



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 17

TITLE: Denying an Application by Robert T. Winzinger, Inc. for a Resource Extraction Operation (Application Number 1980-0062.001) on Block 6402, Lot 7 in Woodland Township.

Commissioner Ashmun moves and Commissioner McGlenday seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the record in this matter and the Hearing Officer's April 30, 2013 Report on Public Hearing;

WHEREAS, the Pinelands Commission hereby adopts the April 30, 2013 Report on Public Hearing;

WHEREAS, the applicant, Robert T. Winzinger, Inc., is proposing a resource extraction (mining) operation on the above referenced 284.9 acre parcel;

WHEREAS, on March 10, 2011, a complete application was received by the Pinelands Commission proposing a mining operation on Block 6402, Lot 7 in Woodland Township;

WHEREAS, on May 2, 2011, the Commission issued a Certificate of Filing denoting the completion of an application with the Commission for the proposed mining operation;

WHEREAS, on March 1, 2012, the Commission received Woodland Township Land Development Board Resolution 2012-3 (Abandonment) and Resolution 2012-4 (Mining Permit) granting a mining permit with five conditions for the above referenced lot;

WHEREAS, Woodland Township Land Development Board Resolution 2012-3 finds that the applicant did not abandon its intent to continue sand and mining operation on the lot;

WHEREAS, Woodland Township Land Development Board Resolution 2012-4 grants a Resource Extraction Permit to the applicant with five conditions;

WHEREAS, Condition 2 of Resolution 2012-4 requires the "applicant to submit and obtain approval from the Pinelands Commission for a Northern Pine Snake Habitat and Protection and Management Plan";

WHEREAS, on March 20, 2012, the Commission staff issued a letter to the applicant indicating that the notice of the mining permit approval provided to the Commission was incomplete and requested any written reports or comments received for the application and a copy of the approved mining plan;

WHEREAS, on March 22, 2012, the Commission received a letter which indicated that no additional reports or comments were received by the Woodland Township Land Development Board;

WHEREAS, on March 26, 2012, the Commission received a copy of the mining plan approved by the Woodland Township Land Development Board;

WHEREAS, on April 13, 2012, the Commission sent a letter to the applicant indicating that the Woodland Township Land Development Board Resolution 2012-3 (Abandonment) and Resolution 2012-4 (Mining Permit) for Block 6402, Lot 7 in Woodland Township raised issues with the threatened and endangered wildlife protection standard contained in N.J.A.C. 7:50-6.33 of the Pinelands Comprehensive Management Plan and with the permitted use standards in the Pinelands Preservation Area and scheduled a public hearing for May 10, 2012;

WHEREAS, the applicant's attorney requested numerous adjournments of the scheduled public hearings;

WHEREAS, on December 11, 2012, the Commission issued a letter rescheduling the public hearing for January 29, 2013;

WHEREAS, the applicant's attorney provided documentation to the Commission on January 22, 2013 that the required newspaper legal notice and legal notice to all property owners within 200 feet of the parcel for the Public Hearing had been completed;

WHEREAS, on January 22, 2013, the applicant provided an executed affidavit that notice of the Public Hearing had been posted on the parcel;

WHEREAS, on January 29, 2013 the public hearing was conducted;

WHEREAS, N.J.A.C. 7:50 4.42(b) and N.J.A.C. 7:50 4.16 preclude the Commission from approving a proposed development unless the development conforms with the standards contained in Subchapters 5 and 6 and the provisions of the certified local ordinance;

WHEREAS, no Waiver of Strict Compliance has been approved for the proposed development;

WHEREAS, it has not been demonstrated that the proposed mining operation is consistent with the requirements of Subchapter 6 of the Pinelands Comprehensive Management Plan;

WHEREAS, as a result, the proposed mining operation does not meet the requirements set forth in N.J.A.C. 7:50-4.42(b) and 4.16 and Woodland Township's certified land use ordinances.

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.

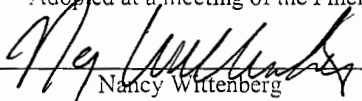
NOW THEREFORE BE IT RESOLVED that the proposed mining operation by Robert T. Winzinger on Block 6402, Lot 7 in Woodland Township (Commission Application Number 1980-0062.001) is hereby DENIED.

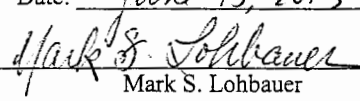
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas				X	Quinn			X	
DiBello	X				Jackson	X				Rohan Green			X	
Earlen			X		Lloyd				X	Witt			X	
Ficcaglia	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 13, 2013


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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



Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

April 30, 2013

REPORT ON PUBLIC HEARING

Re: Robert T. Winzinger
Application # 1980-0062.001
Block 6402, Lot 7
Woodland Township

INTRODUCTION/BACKGROUND

This application is for a resource extraction operation (mining), on 30 acres, on the above referenced 284.9 acre lot. The lot is located in a Pinelands Preservation Area District in Woodland Township.

An application for mining was initiated with the Pinelands Commission on February 13, 2007 (Exhibit PC-1). A Certificate of Filing, which denotes completion of an application with the Commission, was issued on May 2, 2011 (Exhibit PC-24). On February 21, 2012, the Woodland Township Land Development Board adopted Resolution 2012-3 (Abandonment) and Resolution 2012-4 (Mining Permit) approving the proposed mining application with conditions (Exhibit PC-29). On March 1, 2012, the Commission staff received the information necessary to complete its review of Woodland Township Land Use Board Resolution 2012-3 (Abandonment) and Resolution 2012-4 (Mining Permit). On April 13, 2012, the Commission staff issued a letter (Exhibit PC-35) indicating that a public hearing had been scheduled to review the issues raised by Woodland Township Land Development Board Resolution 2012-3 (Abandonment) and 2012-4 (Mining Permit). The issues raised were the proposed resource extraction operations consistency with the threatened and endangered species protection standard and the permitted land use standard of the Woodland Township Land Use Ordinance and the Pinelands Comprehensive Management Plan (CMP). The public hearing was initially scheduled for April 13, 2012. Following several requested adjournments, the public hearing was held on January 29, 2013.

Present at the hearing were Richard Hluchan, Esq., Bryon DuBois, and Audrey Winzinger on behalf of the applicant. Charles Horner, Ernest Deman, Karen Young, Jessica Noble and Donna Graham were present on behalf of the Commission. Executive Director Nancy Wittenberg presided over the hearing. One member of the public was also present.

Mr. Horner introduced into evidence the exhibits that constitute the Commission's file in this matter. These exhibits are identified as Exhibit PC-1 through Exhibit PC-49 and are attached (Attachment A) to this Report.

Mr. Horner, with the permission of Mr. Hluchan, then introduced the applicant's exhibits into evidence. These exhibits are identified as Exhibit A-1 through Exhibit A-14 and are attached (Attachment B) to this Report.

TESTIMONY PROVIDED AT THE PUBLIC HEARING

Pinelands Commission Staff Testimony:

Upon introduction of all exhibits into the hearing record, Mr. Horner reviewed the Commission staff's January 28, 2013 "Staff Report on Application," which provided the staff's background, analysis and conclusion regarding the consistency of the application with the threatened and endangered species protection standard and the permitted land use standard of the Woodland Township Land Use Ordinance and the CMP (Exhibit PC-49).

Mr. Horner indicated that there is extensive history surrounding the application dating back to the early 1980s. That history concerns prior efforts by the applicant to conduct mining on the parcel. Mr. Horner indicated that he would not review that extensive history and that Mr. Hluchan could present that information when he presented his testimony. Mr. Horner testified that there were two issues of concern with the current application. The first issue, concerns the threatened and endangered species protection standards. The second concerns permitted land use.

Mr. Horner testified that after further review of Woodland Township Land Development Board Resolution 2012 (Abandonment), wherein the Woodland Township Land Use Board made certain findings regarding whether or not the mining use had been abandoned, the Commission staff determined that the issue of permitted use no longer raised a substantial issue with the permitted land use standard of the Woodland Township land use ordinance and the CMP.

Mr. Horner then testified regarding the substantial issue raised with the threatened and endangered species protection standards of the Woodland Township land use ordinance and the CMP; Mr. Horner summarized the applicant's threatened and endangered (T&E) species survey dated November 20, 2010 (Exhibit PC-19). That survey was prepared by the applicant's consultant, Trident Environmental Consultants (TEC). That report noted that the parcel contained 284.9 acres and that TEC had conducted a T&E survey on approximately 117 acres surrounding the 30 acres proposed to be mined. Mr. Horner noted that no survey work was completed on the balance of the property. As discussed in the report, Mr. Horner noted that the survey was negative for all species, except for Northern pine snakes, a threatened animal species. The report further stated that 15 adult Northern pine snakes were observed within the study area. In addition, during the survey TEC located two Northern pine snakes nests in the study area. Based upon the presence of shed skins and Northern pine snake eggs, the survey indicated that the two nests produced 20 neonate Northern pine snakes. The survey also identified two over wintering hibernaculum within the study area.

Mr. Horner, quoting from page 29 of the applicant's November 20, 2010 Threatened/Endangered Species Survey Report, indicated that "there are critical features and habitat present within the entire 117 acre study area. Trapping results show a healthy population of Northern pine snakes throughout the entire study area. Furthermore, visual surveys and radio telemetry data revealed that that the southwest area is a critical nesting and overwintering habitat for Northern Pine Snakes. Resource extraction activities within the study area will undoubtedly cause irreversible, adverse impacts to local populations of Northern Pine Snakes."

