interior/National Parks Service and the U.S. Fish and Wildlife Service.

The NJDEP requires HDD beneath any wetlands or stream crossings to avoid adverse land use impacts. This is the preferred method of installing pipe. HDD has been in use for over 50 years to install gas mains, water mains, electric lines and other facilities. The General Permit 2 pertains to Underground Utility Lines. The Department has the authority to adopt Freshwater Wetland General Permits when, after conduct an environmental analysis, the Department determine that the regulated activities will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and will cause only minor impacts on freshwater wetlands and State open waters. (See N.J.A.C. 7:7A-4.1). The GP 2 provides that Department approval is not required for a

utility line that is jacked or directional drilled underground, if there is no surface disturbance of any freshwater wetlands, transition areas, or State open waters and there is no draining or dewatering of freshwater wetlands. Otherwise, the GP12 requires a streamlined review. See N.J.A.C. 7:7A-5.2. The DEPs adoption on of the GP2 evidences the DEP's determination that jacking or directional drilling underground for utility lines has a de minimis impact on the environment. There is also a Nationwide General Permit 12 for Utility Line Activities. This Nationwide General Permit states that directional drilling is the preferred method of installation when possible, especially in tidal waters.

Additionally, the proposed pipeline project does not require construction dewatering permits. The need for these permits was addressed during the review of the project by Commission staff and NJDEP staff and they was determined that no NJPDES Construction Dewatering Permit was required for the subject project.

NJDEP guidance states that "For temporary ground and surface water control (dewatering) diversions in excess of 100,000 gallons of water per day, the project owner must obtain a Dewatering Allocation Permit, or Dewatering Permit-by-Rule or Short Term Permit-by-Rule depending on the duration of the diversion and the method employed.

The BL England project will be below the 100,000 GDP threshold.

To further ensure there will be no impacts during construction, the applicant has agreed to a number of conditions. These conditions include having: an independent biologist, qualified in the identification of threatened and endangered plants and animals and their habitats, present during such times and locations where clearing and/or construction activities are being undertaken proximate to habitat identified as suitable for threatened and endangered species; an HDD Break Out Mitigation Contingency Plan; appropriate measures, such as installation of silt fences, hay bales, inflatable berms, etc. during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site; qualified personnel trained in HDD on the site to monitor drill hole pressures and to walk the area in which the HDD is being conducted; an independent engineer on site during all phases of HDD and other drilling activities to ensure all such activities are conducted in accordance with all approved plans.

As noted above and throughout this report, the analysis of potential environmental impacts has been comprehensive, covering all requirements of the CMP.

VII. Threatened and Endangered Species/Ecological Impacts

Comment:

Commenters stated that the project would impact threatened and endangered species habitat and ecological resources.

Comments were submitted regarding specific species and suggesting that the Commission is intentionally not addressing certain species. Comments were submitted noting that the field surveys done were limited to locations of previously documented species occurrences and were not comprehensive in nature.

Comments were addressed pointing out that certain plant species were not discussed in the Threatened and Endangered Species Habitat Suitability Assessment and Survey Report.

One comment stated that FERC required a permanent 50 foot buffer along every pipeline for inspection and maintenance. This would result in 25 feet of wildlife destruction on each side of the proposed pipeline.

Response:

Three separate Threatened and Endangered Species reports were submitted, reviewed by Commission staff and determined to be consistent with the CMP. No threatened or endangered plant or animal species or suitable threatened and endangered animal habitats were found in the proposed development areas. Commission staff conducted independent field investigations and, based on that field work, concurred with the findings in the submitted reports (Threatened and Endangered Species Habitat Suitability Assessment and Survey Reports prepared by Trident Environmental Consultants). Staff confirmed that, because so much of the route is currently paved, mowed and cleared, the only areas where there was potential habitat were the proposed staging areas and the interconnect station, and staff concurred with the findings of Trident Environmental Consultants on those areas.

With regard to the comprehensiveness of the Commission review of threatened and endangered species, there is no basis for suggesting that certain species are not part of the Commission review. The CMP references the state list and all such plants are part of the Commission review. Further, the Commission includes additional plant species that are not on the state list. All plant species included in the state and the Commission regulation are protected.

Additionally, the Commission has included a condition that the applicant have at least one independent biologist, qualified in the identification of threatened and endangered plants and animals and their habitats, as delineated at N.J.A.C. 7:50-6.27 and 6.33, present during such times and locations where clearing and/or construction activities are being undertaken proximate to habitat identified as suitable for threatened and endangered species The biologist(s) shall ensure that clearing and/or construction techniques being utilized do not adversely impact any habitat critical to the survival of any threatened and/or endangered species of animals or plants and that any such plants and animals discovered during construction are protected. This will ensure that any species that may have not been identified previously are protected.