Mr. Horner testified that the Woodland Township Land Use Board Resolution 2012-04(Mining) contained five conditions of approval. Mr. Horner testified that Condition 2 of the Woodland Township Land Use Board Resolution 2012-04 (Mining) required the applicant to submit a Northern Pine Snake Habitat Protection and Management Plan to the Pinelands Commission for approval. Mr. Horner testified that the applicant has not submitted a Northern Pine Snake Habitat Protection Management Plan to the Commission as required by the Township Land Use Board Resolution 2012-04.

Mr. Horner testified that the Commission staff concurs with the findings of the applicant's consultant and it is the Commission staff's opinion that the applicant has not demonstrated that the proposed resource extraction operation will satisfy the requirements of N.J.A.C. 7:50-6.33; namely, that the proposed resource extraction operation will avoid irreversible, adverse impacts on habitats that are critical to the survival of the local population of Northern pine snake.

Applicant's Testimony:

Mr. Hluchan, attorney for the applicant, indicated that he had two witnesses and appreciated that the Commission had withdrawn the abandonment issue.

Mr. Hluchan indicated that he had some preliminary comments before Ms. Winzinger would testify.

Mr. Hluchan indicated that mining is prohibited in the Pinelands Preservation Area, but that the rules provide that if the operation was registered with the Pinelands Commission before January 21, 1981 and received all necessary approvals from the Township before December 31, 1985, it is permitted to continue as a nonconforming use. In this case, the nonconforming use is the 284 acre tract. Mr. Hluchan indicated that he does not believe that the Commission staff is disputing that Winzinger has satisfied all of these requirements. He further indicated that the Commission found in 1982 and the Appellate Division reaffirmed in 2006, that Winzinger "is grandfathered and has nonconforming status as a resource extraction operation." Mr. Hluchan references an Appellate Division decision (Exhibit A-11, page 7) from which he quoted, "There is no dispute that the appellant's property falls within the 'grandfathered' provision of subsection (a) and satisfies its requirements."

Mr. Hluchan summarized the issue as follows: "so, the issue really comes down to whether the Pinelands Commission at this point has the authority to prohibit Winzinger from continuing sand mining due to the Threatened/Endangered Species policy and specifically due to the Northern Pine Snake, which is, I understand it, the only species that is of concern in this matter." Mr. Hluchan indicated that if the Pinelands Commission is legally empowered to utilize the threatened and endangered species protection policy to prohibit Winzinger from continuing its grandfathered non-conforming mining operation it would be "tantamount to revoking our grandfathered nonconforming use status". Mr. Hluchan further indicated that he does not believe that the Commission has the authority, where there is a grandfathered nonconforming mining operation; to impose the threatened and endangered species policy to, in effect; revoke that grandfathered nonconforming use status.

Mr. Hluchan indicated that the Commission did not apply the threatened and endangered species provisions in 1982, when the Commission affirmed the nonconforming use status of the mining operation. (A-8).

Mr. Hluchan cited N.J.A.C. 7:50-6.65 of the CMP concerning mining being a nonconforming use in the Preservation Area. Mr. Hluchan indicated that since it has been demonstrated that this mine qualifies

under this CMP provision as a non-conforming use, it is subject to the requirements of N.J.A.C. 7:50-5.2(a).

Mr. Hluchan cited N.J.A.C. 7:50-5.2(a) concerning the continuation, expansion and changes in non-conforming uses. Mr. Hluchan indicated that since the mining use has not been abandoned, the use may be continued and that N.J.A.C. 7:50-5.2(a) does not require compliance with the threatened and endangered species standards in N.J.A.C. 7:50-6.

Mr. Hluchan further indicated that if there is a non-conforming use that is proposed to change, including expansion or alteration of a use, N.J.A.C. 7:50-6 would apply. However, Mr. Hluchan indicated that if there is no expansion, alteration or change of a non-conforming use, according to N.J.A.C. 7:50-5.2(a), the non-conforming use continues without the need to address 7:50-6. Mr. Hluchan indicated that he felt that the Commission's "rules only apply the T&E policy and the other policies of 7:50-6 under 5.2(b) and (c), expansion or alteration of use." He stated that "this makes sense, because, if you're grandfathered and you have a nonconforming use, you have the right to proceed further, and that right could be taken away by requiring compliance with other policies that you can't satisfy..."

Mr. Hluchan indicated that the Appellate Decision found that the Pinelands Commission previously agreed that Winzinger was not proposing any expansion, alteration or change in use. It was simply continuing the previous mining operation, which is grandfathered. Mr. Hluchan indicated that the Appellate Division stated "there was no contention here that this regulation [5.2(a)] applies, as the Commission conceded the application is not for an expansion or alteration of the mining use." Mr. Hluchan, therefore, concluded that Winzinger is not required to comply with anything other than the resource extraction regulations. Mr. Hluchan indicated the Appellate Division decision supports that the compliance with the threatened and endangered species requirements is not required.

In response to a question from Mr. Hluchan, Audrey Winzinger, who is Vice President of Winzinger Incorporated, testified that she has been involved with the application process with the Commission for about 15 years. Ms. Winzinger testified that a permit to mine the 284 acre site was issued by Woodland Township (Exhibit A-4) on April 24, 1975.

Ms. Winzinger testified that mining on the property commenced in 1975 and that over several years about five acres, in total, were mined. Ms. Winzinger testified that a photograph of the site (Exhibit A-5) was taken in January 2012 and shows a cleared area, which is a portion of the five acres that they previously mined. Ms. Winzinger testified that the company was still mining sand at the site in 1979 and that the company ceased mining operations at the site around 1984 after the permit lapsed.

Mr. Hluchan directed Ms. Winzinger's attention to the fourth page from the end of the Administrative Law Judge's (ALJ) decision from September 1982 (Exhibit A-7). He asked her to read from the bottom of the page where it said, "completed review of the record, I find". Per Mr. Hluchan's instructions, Ms. Winzinger read the following: "From a careful review of the complete record, I find the subject property was being mined by petitioner under a valid municipal permit and was exempt from Department of Labor and Industry registration on February 8th, 1979."

Mr. Hluchan then asked Ms. Winzinger to read the ALJ's second finding (Exhibit A-7), which she read as follows: "Petitioner registered with the Pinelands Commission as required by Section 6-603B before January 21st, 1981."

Mr. Hluchan also asked Ms. Winzinger to read the ALJ's fourth finding (Exhibit A-7). She read the following: "The area of extraction authorized by Woodland Township permit number 108 dated April 24, 1975, was and is the entire 285-acre parcel subject to any restriction placed upon it by valid Woodland Township land use ordinance. Ms. Winzinger, at counsel's prompting, confirmed that the permit referenced in the ALJ's fourth finding was Exhibit A-4, the mining permit for the property issued by Woodland Township on April 24th, 1975.

Ms. Winzinger next identified that Exhibit A-8 constituted a resolution from the Pinelands Commission and testified that it "essentially acknowledged the grandfathered non-conforming use status of Winzinger at this site with respect to mining, sand mining", that the resolution granted a two year permit to continue mining and that, although the resolution contains conditions, none of the conditions mention threatened and endangered species.

Ms. Winzinger testified that in 1999 she decided to "revitalize" the mining permit and applied to the Pinelands Commission and that new permit was "denied."¹

Ms. Winzinger then testified that, upon appeal, a hearing was conducted. Ms. Winzinger identified the decision rendered by the ALJ in February 2005 (Exhibit A-9). Mr. Hluchan then directed Ms. Winzinger to read the last two lines of the decision on page 17. Ms. Winzinger read as follows: "Petitioner is entitled to continue resource extraction operations pursuant to N.J.A.C. 7:50-6.65 subject to complying with the standards set forth at N.J.A.C. 7:50-6.68 and N.J.A.C. 7:50-6.69." Mr. Hluchan asked Ms. Winzinger whether the ALJ at any point stated that Winzinger had to comply with the threatened/endangered species protection standards; to which Ms. Winzinger responded "[s]he did not."

Ms. Winzinger testified that, at the time of that ALJ's Decision (Exhibit A-9), the Pinelands Commission took the position that Winzinger was not grandfathered and had abandoned the use. Consequently, the Pinelands Commission reversed the ALJ's decision (Exhibit A-10). Winzinger then appealed to the Superior Court of New Jersey, Appellate Division. In a decision dated June 5, 2006, the Appellate Division reversed the Pinelands Commission's decision. (Exhibit 11). At the direction of Mr. Hluchan, Ms. Winzinger read the last two lines of the first full paragraph on page 2 of the decision as follows: "We are convinced the Commission's determination is fundamentally unfair."

Ms. Winzinger, reading from the bottom of page seven of the Appellate Division's decision (Exhibit A-9) said, "There is no dispute that appellant's property falls within the 'grandfather' provision of subsection (a) and satisfies its requirements." Ms. Winzinger continued to read from page 8 of the decision, "Of course, appellant must comply with the permit process and satisfy the resource extraction and restoration standards set forth in N.J.A.C. 7:50-6.68 and -6.69."

Ms. Winzinger testified that those are the standards that were addressed in the application and that there is nothing in the Appellate Division decision that indicated that she must comply with the threatened and endangered species requirements of the CMP.

Ms. Winzinger testified that the Appellate Division (Exhibit A-9) also addressed the question of expansion or alteration of the nonconforming use. Quoting from the middle of page 8 of the decision,

¹ Ms. Winzinger is apparently referring to Pinelands Commission Letter of Interpretation No. 1586. That Letter of Interpretation concluded that the prior mining use of the parcel had been abandoned and that "resumption of the resource extraction activity on this parcel is not permitted by the CMP." The applicant did not submit a Pinelands Development Application to renew the resource extraction operation at the property until February 2007. (See Exhibit PC-1).

where the Court is discussing N.J.A.C. 7:50-5.2(a), she said “There is no contention here that this regulation applies, as the Commission concedes appellants application is not for an expansion or alteration of the mining use.”

Ms. Winzinger testified that after the Appellate Division rendered its decision, she submitted an application to the Pinelands Commission to continue the application process². Ms. Winzinger further indicated that the only issues raised in the Certificate of Filing (Inconsistent) (Exhibit A-12) issued by the Pinelands Commission regarding the proposed resource extraction operations conformance with the requirements of the CMP were the threatened and endangered species issue and the abandonment issue.

Ms. Winzinger testified that in January 2012 she went to the Woodland Township Planning Board and that they adopted a resolution (Exhibit A-13) which approved mining on the site. Ms. Winzinger testified that Winzinger, Inc. never sought approval for a different use of the property and that the property is in substantially in the same condition as it was when mining ceased in 1984.

Ms. Winzinger testified that if the Commission were to approve the application it would take a month or two to begin mining. Ms. Winzinger testified that, depending on the location where mining was approved, some clearing would need to occur and equipment would need to be moved to the property. Ms. Winzinger stated that no structures had been located at the site and none were needed.

Mr. Hluchan then called Brian DuBois, the applicant’s threatened and endangered species consultant, to testify. Mr. Hluchan showed Mr. DuBois Exhibit A-14, a report entitled “Threatened/Endangered Species Survey Report, dated November 2010, and prepared by Trident Environmental Consultants. Mr. DuBois testified that he was the author of this report and that he had conducted the survey work on the Lauries Road property at Winzinger Inc.’s request. Mr. DuBois stated that although the property is 284 acres in size, he surveyed 117 acres. Specifically, Mr. DuBois testified that immediately after starting the survey work, TEC found Pine snakes. As a result, he expanded the survey region from the front third or fifth of the property, the 30 or 40 acres proposed for mining, north, and again found more Pine snakes. This resulted in TEC ultimately surveying 117 acres of the site. Mr. DuBois testified that TEC found a robust population of Northern Pine snakes on-site. TEC radio-tagged several of the snakes that were caught and, through the course of an eight-month season found that there was critical habitat in a few areas of the site; specifically, the southwest corner where TEC found a couple of dens and a couple of hibernaculum and some neonates. Mr. DuBois further testified that in his opinion, sand mining could not co-exist with the Northern Pine snake habitat on the property, not without adversely impacting the Northern pine snake population that is there.

Mr. Hluchan asked Mr. DuBois to confirm that although TEC had only surveyed 117 acres of the property, he had walked through the balance of the property even though he did not study the remaining acreage. Mr. DuBois confirmed that he had. Mr. DuBois indicated that he had tried to find an area that was not going to come up with a positive result. He further testified that in walking the entire property, there was no difference in habitat. More specifically, he did not observe anything that would lead him to believe that there were going to find anything different on the rest of the property. Ultimately, Mr. DuBois testified that, in his opinion, mining anywhere on the site would adversely affect Northern Pine

² Despite Ms. Winzinger’s testimony, a Pinelands Development Application to conduct a resource extraction operation on the property was not submitted to the Commission until February 2007. Submission of that Development application commenced the “application process” before the Commission. See N.J.A.C. 7:50-4.2. Prior to that date, Winzinger, Inc. had only submitted a request for a Letter of Interpretation in accordance with N.J.A.C. 7:50-4.73. In accordance with N.J.A.C. 7:50-4.76, a letter of interpretation is not an application to authorize the establishment of a use of the carrying out of any development, i.e. an application for development.

snake. Mr. DuBois, however, then went on to qualify his answer by stating “one last thing, specifically since the access road is in that front corner, the location and the amount that we found were problematic.”

Ms. Wittenberg asked Mr. Hluchan why a threatened and endangered species survey was done, if he did not believe a threatened and endangered species survey was required to complete the application. Mr. Hluchan answered that if the “Pinelands says you need to do X, Y, and Z to complete your application, my experience tells me that you do X, Y and Z, and until you do the study you don’t know what you are going to find.”

Mr. Horner then noted a new observation based on Mr. Hluchan’s statement. He indicated that he believed that Mr. Hluchan had concurred that the proposed development would have an irreversible adverse impact on the habitat critical to the survival of Northern pine snake, but that Mr. Hluchan disagreed that Winzinger, Inc. needed to satisfy the threatened and endangered species protection standards of the CMP. Mr. Horner stated that he believed that this was a matter of legal difference and Mr. Hluchan agreed.

Mr. Horner then noted for the record that the term “grandfather” is not used in the CMP, other than to distinguish a type of residential lot. Mr. Horner clarified that when a judge uses the term grandfathered in accordance with a certain section of the CMP, specifically the section of the CMP that says that resource extraction operations can continue in the Preservation Area, it not a grandfathering provision. He also noted that N.J.A.C. 7:50- 5.1 clearly provides that no development shall be carried out by any person unless that development conforms to the minimum requirements and standards of the Plan. He concluded by stating that the issue being raised by Mr. Hluchan on behalf of the applicant pivoted on this legal difference of opinion.

Mr. Hluchan responded that he had stated the applicant’s position and that he thought it was very clear that under N.J.A.C. 7:50-6.65(c) and N.J.A.C. 7:50 5.2(a), (b) and (c) that a nonconforming use has the right to continue and only if the use is expanding, being altered or changed are other standards of the CMP triggered. Otherwise, a nonconforming use is “absolutely worthless”, because it could be shut down based on any of the standards set forth in Subchapter 6 of the CMP.

ANALYSIS

The first issue to be addressed is the applicant’s position that, with the exception of N.J.A.C. 7:50-6.68 (Resource Extraction) and -6.69 (Restoration), it is not subject to any of the standards of Subchapter 6 of the CMP. This position, however, is based on a fundamental misreading of the applicable regulations, N.J.A.C. 7:50-5.2(a), (b) and (c).

According to the applicant, because its operation is a nonconforming use in accordance with N.J.A.C. 7:50-6.65, it is subject to the requirements of N.J.A.C. 7:50-5.2(a). On this point, we concur. It is at this point that the applicant’s and Commission staff’s positions diverge. The applicant argues that given that it is not expanding, altering or changing its nonconforming use, it is only subject to the requirements of N.J.A.C. 7:50-5.2(a). This provision authorizes a municipality to permit the continuation of a nonconforming use provided that such use is not abandoned and is not expanded, altered or changed to another nonconforming use. N.J.A.C. 7:50-5.2(a) does not contain a reference to Subchapter 6, unlike N.J.A.C. 7:50-5.2(b) and (c). Thus, according to the applicant, if there is no expansion, alteration or change of a non-conforming use, the non-conforming use continues without the need to address N.J.A.C. 7:50-6.

The applicant's position, although logical on its face, is not valid based on a reading of the plain language of the regulation at issue, N.J.A.C. 7:50-5.2. The applicant is correct that N.J.A.C. 7:50-5.2(a) does not reference Subchapter 6. It is also correct that N.J.A.C. 7:50-5.2(b) & (c) do contain such a reference. However, the applicant misinterprets these references.

N.J.A.C. 7:50-5.2(b) in relevant part states:

“Notwithstanding the use restrictions contained in Part III of this subchapter, a municipality may permit the expansion or alteration of any nonconforming use existing on January 14, 1981, or any nonconforming use which was constructed based upon an approval granted pursuant to this Plan, other than intensive recreation facilities and those uses which are expressly limited in N.J.A.C. 7:50-6,” (Emphasis added.)

Likewise, the relevant part of N.J.A.C. 7:50-5.2(c) states:

“A municipality may include in its ordinance a provision which, notwithstanding the use restrictions contained in Part III of this subchapter, permits a change in any nonconforming use existing on January 14, 1981 or any nonconforming use which was constructed based upon an approval granted pursuant to this Plan, other than those uses which are expressly limited in N.J.A.C. 7:50-6,...” (emphasis added.)

A plain reading of these provisions discloses that the reference to Subchapter 6 has nothing to do with whether an applicant is subject to the regulatory obligation set forth in that subchapter. Rather, the reference is intended to provide a limitation on the exercise of a municipality's authority to permit an expansion, alteration or change in a nonconforming use. By its express terms, this language prohibits a municipality from permitting a nonconforming use to be expanded, altered or changed beyond any limitations on such use contained within Subchapter 6. An example, relevant to the matter *sub judice*, clearly demonstrates this point. As a result of the limitations set forth in N.J.A.C. 7:50-6.65(b), a municipality would be prohibited by N.J.A.C. 7:50-5.2(b) from permitting the expansion of a pre-existing, nonconforming resource extraction operation located in the Preservation Area District or a Special Agricultural Production Area beyond the area of extraction given under the category “acreage to be mined” on the mine registration application submitted for such mine to the Department of Labor and Industry as of February 7, 1979, or the area approved in a valid municipal approval as of that same date.