The impacts of any FERC requirements are not relevant to this project as FERC only has jurisdiction over interstate pipelines, not intrastate pipelines.

There will be no clearing or disturbance beyond the paved and mowed grassed shoulder of the roads. This project is not impacting undisturbed areas including the forest edge; there will be no tree clearing or impact to the forest canopy.

VIII. Pipeline Safety: Leaks/Explosion/Fire

Comment:

Commenters expressed concern regarding the potential for the pipeline to leak. Commenters stated that pipelines are vulnerable to leaks and failure. Some commenters stated that all pipelines leak.

It was apparent that some comments were based on the premise that the pipeline in question would be carrying crude oil or some other liquid fuel rather than compressed natural gas.

Commenters expressed concern with the route of the pipeline as it travels along populated roads and under Mill Creek, Tuckahoe River and Cumberland pond. Danger to residences and businesses was raised.

Commenters stated concern about possible explosion or fire. Some stated that the Pinelands is a fire prone ecosystem.

Commenters stated that steel pipes are the securest means for transporting compressed natural gas.

Commenter stated that SJG has operated nearly 1400 miles of gas mains in the Pinelands with nearly 100 miles in the forest area. All have operated safely for decades without harming the Pinelands or the aquifer.

Response:

The federal government establishes minimum pipeline safety standards under the U.S. Code of Federal Regulations (CFR), Title 49. The Office Pipeline Safety (OPS) within the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, (PHMSA) has overall regulatory responsibility for gas pipelines under its jurisdiction. Through certification by OPS, states inspect and enforce the pipeline safety regulations for intrastate gas pipeline operators. In New Jersey, this work is performed by the Division of Reliability and Security within the Board of Public Utilities. The Division of Reliability and Security is responsible for implementing ongoing strategies for utility disaster preparedness, reliability and infrastructure security and is also responsible for the Pipeline Safety Program. The Pipeline Safety Program monitors and inspects intrastate gas pipelines for compliance with federal and state regulations.

New Jersey has Pipeline Safety Regulations at N.J.A.C. Title 14. These regulations at Chapter 7 address Construction, Operation and Maintenance of Transmission and Distribution Natural Gas Pipelines. Specific requirements address, but are not limited to, Proscribed areas, Quality control of field welding, Valve assessment and emergency closure plan, Installation of pipe, Damage prevention, Public outreach, Monthly inspection patrols and leak detection surveys, Review of operating and maintenance standards, Oversight of construction activity, Directional drilling operations, and Operator reporting requirements. In Chapter 3-Service, the regulations address, but are not limited to Liaison with public officials, Emergency personnel and Training.

BPU staff reviewed the proposal, including the project's design, construction plans and specifications, as well as the listing of structures with 100 feet of the pipeline and their distances from the proposed pipeline alignment. BPU Staff also conducted a full field inspection of the entire pipeline route and worked with SJG on the pipeline alignment to mitigate the number of human occupied structures within 100 feet of the pipeline. Ultimately, BPU, in its June 21, 2013

and July 23, 2015 Reliability & Security Orders, approved the alignment of the proposed natural gas pipeline and authorized its construction.

New Jersey regulations implemented by the BPU require that each gas utility have available and equipped an adequate number of personnel to promptly handle gas emergencies on a 24-hour a day, seven days a week basis. These regulations further require that all such emergency personnel have adequate training in the proper procedures for handling gas emergencies, including but not limited to emergency shutdown procedures.

Further, each gas utility is required to maintain liaison with emergency personnel of each municipality and county in its service area, as well as with BPU emergency coordinators.

BPU regulations require that operators of transmission pipelines maintain and file a valve assessment and emergency closure plan for each transmission pipeline. The plan is to assess each valve individually and describe how the operator will achieve rapid closure of valves in the event of an emergency. The valve assessment and emergency closure plan must include, but is not limited to, a map showing all valves, a training program for operating personnel to ensure they are qualified to implement the plans' emergency procedures. Emergency closure drills must be conducted at least once per calendar year.

Six sectionalizing valves will be located at the beginning and the end of the project and at intervals of about 5 miles or less along the project. All of these sectionalizing valves will be remotely-operated from SJG's McKee City Facility except for the valve to be located about 5 miles east of the project origin at the intersection of Union Road and Rt. 49. This valve will be manually-operated because it will be buried due to insufficient available space for an above-ground valve. As is standard with natural gas pipeline systems, some of other smaller valves at the beginning of the pipeline at Union Road (outside the Pinelands) and at the interconnect station at Rt. 50 will be manually-controlled.

IX. Aquifer Impacts

Comment:

Commenters raised concerns with the potential for contamination of the aquifer (Kirkwood/Cohansey) from pipeline leaks or failure.