In contrast, N.J.A.C. 7:50-5.1 expressly requires that “[n]o development shall be carried out by any person unless that development conforms to the minimum requirements and standards of this Plan.” This provision is clearly applicable to the applicant's proposed resource extraction operation. First, it cannot be reasonably disputed that resource extraction operations constitute development under the CMP. The CMP at N.J.A.C. 7:50-2.11 defines the term “resource extraction” to mean “the dredging, digging, extraction, mining and quarrying of sand, gravel, clay, or ilmenite for commercial purposes, not including, however, the private or agricultural extraction and use of extracted material on the same parcel by the landowner.” The term development is defined to include “the change or enlargement of any use or disturbance of any land, the performance of any building or mining operation,...” (N.J.A.C. 7:50-2.11 (emphasis added)).

Additionally, the resource extraction standards, Part VI of the CMP, contain a provision requiring all resource extraction operations to comply with the minimum standards of the Plan. Specifically, N.J.A.C. 7:50-6.63 (b) states:

“Nothing in this Part shall be construed to authorize resource extraction activities without receiving permits pursuant to this Plan or from complying with the standards of this subchapter. (Emphasis added).

N.J.A.C. 7:50-5.1 has been a regulatory obligation of the CMP since its initial adoption in 1981. Likewise, N.J.A.C. 7:50-6.63 has been in effect since December 5, 1994. This regulatory obligation predates both the applicant’s request for a Letter of Interpretation, which it submitted on or about October 10, 2001 (Exhibit A-9, page 2) and its subsequent Pinelands Development Application for renewal of its resource extraction operation, which it submitted on or about February 17, 2007 (Exhibit PC-1).

The applicant also asserts that the Appellate Division decision concerning Letter of Interpretation No. 1586 supports its position that compliance with the threatened and endangered species requirements of the CMP is not required. This assertion, however, is unfounded.

Appellate review of an administrative agency decision is limited. George Harms Constr. Co. v. New Jersey Turnpike Auth., 137 N.J. 8 (1994). The matter, which was the subject of the Appellate Division’s June 5, 2006 decision, was the Commission’s determination in Letter of Interpretation No. 1586 that Winzinger’s resource extraction operation at the Lauries Road property was no longer considered a permitted use in the Preservation Area under N.J.A.C. 7:50-6.65, because such use had been abandoned. The sole issue before the Court was whether the Commission could use the zoning concepts of nonconforming use and abandonment, which were not expressly contained within the pertinent provisions of the CMP at that time, in considering whether a particular use was grandfathered.³ Significantly, in its decision, the Court stated

“[i]t was undisputed that the governing regulations do not impose the zoning concepts of nonconforming use and abandonment. It is also undisputed that, but for these concepts, the mining operation would qualify for a permit, subject to compliance with the Commission’s resource extraction standards.” (Exhibit A-11, page 2, emphasis added).

Moreover, in its analysis of the issue before it, the Court referred to N.J.A.C. 7:50-6.63, as well as -6.64 and -6.65, as regulations pertinent to resource extraction operations. (Exhibit A-11, page 7). Although the Court mentions the resource extraction and restoration standards of N.J.A.C. 7:50-6.68 and -6.69, respectively, in its decision, nowhere in that decision does the Court limit the Commission’s future review of a resource extraction permit application to those standards. Rather, the Court consistently states that “[o]f course appellant must comply with the permit process. (Exhibit A-11, page 8). (See also reference above “subject to compliance with the Commission’s resource extraction standards.”). The Court then goes on to state that “important to our resolution of this appeal, . . . , is the absence of any further limitations or restrictions, aside from what can be imposed through the permitting process, that would trigger application of nonconforming use and abandonment concepts. Id. (emphasis added.)

Nor could the Appellate Division have bound the Commission’s hands in the manner asserted by the applicant. The Appellate Division is a court of intermediate review, not a trial court. As noted above, its authority is limited to a review of the administrative decision before it at the time. In 2006, the only matter before the Court was the Commission’s decision regarding the applicant’s request for a Letter of

³ The Commission adopted amendments to N.J.A.C. 7:50-2.11, -5.2 and -6.65 incorporating these zoning concepts into the CMP effective December 3, 2007.

Interpretation of N.J.A.C. 7:50-6.65. A request for a letter of interpretation is not tantamount to an application for development. In fact, pursuant to N.J.A.C. 7:50-4.76, a Letter of Interpretation does not authorize the establishment of a use or the carrying out of any development. Winzinger did not file its development application to renew the resource extraction operation at the Lauries Road property until February 2007.

At most, the Court's reference to N.J.A.C. 7:50-6.68 and -6.69 is non-binding dicta, especially since it has no direct bearing on the issue before it; namely, the Commission's application of the zoning concepts of nonconforming use and abandonment to a preexisting use. However, that being said, the Court repeatedly stated that an application for Winzinger's mining operation was subject to those limitations and restrictions imposed through the permitting process, which would include N.J.A.C. 7:50-5.1 and -6.63. *Arguendo*, even if one could interpret that court's statement that Winzinger's receipt of a mining permit was contingent solely upon its compliance with the resource extraction standards, N.J.A.C. 7:50-6.63 is included within the Resource Extraction standards of the CMP, Part VI, N.J.A.C. 7:50-6.61 through -6.69.

In light of the above, it is clear that in order to qualify for a resource extraction permit, the applicant must demonstrate compliance with all relevant standards of Subchapter 6, including the threatened and endangered wildlife standards set forth at N.J.A.C. 7:50-6.33

The only factual issue in dispute in this matter is whether the applicant has demonstrated that the proposed resource extraction operation is consistent with N.J.A.C. 7:50-6.33, which prohibits development that will have an irreversible adverse impact on habitat that is critical to the survival of a local population of those threatened or endangered species designated by the Department of Environmental Protection pursuant to N.J.S.A. 23:2A-1. Winzinger engaged Trident Environmental Consultants to conduct a threatened/endangered species survey on the Lauries Road property. TEC surveyed 117 acres of the approximately 284 acre parcel. The survey area was located in the southwest portion of the property, around the 30 acres proposed to be mined. In November 2010, TEC issued its report entitled "Threatened/Endangered Species Survey Report". In the conclusion section of that report, TEC stated that "Resource extraction activities within the study area will undoubtedly cause irreversible, adverse impacts to local populations of Northern Pine snake." Mr. DuBois's testimony at the January 29, 2013 public hearing further corroborated this conclusion.

In light of the November 2010 Threatened/Endangered Species Report and the testimony of Mr. DuBois, the applicant has failed to demonstrate that the proposed resource extraction operations on approximately 30 acres of the Laurie road property that are the subject of Woodland Township Land Development Board Resolution 2012-4 (Mining Permit) and are depicted on the Mining Plan consisting of 5 sheets, prepared by Taylor, Wiseman & Taylor, all sheets dated January 26, 2007 and revised March 7, 2011, are consistent with the threatened and endangered species standards of the CMP at N.J.A.C. 7:50-6.33. Given that, the proposed resource extraction activities must be DENIED.

Although not directly related to the issue of whether the proposed resource extraction operation raises a substantial issue with regard to its compliance with the threatened and endangered wildlife standards at N.J.A.C. 7:50-6.33, the question arose at the public hearing whether mining could occur anywhere on the 284-acre parcel without resulting in irreversible, adverse impacts on the local population of Northern Pine snake. Mr. DuBois initially testified that, in his opinion, mining anywhere on the site would adversely affect Northern Pine snake. However, Mr. DuBois subsequently qualified his answer by stating that such answer was premised on the fact that the access road for the property is located in the

front corner, which was the location where numerous Northern Pine snakes were observed as detailed in TEC's November 2010 Threatened/Endangered Species Survey Report.

This testimony is also consistent with testimony that Mr. DuBois presented at the January 17, 2012 hearing of the Woodland Township Land Development Board, during which the Board considered Winzinger's mining permit application. Mr. DuBois's testimony was summarized in Resolution 2012-3 (Abandonment) and Resolution 2012-4 (Mining Permit) of the Woodland Township Land Development Board. That resolution notes the opinion of Trident Environmental Consultants that not all portions of the 117 acre study were found to contain critical habitat for Northern Pine Snake and that some areas contained non-critical features which also might be used for mining. The resolution goes on to state that "Mr. DuBois opined that a Pine Snake Habitat and Management Plan might be approved by the Pinelands Commission to allow resource extraction operations to occur while ensuring that no irreversible, adverse impacts are imposed on the local pine snake population."

Mr. DuBois's testimony before the Woodland Township Land Development Board was further corroborated by statements contained in a letter dated December 22, 2011, that was referenced in paragraph 9 of the findings of fact and conclusions of law contained within the Board's resolution. Additionally, the Board found at paragraph 8 of its resolution that "[t]he report of Trident Environmental Consultants provides a reasonable basis for mitigation of the impact on the threatened habitat by establishing a Northern Pine Snake Habitat Protection and Management Plan. If approved by the Pinelands Commission, it may be feasible to allow resource extraction operation to occur, while insuring that no irreversible, adverse impacts to the local Northern Pine Snake population...." Ultimately, the Board conditioned Resolution 2012-4 (Mining Permit) on the applicant submitting a Northern Pine Snake Habitat Protection and Management Plan to the Commission and obtaining the Commission's approval of same. The applicant, however, never submitted such a plan to the Commission.

Given that the above, the applicant's failure to prepare and submit a Northern Pine Snake Habitat Protection and Management Plan to the Commission; Mr. DuBois's testimony at the January 29, 2013 public hearing that in walking the entire property, he found no difference in habitat, and his statements in his December 22, 2011 letter that were reiterated before the Woodland Township Land Use Board on January 17, 2012, that "not all of the 117 acre study area was found to contain critical [Pine snake] habitat. Some areas were found to have acreage void of critical habitat" and may be used for mining, it is at best premature to determine whether the applicant can demonstrate that resource extraction activities on any portion of the 284 acre parcel will raise a substantial issue regarding compliance with the standards of the CMP. Regardless, this issue is not presently before the Commission and will have to be deferred to some future point in time if the applicant seeks to obtain a mining permit for other portions of the property.

CONCLUSION

In conclusion, given that the applicant has failed to demonstrate that the proposed development is consistent with the threatened and endangered wildlife standards of the CMP at N.J.A.C. 7:50-6.33, and, in fact, the applicant's threatened and endangered species consultant concedes that there will be irreversible, adverse impacts to a local population of Northern Pine snake, a threatened species, the proposed resource extraction operation shall be DENIED.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 18

TITLE: Approving With Conditions an Application for a **Public Development** (Application Number 1993-1011.006)

Commissioner McGlinchey moves and Commissioner Prickett seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for a Public Development be approved with conditions:

1993-1011.006 TOWN OF HAMMONTON, Town of Hammonton, Pinelands Town, construction of a 1,467 square foot building accessory to an existing municipal potable water well (Date of Report: May 15, 2013).

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

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; 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; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms 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.

NOW, THEREFORE BE IT RESOLVED that the following application for Public Development is hereby **approved** subject to the conditions recommended by the Executive Director.

1993-1011.006 TOWN OF HAMMONTON, Town of Hammonton, Pinelands Town, construction of a 1,467 square foot building accessory to an existing municipal potable water well (Date of Report: May 15, 2013).

Record of Commission Votes

AYE NAY NP ABS				AYE NAY NP ABS				AYE NAY NP ABS			
Ashmun	X			Galletta			X	Prickett	X		
Brown		X		Haas	X			Quinn			X
DiBello	X			Jackson	X			Rohan Green			X
Earlen		X		Lloyd		X		Witt			X
Ficcaglia	X			McGlinchey	X			Lohbauer	X		

Adopted at a meeting of the Pinelands Commission

Date: June 13, 2013

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Mark S. Lohbauer
Chairman



State of New Jersey
 THE PINELANDS COMMISSION
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 NEW LISBON, NJ 08064
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 www.nj.gov/pinelands



Chris Christie
 Governor
 Kim Guadagno
 Lt. Governor

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

Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

May 15, 2013

Steve DiDonato, Mayor
 Town of Hammonton
 100 Central Avenue
 Hammonton, NJ 08037


Re: Application # 1993-1011.006
 Block 4604, Lot 23
 Town of Hammonton

Dear Mayor DiDonato:

The Commission staff has completed its review of this application proposing construction of a 1,467 square foot building accessory to an existing potable water well. 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 June 13, 2013 meeting.

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, Town of Hammonton Planning Board
 Town of Hammonton Environmental Commission
 Atlantic County Department of Planning and Economic Development
 John Helbig





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Chris Christie
 Governor
 Kim Guadagno
 Lt. Governor

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

Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT
APPLICATION REPORT

May 15, 2013

Steve DiDonato, Mayor
 Town of Hammonton
 100 Central Avenue
 Hammonton, NJ 08037

Application No.: 1993-1011.006

Location: Block 4604, Lot 23
 Town of Hammonton

This application proposes development of a 1,467 square foot building on the above referenced 0.27 acre lot in the Town of Hammonton. There is an existing 1,400 square foot building and a municipal potable water production well located on the lot.

Radium has been detected in the existing well at levels that exceed the State of New Jersey maximum contaminant level. The proposed 1,467 square foot building will contain radium removal treatment equipment to treat water from the existing well. The treatment facility includes an absorption filter system that binds radium to a medium. The medium is then removed from the site by an approved carrier for disposal at an appropriately licensed facility.

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. 7:50-27(a))

The lot is located in the Pinelands Town of Hammonton. The proposed development is a permitted land use in a Pinelands Town.

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

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

PUBLIC COMMENT

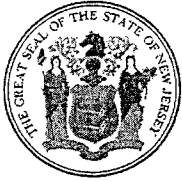
This applicant has provided the required public notices. Legal notice to land owners within 200 feet of the above referenced lot was completed on March 11, 2013. Newspaper public notice was completed on March 13, 2013. The application was designated as complete on the Commission's website on April 9, 2013. The Commission's public comment period closed on May 10, 2013. No public comment regarding this application was received by the Pinelands Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of seven sheets (Sheets 1-5, 15 & 16), prepared by Adams, Rehmann & Heggan Associates, Inc., all sheets dated January 31, 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. Disposal of contaminated medium may only occur at an appropriately licensed facility.

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.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

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



Mark S. Lohbauer
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 to the Commission within eighteen days of the date of the Executive Director's determination and 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. PC4-13- 19

TITLE: Approving With Conditions Applications for **Public Development** (Application Numbers 1981-0755.014, 1982-3362.009, 1984-0655.028, 2007-0350.001 & 2013-0052.001)

Commissioner Jackson moves and Commissioner Ficcaplia seconds the motion that:

- 1981-0755.014 **HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY**, Hamilton Township, Regional Growth Area, the construction of a 315 square foot building and upgrades to an existing sanitary sewerage pump station (Date of Report: May 15, 2013).
- 1982-3362.009 **HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY**, Hamilton Township, Regional Growth Area, the installation of an 18 square foot heated enclosure building associated with upgrades to an existing sanitary sewerage pump station (Date of Report: May 15, 2013);
- 1984-0655.028 **SOUTH JERSEY TRANSPORTATION AUTHORITY**, Egg Harbor Township, Regional Growth Area, the construction of a full interchange connecting the Atlantic City Expressway to Amelia Earhart Boulevard and certain other proposed road improvements, including the relocation of a portion of Amelia Earhart Boulevard (Date of Report: June 3, 2013);
- 2007-0350.001 **NEW JERSEY DEPARTMENT OF TRANSPORTATION**, Borough of Folsom, Rural Development Area and Forest Area, improvements to the intersection of NJ Route 54 and US Highway 322, including the replacement of three bridges (Date of Report: May 23, 2013); and
- 2013-0052.001 **HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY**, Hamilton Township, Regional Growth Area, the installation of 3,600 linear feet of twelve inch potable water main within the US Route 40 and US Route 322 rights-of-way (Date of Report: May 17, 2013).

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

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 Findings of Fact and Conclusion of the Executive Director for each of the proposed developments; 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; 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.

NOW, THEREFORE BE IT RESOLVED that the following applications for public development are hereby **approved** subject to the conditions recommended by the Executive Director.

- 1981-0755.014 **HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY**, Hamilton Township, Regional Growth Area, the construction of a 315 square foot building and upgrades to an existing sanitary sewerage pump station (Date of Report: May 15, 2013).

- 1982-3362.009 **HAMILTON TOWNSHIP MUNICIPAL UTILITIES AUTHORITY**, Hamilton Township, Regional Growth Area, the installation of an 18 square foot heated enclosure building associated with upgrades to an existing sanitary sewerage pump station (Date of Report: May 15, 2013);

- 1984-0655.028 **SOUTH JERSEY TRANSPORTATION AUTHORITY**, Egg Harbor Township, Regional Growth Area, the construction of a full interchange connecting the Atlantic City Expressway to Amelia Earhart Boulevard and certain other proposed road improvements, including the relocation of a portion of Amelia Earhart Boulevard (Date of Report: June 3, 2013);

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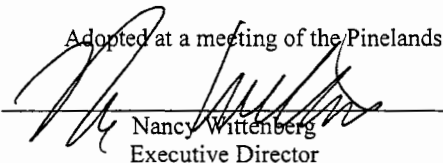
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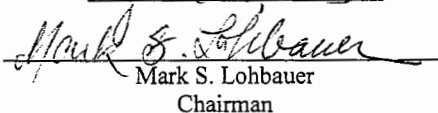
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas	X				Quinn			X	
DiBello	X				Jackson	X				Rohan Green			X	
Earlen			X		Lloyd			X		Witt			X	
Ficcaglia	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 13, 2013


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman



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

Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

May 15, 2013

Stephen Blankenship
 Hamilton Township Municipal Utilities Authority
 6024 Ken Scull Avenue
 Mays Landing, NJ 08330

Re: Application # 1981-0755.014
 Block 731.01, Lot 35
 Hamilton Township

Dear Mr. Blankenship:

The Commission staff has completed its review of this application proposing upgrades to an existing sanitary sewerage pump station. 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 June 13, 2013 meeting.

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, Hamilton Township Planning Board
 Hamilton Township Environmental Commission
 Atlantic County Department of Planning and Economic Development
 John Helbig





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

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT
APPLICATION REPORT

May 15, 2013

Stephen Blankenship
Hamilton Township Municipal Utilities Authority
6024 Ken Scull Avenue
Mays Landing, NJ 08330

Application No.: 1981-0755.014

Location: Block 731.01, Lot 35
Hamilton Township

This application proposes upgrades to an existing sanitary sewerage pump station located on the above referenced 0.06 acre lot in Hamilton Township. The proposed development includes the construction of a 315 square foot building, a 11.5 foot wide by 38 foot long access driveway and other associated improvements to the pump station.