Response:

The pipeline will only transport natural gas, not gasoline, fuel oil, or other petroleum products (e.g., benzene), nor bentonite slurry or any other solid or liquid material. Furthermore, natural gas in the pipeline is in a gaseous phase and not water soluble under pipeline operating conditions. While water can temporarily carry some dissolved gas, when methane comes in contact with air, the methane quickly escapes from the water into the atmosphere.

The comments submitted acknowledge that other than reports of gas leaks from Russian ocean wells, the impacts of such leaks are only known from aquarium studies. The Commission has no records of occurrences of such events from the 1,400 plus miles of pipelines in the Pinelands. Natural gas is lighter than air and, if leaked, will rise through the soil column and dissipate in the air. This stands in stark contrast to pipelines bearing liquids, which can easily impact aquifers as

the liquids drain downward towards the aquifer. None of the commenters provided examples of ground water contamination resulting from a compressed natural gas pipeline. Review of reports submitted found that the information was derived from theory, laboratory experiments and computer modeling. Even the commenter stated that such information cannot be relied on to predict what will happen in the real world. Modern technology regarding pipe materials and construction techniques minimizes the risk of leaks from new pipelines. As noted in a prior Response, the federal government establishes minimum pipeline safety standards under the U.S. Code of Federal Regulations (CFR), Title 49. The Office Pipeline Safety (OPS) within the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, (PHMSA) has overall regulatory responsibility for gas pipelines under its jurisdiction. Through certification by OPS, states inspect and enforce the pipeline safety regulations for intrastate gas pipeline operators. The magnitude of an unlikely leak will also be minimized by the use of state of the art piping, continuous pressure gauges, and inspections and shut off valves. Given all of these factors there will be de minimus impact, at most, to the aquifer from on-going operations of the pipeline even in the unlikely event of a gas leak.

X. Route

Comment:

Commenters suggested that another route, not in the Forest Area, should be used.

Response:
During the course of the review of this project over the past 5 years, the applicant investigated numerous routes. The route proposed in the current application is the same as was reviewed as part of the first application and the Memorandum of Agreement. This route was found by the Department of Environmental Protection and Commission staff to have the least environmental impact. The Board Orders dated June 21, 2013 and December 16, 2015 concurred with these findings.

XI. Air Quality

Comment:

Commenters stated that natural gas is not cleaner than coal if you consider the life cycle of the gas including fracking and transport. Commenters stated that the proposed plant will produce higher amounts of Volatile Organic Compounds than the BLE plant currently produces. Commenters state that there is no evidence closing the BLE plant will would cause any other plant to increase emissions.

Commenters stated that the plant now burns coal and emits mercury. Commenters state that there is no data on the health impacts of ultrafine particles to support claims of health impacts.

Response:

The CMP at 7:50-6.91 states that it is the purpose of Part IX – Air Quality, to ensure that the quality of the air in the Pinelands region is protected and enhanced. The CMP at N.J.A.C. 7:50-6.93 further that all development shall adhere to the relevant air quality standards of N.J.A.C.

7:27 and that adherence to the CMP air quality standards would be determined by means of air quality simulation modeling approved by NJDEP.

The New Jersey Department of Environmental Protection has provided air quality modeling data that shows significant air quality improvements based on the change from coal to natural gas. The NJDEP is responsible for ensuring the state achieves the federal health based air quality standards.

Today the only health-based standard not achieved in New Jersey is ozone. Coal-fired power plants emit NO_X which is a primary contributor to the formation of ozone. According to the NJDEP, by repowering the plant to natural gas the emissions of the two pollutants of concern for the state would be reduced by over 98% (NOx) and over 99% (SO_2).

The NJDEP also noted that if the plant were to cease operating the electricity needed for the area would be generated elsewhere on the PJM grid. NJDEP further notes that the average emission rates from the PJM grid would be much higher than from the proposed repowered BLE plant. These plants would be required to increase operations and that would result in increased emissions. Regional air quality modeling provided by NJDE supports this.

Additionally, in the July 23, 2015 BPU Order it is noted that "…coal plants produce a significant portion of New Jersey's greenhouse gas emissions. Natural gas power plants are less carbon-intensive than coal and other fossil fuels. The Order goes on to state that "the mix of power that will supply the electricity, if not generated by B.L. England, will result in more pollution because it will include energy produced by out-or-state coal fired plants".

In its Order dated December 16, 2015, the Board finds that the project is consistent with the Energy Master Plan (EMP) finding that "the Project will serve the goals of the EMP in that the use of the proposed combined cycle system for the facility should result in a significant improvement in air quality and other positive environmental impacts…". The finding goes on to state "Specifically the record reflects that the repowering of B.L. England will increase power generation by thirty (30%) and reduce the production of greenhouse gases, nitrogen oxides and sulfur dioxide.