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(a))

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

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

The proposed development will be located within an existing fenced pump station compound. The fenced pump station compound is comprised of impervious and stoned surfaces. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

PUBLIC COMMENT

The proposed development is defined as “minor development” by the CMP. Public notice is not required by the CMP for “minor development.” The application was designated as complete on the Commission’s website on April 10, 2013. The Commission’s public comment period closed on May 10, 2013. No public comment regarding this application was received by the Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 15 sheets (Sheets 1-13, 16 & 17), prepared by Adams, Rehmann & Heggan Associates, Inc. and dated as follows:

Sheet 1 – undated
Sheets 2-13, 16 & 17 – March 22, 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.

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.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands

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



Mark S. Lohbauer
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 by the 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 within eighteen days of the date of the Executive Director's determination and 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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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

May 15, 2013

Stephen Blankenship
Hamilton Township Municipal Utilities Authority
6024 Ken Scull Avenue
Mays Landing, NJ 08330

Re: Application # 1982-3362.009
Block 1134, Lot 9
Hamilton Township

Dear Mr. Blankenship:

The Commission staff has completed its review of this application for a proposed upgrade to an existing sanitary sewerage pump station. 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 June 13, 2013 meeting.

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, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Planning and Economic Development
John Helbig





Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

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

PUBLIC DEVELOPMENT **APPLICATION REPORT**

May 15, 2013

Stephen Blankenship
Hamilton Township Municipal Utilities Authority
6024 Ken Scull Avenue
Mays Landing, NJ 08330

Application No.: 1982-3362.009

Location: Block 1134, Lot 9
Hamilton Township

This application proposes upgrades to the existing sanitary sewerage pump station located on the above referenced 36.97 acre lot in Hamilton Township. The proposed development includes the installation of an 18 square foot heated enclosure building that will contain hydraulic equipment for the existing sanitary sewerage pump station.

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(a))

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

Wetlands Standards (N.J.A.C. 7:50-6.6)

There are wetlands located on and within 300 feet of the above referenced lot. The proposed development will be located at least 300 feet from wetlands.

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

The proposed development will be located on an existing stoned surface within an existing fenced pump station compound. All clearing and soil disturbance is limited to that which is necessary to accommodate the proposed development.

PUBLIC COMMENT

The proposed development is defined as “minor development” by the CMP. Public notice is not required by the CMP for proposed “minor development.” The application was designated as complete on the Commission’s website on April 10, 2013. The Commission’s public comment period closed on May 10, 2013. No public comment regarding this application was submitted to the Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of three sheets (Sheets 1, 14 & 15), prepared by Adams, Rehmann & Heggan Associates, Inc. and dated as follows:

Sheet 1 – undated
Sheets 14 & 15 – March 22, 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.

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

Mark S. Lohbauer
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 by the 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 within eighteen days of the date of the Executive Director's determination and 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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Chris Christie
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Kim Guadagno
 Lt. Governor

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

Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

June 3, 2013

Shawn Carpenter
 South Jersey Transportation Authority
 PO Box 351
 Hammonton, New Jersey 08037

Re: Application # 1984-0655.028
 Atlantic City Expressway, Amelia Earhart Boulevard,
 Delilah Road and Tilton Road
 Block 101, Lots 1-4 & 9
 Block 202, Lot 2
 Block 301, Lots 1-3, 11 & 12
 Egg Harbor Township

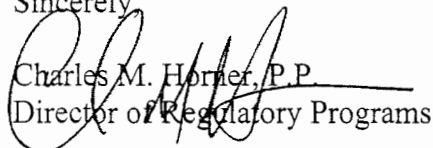
Dear Mr. Carpenter:

The Commission staff has completed its review of this application for the construction of a full interchange connecting the Atlantic City Expressway to Amelia Earhart Boulevard and certain other proposed road improvements, including the relocation of a portion of Amelia Earhart Boulevard. Enclosed is a copy of an Amended Public Development Application Report. The amended section of the Report revises the "Land Use" section on page 2. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 13, 2013 meeting.

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
 Egg Harbor Township Environmental Commission
 Atlantic County Department of Regional Planning and Development
 Steven Balzano





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Kim Guadagno
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Mark S. Lohbauer
 Chairman

Nancy Wittenberg
 Executive Director

AMENDED PUBLIC DEVELOPMENT
APPLICATION REPORT
 (Revised Land Use Para. Pg. 2)

June 3, 2013

Shawn Carpenter
 South Jersey Transportation Authority
 PO Box 351
 Hammonton, NJ 08037

Application No.: 1984-0655.028

Location: Atlantic City Expressway, Amelia Earhart Boulevard,
 Delilah Road and Tilton Road
 Block 101, Lots 1-4 & 9
 Block 202, Lot 2
 Block 301, Lots 1-3, 11 & 12
 Egg Harbor Township

This application proposes the construction of a full interchange connecting the Atlantic City Expressway to Amelia Earhart Boulevard and certain other proposed road improvements, including the relocation of a portion of Amelia Earhart Boulevard, within the above referenced rights-of-way and on the above referenced parcel in Egg Harbor Township.

The proposed development includes the construction of a full interchange, consisting of four ramps, to connect the Atlantic City Expressway directly to Amelia Earhart Boulevard. Amelia Earhart Boulevard is the main entrance to the Atlantic City International Airport and the William J. Hughes Technical Center. The proposed full interchange will result in the elimination of the existing westbound exit ramp from the Atlantic City Expressway to Delilah Road.

The application also proposes to eliminate the existing Amelia Earhart Boulevard connection to the Airport Traffic Circle. Amelia Earhart Boulevard will be realigned to a new signalized intersection with Delilah Road approximately 950 feet east of the Airport Traffic Circle. Approximately 900 linear feet of Delilah Road will be widened by eight feet to accommodate the proposed intersection improvements.

This application also proposes that construction of a new ramp that will allow southbound traffic on Amelia Earhart Boulevard to access Tilton Road in a westbound direction.

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(a) and 5.29(a))

The project is located partially in a Pinelands Regional Growth Area and partially in a Military and a Federal Installation Area. The proposed development is a permitted land use in a Regional Growth Area and a Military and Federal Installation Area.

Wetlands Standards (N.J.A.C. 7:50-6.6 & 6.13)

Approximately 800 linear feet of a proposed ramp that will allow southbound traffic on Amelia Earhart Boulevard to access Tilton Road in a westbound direction will be located within 300 feet of wetlands. The CMP requires a buffer of up to 300 feet to wetlands.

The CMP permits road improvements (linear improvements) in the required buffer to wetlands provided the applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetland buffers or that will result in a less significant adverse impact to wetland buffers. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the wetland buffers. The applicant has indicated that the proposed development will improve traffic safety and reduce traffic congestion. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the wetland buffer.

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

The proposed development will be located within existing developed areas, maintained grassed areas and forested areas. Approximately sixteen acres of oak-pine forest will be disturbed to accommodate the construction of the proposed development. 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 disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

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

Threatened and endangered animal species surveys were previously completed for the Aviation Research and Technology Park (App. No. 1987-1058.052) and for the Atlantic City Airport Hotel (App. No. 1983-5837.049). Both of these applications are located immediately adjacent to the proposed road improvements. Based on the negative results of those surveys and a habitat analysis completed for the current application, it was determined that the project area does not contain critical habitat for any threatened or endangered animal species.

Based upon the existing conditions, the location of proposed development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened and endangered plant species was not required.

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 contained in the CMP. To meet the stormwater management standards, the applicant will be constructing four stormwater infiltration basins.

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

A cultural resource survey was prepared for the proposed development. The survey determined that there were no significant cultural resources within the project area.

PUBLIC COMMENT

This applicant has provided the requisite public notices. Public notice to required land owners within 200 feet of the proposed development was completed on June 13, 2012. Newspaper public notice was completed on June 16, 2012. The application was designated as complete on the Commission's website on April 30, 2013. The Commission's public comment period closed on May 10, 2013. No public comment regarding this application was received by the Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 68 sheets, prepared by Parsons Brinkerhoff, Inc. and dated as follows:
 - Sheets 1-8, 11, 12, 14-20, 22-41, 43-52 & 56-68 – February 6, 2013
 - Sheets 9, 10 & 13 – February 7, 2013
 - Sheet 21 – February 8, 2013
 - Sheet 42 – April 1, 2013
 - Sheets 53-55 - undated
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. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment 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.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

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Mark S. Lohbauer
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 by the 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 within eighteen days of the date of the Executive Director's determination and 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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Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

May 23, 2013

Mark Dietrich
 New Jersey Department of Transportation
 PO Box 600
 Trenton, NJ 08625

Re: Application # 2007-0350.001
 NJ Route 54
 US Route 322
 Borough of Folsom

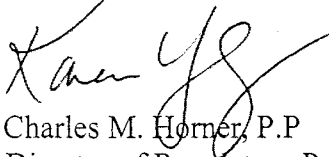
Dear Mr. Dietrich:

The Commission staff has completed its review of this application for improvements to the intersection of NJ Route 54 and US Highway 322, including the replacement of three bridges. Enclosed is a copy of a Public Development Application Report. The Report also includes a Certificate of Appropriateness to address cultural resources. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its June 13, 2013 meeting.