EXECUTIVE DIRECTOR'S RECOMMENDATION

As the propose natural gas pipeline conforms to the standards of the Pinelands CMP, it is recommended that the Pinelands Commission **APPROVE** it subject to the following conditions:

CONDITIONS

1. Except as modified by the below conditions, the proposed natural gas pipeline project shall adhere to the plan, consisting of 102 sheets, prepared by Woodward & Curran and dated as follows:

   Sheets G-01, AS-30, AS-32, AS-50-AS-52, dated 8/23/2013, last revised 7/29/2015
   Sheets G-02,G-04,AS-35,AS-38,AS-40,AS-45,AS-54,AS-56,HDD-R7,C-200,SA-3,SA-5, dated 8/23/2013, last revised 7/14/2015

Sheets G-02, HDD-R6, HDD-R8.1-HDD-R11, HDD-R13, HDD-R-14, HDDR16- HDD-R18, dated 7/1/2014, last revised 7/14/2015
Sheets LD-1,AS-1,AS-31AS-33,AS-34,AS-37,AS-39,AS-41,AS-42,AS-46,AS-47,AS-49,AS-55,M-200-M-202,C-AGV-1,SA-2, SA-4 , D-1C,D-04A,D-06, dated 8/23/2013, last revised 7/1/2014
Sheets AS-2-AS-29, dated 8/23/2013, last revised 7/14/2015
Sheets AS-36, dated 8/23/2013, last revised 9/4/2014
Sheets AS-43, AS-44, AS-48, dated 8/23/2013, last revised 8/19/2014
Sheets AS-53, dated 8/23/2013, last revised 8/14/2014
Sheets HDD-R12, C-100, S-001, D-1A, D-1B, D-02, D-03,D-05, dated 8/23/2013, last revised 12/20/2013
Sheets HDD-R15, HDD-R19-HDD-R22, dated 7/1/2014
Sheets J &BS-1, J& BS-2, dated 8/23/2013, last revised 9/24/2014
Sheets C-01 & D-07, dated 8/23/2013

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.

3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.

4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.

6. The limits of the proposed area of disturbance as depicted on the plans submitted to the Commission, and delineated in Paragraph 1 above, shall be marked in the field using silt fence and orange plastic construction fencing.

7. The applicant shall engage at least one independent biologist qualified in the identification of threatened and endangered (T&E) plants and animals and their habitats. The biologist(s) shall be present during all times that clearing and/or construction activities are being undertaken. The biologist shall ensure that all threatened and endangered species BMPs identified in the plans delineated in Paragraph 1 above are being followed at all times during construction The biologist(s) shall ensure that clearing and/or construction techniques being utilized do not adversely impact any habitat critical to the survival of any T&E species of animals or plants and that any such plants or animals discovered during construction are protected. The biologist(s) shall notify the Pinelands Commission immediately if any T&E plants or animals or habitat critical to their survival are discovered during construction, ensure that all clearing or construction activities in the vicinity of such T&E species or critical habitat immediately cease pending direction from the Pinelands Commission Executive Director and take all possible interim steps to protect such species or critical habitats. Such independent biologist(s) shall be approved by the Commission prior to being engaged by the applicant.

8. The applicant shall engage, subject to prior approval thereof by the Commission, an independent licensed professional engineer with proven experience in the installation of large diameter pipelines using the Horizontal Directional Drilling (HDD) method to be present at all times HDD activities are being undertaken. The independent engineer shall:

    a. Ensure that all HDD activities are conducted in accordance with all approved plans;

    b. Ensure that appropriate measures, such as installation of silt fence, hay bales, inflatable berm, etc. are taken during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site;

    c. Monitor drill hole pressures and walk the area in which the HDD is being conducted to identify any potential break outs of bentonite;

    d. Ensure that prior to commencement of HDD, the applicant provides the Pinelands Commission's Executive Director with a copy of the HDD Break Out Mitigation Contingency Plan proposed to be utilized for all HDDs to be conducted during construction of the pipeline and that the Executive Director approves the plan in writing prior to any HDD activities occurring; and

    e. Be responsible for immediate implementation of the Mitigation Contingency Plan should a break out of bentonite occur and require the immediate cessation of all HDD activities and contain the area of the break out to the smallest feasible area. The applicant shall within 24 hours notify the Pinelands Commission's Executive Director of the location of the break and advise as to the response actions being taken to address the break out in accordance with the approved Mitigation Contingency Plan.

9. Any future natural gas system infrastructure improvements, whether those improvements occur within or outside of the Pinelands Area, that may result in changes such as additional gas flow to the proposed 24 inch gas main or redirection of the proposed 125,000 MCF gas flow shall only be approved by a State agency if such approval is consistent with the standards of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.81 (a)).

10. Within the Pinelands Area, any development, including but not limited to additional gas flow to the proposed 24 inch gas main or redirection of any portion of the proposed 125,000 MCF gas flow from the BL England plant requires application to the Pinelands Commission.