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,


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

Enc: Appeal Procedure

c: Secretary, Borough of Folsom Planning Board
 Borough of Folsom Environmental Commission
 Atlantic County Department of Regional Planning and Development





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Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

**PUBLIC DEVELOPMENT APPLICATION REPORT AND
 CERTIFICATE OF APPROPRIATENESS**

May 23, 2013

Mark Dietrich
 New Jersey Department of Transportation
 PO Box 600
 Trenton, NJ 08625

Application No.: 2007-0350.001
 Location: NJ Route 54
 US Route 322
 Borough of Folsom

This application is for improvements to the intersection of NJ Route 54 and US Highway 322, including the replacement of three bridges. The proposed development is located in the Borough of Folsom.

The existing intersection consists of three bridges and eight traffic ramps. The traffic ramps allow for full movement between NJ Route 54 and US Highway 322. The applicant has indicated that the three bridges have been deemed structurally deficient and that the acceleration and deceleration lanes at the traffic ramps are substandard.

The proposed development includes the widening of the US Route 322 Bridge over the Cape May Branch railroad tracks to accommodate improvements to the existing acceleration and deceleration lanes, the realignment of the NJ Route 54 Bridge over the Cape May Branch railroad tracks and Hospitality Creek and the replacement of the existing NJ Route 54 Bridge over US Route 322. The application also proposes the widening and/or lengthening of all eight of the existing traffic ramps.

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 and 5.2)

The proposed development is located in a Pinelands Rural Development Area and a Pinelands Forest Area. The CMP defines road improvements as public service infrastructure. Public service infrastructure is a permitted use in a Pinelands Rural Development Area. The CMP (N.J.A.C. 7:50-

5.2(b)) permits the fifty percent expansion of a nonconforming use in a Forest Area provided the area of the expansion does not exceed fifty percent of the area of the use or the capacity of the use, whichever is applicable, existing on January 14, 1981. The portion of the proposed development located within the Forest Area constitutes less than a fifty percent expansion of the area of the intersection existing on January 14, 1981.

Wetlands Standards (N.J.A.C. 7:50-6.6 & 6.13)

The CMP prohibits most development in wetlands and requires a buffer to wetlands of up to 300 feet. The application proposes to disturb 0.20 acres of wetlands.

The CMP permits road improvements (linear improvements) in wetlands and required buffers provided the applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetlands and required buffers 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 below, all practical measures are being taken to mitigate the impact on the wetlands. The applicant has indicated that the proposed development will improve traffic safety. The applicant has demonstrated that the need for the proposed development overrides the importance of protecting the wetlands.

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

The proposed development will be located within developed areas, maintained grassed areas and forested areas. The proposed development will disturb approximately 1.6 acres of forested lands. The proposed clearing and soil disturbance appears to be 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 disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

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

A threatened and endangered species survey was completed for the application. The survey identified the presence of four threatened and endangered animal species, Barred owl, Red-shouldered hawk, Northern pine snake and Pine Barrens treefrog. Three of the species, Barred owl, Red-shouldered hawk and Pine Barrens treefrog were all observed within the immediate project area. Northern pine snake was observed approximately 1,000 feet from the project area. The applicant has submitted information documenting that the project will result in the disturbance of 0.62 acres of non-critical habitat for Barred owl, 0.36 acres of non-critical habitat for Red-shoulder hawk, 0.11 acres of non-critical habitat for Northern pine snake and 0.11 acres of non-critical habitat for Pine Barrens treefrog. The applicant has indicated that with certain actions detailed below, the proposed development will not impact any habitat critical to these species.

The applicant proposes to restrict vegetation clearing and removal between March 1 and July 15 of any year to reduce potential impacts to the concerned animal species. In addition, the applicant will be installing exclusion fencing in three areas with suitable habitat to prevent any direct impact on individual Northern pine snakes.

The survey also identified eight threatened and endangered plant species, Stiff tick trefoil, Pine Barrens reed grass, Torrey's muhly, Barratt's sedge, Pine Barrens gentian, Floating hearts, Purple bladderwort and Maiden cane. Of the eight threatened or endangered plant species located during the survey, only Stiff tick trefoil was located within the immediate project area. One specimen of Stiff tick trefoil was located during a spring 2012 vegetation survey but during a subsequent June 2012 vegetation survey, the species could not be located. The applicant has documented that the location where the plant was observed is not prime habitat for the species due lack of open sandy soils and that it was being out-completed by more resistant vegetation.

Based upon the submitted information and the conditions recommended below, the proposed development will not result in an irreversible adverse impact on habitats that are critical to the survival of any local populations of the concerned animal or plant species.

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 contained in the CMP. To meet the stormwater management standards, the applicant will be constructing two stormwater infiltration basins.

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

The NJ Route 54 Bridge over the Cape May Branch railroad and Hospitality Creek and the US Route 322 Bridge over the Cape May Branch railroad are eligible for inclusion in the National Register of Historic Places for their association with the Atlantic City Railroad Cape May Division Historic District.

The Commission staff has reviewed the documentation provided by the applicant regarding the historic significance of the two bridges. Based upon that review, the Commission staff has determined that the bridges are eligible for Pinelands Designation in accordance with the standards of the CMP based upon their association with the development of a network of nineteenth century rail lines through the Pinelands. These rail links provided an economic stimulus to agriculture, industry and general commerce in the areas through which they passed and significantly altered settlement patterns throughout the region. For this reason, the CMP requires that a Certificate of Appropriateness be issued by the Pinelands Commission before an application by a State agency for the replacement of the two bridges may be approved.

A Certificate of Appropriateness identifies the required treatment from three alternatives:

- preservation in place if possible;
- preservation at another location, if preservation in place is not possible; or
- recordation, if neither preservation in place nor at another location is possible.

The applicant has demonstrated that the steps necessary to preserve the two resources in place are not technically and economically feasible and practical and that affirmative measures, such as stabilization, rehabilitation or reuse in place cannot result in preservation in place. The applicant also considered preservation at another location, including alternative uses of the significant structures at another location, and provided sufficient information to assess that possibility. The applicant has determined that

there are no available alternative locations to which it is both technically and economically feasible and practical to relocate the two structures.

As neither preservation in place nor preservation at another location is possible, recordation is the appropriate treatment for these resources. The Commission staff concurs with the recommended treatment measures for recordation for the bridges, design of the replacement bridges and new signage. These measures were agreed upon in 2009 by the Federal Highway Administration, New Jersey Department of Transportation and the New Jersey State Historic Preservation Office in a Memorandum of Agreement. The recordation must be accomplished in accordance with the stipulations of the executed Memorandum of Agreement among the Federal Highway Administration, the New Jersey Department of Transportation and the New Jersey Historic Preservation Office.

PUBLIC COMMENT

This applicant has provided the required public notice. Newspaper public notice was completed on December 5, 2012. The application was designated as complete on the Commission's website on April 30, 2013. The Commission's public comment period closed on May 10, 2013. No public comment regarding this application was received by the Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 106 sheets, prepared by Arora and Associates, P.C. and dated as follows:
 - Sheets 1 & 97-106 – April 25, 2013
 - Sheets 2-75 – April 24, 2013
 - Sheets 76-88 – March 19, 2013
 - Sheets 89-96 – undated
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. Prior to the construction of any portion of the proposed development which will result in a disturbance of any wetland, the applicant shall obtain a Freshwater Wetlands Permit pursuant to the New Jersey Freshwater Wetlands Protection Act.
6. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sediment from entering wetlands and shall be maintained in place until all development has been completed and the area has been stabilized.
7. Copies of the recordation required by the provisions of the Memorandum of Agreement between the Federal Highway Administration, New Jersey Department of Transportation

and the New Jersey State Historic Preservation Office shall be provided to the Commission within sixty days of completion.

8. To reduce potential impacts on the concerned threatened and endangered animal species, no vegetation clearing or removal shall occur between March 1 and July 15 of any year.
9. Prior to any development, exclusion fencing shall be installed around the proposed development to prevent potential direct impacts on individual Northern pine snakes.

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.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands

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



Mark S. Lohbauer
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 to the Commission within eighteen days of the date of the Executive Director's determination and 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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Mark S. Lohbauer
Chairman
Nancy Wittenberg
Executive Director

May 17, 2013

Stephen Blankenship
Hamilton Township Municipal Utilities Authority
6024 Ken Scull Avenue
Mays Landing, NJ 08330

Re: Application # 2013-0052.001
Harding Highway (US Route 40)
Black Horse Pike (US Route 322)
Block 1132.01, Lots 23.01, 24.02 & 42.04
Hamilton Township

Dear Mr. Blankenship:

The Commission staff has completed its review of this application for the installation of 3,600 linear feet of potable water 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 June 13, 2013 meeting.

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, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Regional Planning and Development
John Helbig





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Chris Christie
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Mark S. Lohbauer
 Chairman
 Nancy Wittenberg
 Executive Director

PUBLIC DEVELOPMENT
APPLICATION REPORT

May 17, 2013

Stephen Blankenship
 Hamilton Township Municipal Utilities Authority
 6024 Ken Scull Avenue
 Mays Landing, NJ 08330

Application No.: 2013-0052.001

Location: Harding Highway (US Route 40)
 Black Horse Pike (US Route 322)
 Block 1132.01, Lots 23.01, 24.02 & 42.04
 Hamilton Township

This application proposes the installation of 3,600 linear feet of twelve inch potable water main within the above referenced rights-of-way and on the above referenced parcel in Hamilton Township.

Approximately 2,455 linear feet of the proposed water main will be located within the shoulder area of the Harding Highway (US Route 40) right-of-way and the Black Horse Pike right-of way (US Route 322).

An application for the commercial development on Block 1132.01, Lots 23.01, 24.02, 42.04, 42.05, 44 and 46 in Hamilton Township was previously approved pursuant to the provisions of the Pinelands Comprehensive Management Plan (App. No. 1989-0619.001). That previously approved application included the construction of a “connector road” between the Black Horse Pike and a municipal road known as Volunteer Way. The remaining 1,145 linear feet of the proposed water main will be located under the yet to be constructed cartway of the proposed “connector road.”

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(a))

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

Wetlands Standards (N.J.A.C. 7:50-6.6 & 6.13)

There are wetlands located within 300 feet of the proposed development. The proposed development will be located within the required buffer to those wetlands.

The CMP permits water mains (linear improvements) in wetland buffers provided the applicant demonstrates that certain conditions are met. The applicant has demonstrated that there is no feasible alternative to the proposed water main that does not involve development in wetland buffers or that will result in a less significant adverse impact to wetland buffers. In addition, the proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions below, all practical measures are being taken to mitigate the impact on the wetland buffers. The applicant has indicated that the proposed water main will stabilize water system pressure and provide improve potable water supply to existing commercial and residential development in the area. The applicant has demonstrated that the need for the water main overrides the importance of protecting the wetland buffer.

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

The portion of the proposed water main within the Harding Highway and Black Horse Pike rights of way will be located under paved surfaces and maintained grass shoulders. In the location of the approved, but yet to be constructed, "connector road," the proposed water main will be located within a forested area. 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 disturbed areas, the applicant proposes to utilize a seed mixture which meets that recommendation.

PUBLIC COMMENT

This applicant has provided the required public notice. Newspaper public notice was completed on April 10, 2013. The application was designated as complete on the Commission's website on April 26, 2013. The Commission's public comment period closed on May 10, 2013. No public comment regarding this application was received by the Pinelands Commission.

CONDITIONS

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of six sheets (Sheets 1, 7-9, 16 & 17), prepared by Adams, Rehmann & Heggan Associates, Inc. and dated as follows:
 - Sheet 1 – April 3, 2013
 - Sheets 7-9 – March 27, 2013
 - Sheets 16 & 17 – December 31, 2012
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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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 by the 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 within eighteen days of the date of the Executive Director's determination and must include the following information:

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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. PC4-13- 20

TITLE: To Authorize the Executive Director to Continue to Expend Funds for Fiscal Year 2014 at the Same Level of Expenditures as Fiscal Year 2013 until the Adoption of the Fiscal Year 2014 Budgets

Commissioner Ashmun moves and Commissioner Prickett seconds the motion that:

WHEREAS, pursuant to the Pinelands Protection Act, the Pinelands Commission is charged with the continuing implementation and monitoring of the Pinelands Comprehensive Management Plan; and

WHEREAS, it is anticipated that the New Jersey Legislature will appropriate \$2,469,000 to support the Commission's operations during Fiscal Year 2014; and

WHEREAS, the Personnel and Budget Committee recommends Commission adoption of this resolution; 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 Executive Director is authorized to continue to expend funds during Fiscal Year 2014 at the same level of expenditures as Fiscal Year 2013 until adoption of the Fiscal Year 2014 Budgets by the Commission.

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas	X				Quinn			X	
DiBello	X				Jackson	X				Rohan Green			X	
Earlen			X		Lloyd			X		Witt			X	
Ficcaglia	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 13, 2013

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Mark S. Lohbauer
Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 21

TITLE: To Authorize the Executive Director to Enter into a New Cooperative Agreement with the National Park Service for Pinelands Monitoring

Commissioner Haas moves and Commissioner McGlinchey seconds the motion that:

WHEREAS, the Commission authorized the Executive Director to enter into Cooperative Agreement 4000-4-3016 and four subsequent amendments with the National Park Service providing \$1,368,190 for Pinelands monitoring; and

WHEREAS, the Commission authorized the Executive Director to enter into Cooperative Agreement 4000-9-9023 and five subsequent amendments with the National Park Service providing an additional \$1,577,060 for this long term environmental and economic monitoring program; and

WHEREAS, the Commission authorized the Executive Director to enter into Cooperative Agreement H4560-05-0002 and four subsequent amendments with the National Park Service providing an additional \$806,000 for this long term environmental and economic monitoring program; and

WHEREAS, the Commission authorized the Executive Director to enter into Cooperative Agreement H4506080713 and five subsequent amendments including Task Agreement J4531090733 with the National Park Service providing an additional \$1,336,500 for this long term environmental and economic monitoring program; and

WHEREAS, the National Park Service has recommended that a new cooperative agreement be executed to continue the long term economic and environmental monitoring programs; and

WHEREAS, the National Park Service has prepared the attached draft Cooperative Agreement providing an additional \$256,500 for this long term environmental and economic monitoring program; and

WHEREAS, the Personnel and Budget Committee has reviewed these documents and recommends Commission approval; 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 Executive Director is authorized to enter into a new Cooperative Agreement with the National Park Service, consistent with the attached draft Cooperative Agreement, to continue the Long Term Economic and Environmental Monitoring Programs and to make such revisions allowed by the National Park Service and required to ensure effective implementation of the program.

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas	X				Quinn			X	
DiBello				X	Jackson	X				Rohan Green			X	
Earlen			X		Lloyd			X		Witt			X	
Ficcaglia	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Nancy Wittenberg
Executive Director

Date: June 13, 2013

Mark S. Lohbauer
Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 22

TITLE: To Authorize the Executive Director to Purchase Information Processing Items from Dell Marketing L.P. and to Revise the FY 2013 Operating Budget

Commissioner Pickett moves and Commissioner Mc Glinchey
seconds the motion that:

WHEREAS, the FY 2013 Operating Fund budget finances information processing hardware including a file server, network attached storage, 14 computers with dual monitors, a tape backup unit, multiple uninterruptible power supplies, disk image replication software and various parts and supplies anticipated to be purchased from Dell Marketing LP; and

WHEREAS, most of the aforementioned items are available under the state contracts entitled "M0483 WSCA Computer Contract" and "M0003 Software License and Related Services Contract"; and

WHEREAS, the Commission's Management Information Systems (MIS) office recommends Dell servers, computers and associated products over other brands due to overall product quality, reliability, technical support and compatibility with existing Commission equipment; and

WHEREAS, the MIS staff is experienced in using and supporting Dell brand equipment; and

WHEREAS, Dell Marketing L.P. is an approved vendor under the above noted state contracts; and

WHEREAS, fourteen (14) computers and twenty-eight (28) monitors were purchased in January 2013 from Dell Marketing L.P. at a cost of \$31,216.50; and

WHEREAS, the purchase of the remaining items listed above will bring the total amount payable to Dell Marketing L.P. to approximately \$72,000 during FY 2013; and

WHEREAS, the By-Laws of the Pinelands Commission call for the Commission's approval for the purchase of goods and services in excess of the threshold stipulated in N.J.S.A. 52:25-23 which is currently \$36,000; and

WHEREAS, sufficient funds are available in the FY 2013 Operating Budget to finance the items to be purchased from Dell Marketing L.P. at a cost not to exceed \$72,000; and

WHEREAS, it was determined that the twenty-eight (28) monitors costing \$402 per monitor should be accounted for as a separate piece of information processing hardware; and

WHEREAS, certain parts and supplies, totaling \$2,504, supporting the file server and tape backup unit will be purchased from Dell Marketing L.P.; and

WHEREAS, these monitors, parts and supplies need to be classified as supplies not acquisitions; and

WHEREAS, an Operating Budget revision of \$13,760 from the Acquisitions – Information Processing Equipment account to the Printing and Office Supplies account, with no change in the overall budget total, was presented to the Personnel and Budget Committee; and

WHEREAS, the Personnel and Budget Committee discussed the purchases from Dell Marketing L.P. and the Operating Budget revision and recommends Commission approval; 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 Executive Director be authorized to purchase the information processing items discussed in this resolution from Dell Marketing L.P. during FY 2013 for a total amount not to exceed \$72,000.

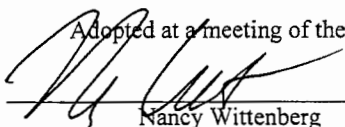
BE IT FURTHER RESOLVED that the FY 2013 Operating Budget be revised as follows: the Acquisitions – Information Processing Equipment account will be reduced by \$13,760 and the Printing and Office Supplies account will be increased by \$13,760 resulting in no change to the FY 2013 Operating Budget total.

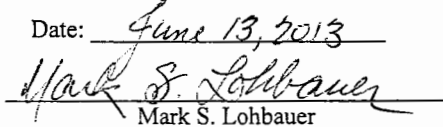
Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun	X				Galletta	X				Prickett	X			
Brown			X		Haas	X				Quinn			X	
DiBello	X				Jackson	X				Rohan Green			X	
Earlen			X		Lloyd			X		Witt			X	
Ficcaglia	X				McGlinchey	X				Lohbauer	X			

Adopted at a meeting of the Pinelands Commission

Date: June 13, 2013


 Nancy Wittenberg
 Executive Director


 Mark S. Lohbauer
 Chairman