RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 11

TITLE: **Approving** With Conditions Applications for **Public Development** (Application Numbers 1981-1303.009, 1983-5250.014, 1991-0779.010, 2004-0116.001, 2007-0301.003 & 2012-0010.001)

Commissioner Earlen **moves and Commissioner** Ronnaceen **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 applications for Public Development be approved with conditions:

1981-1303.009 **ATLANTIC COUNTY FACILITIES MANAGEMENT**, Hamilton Township, Regional Growth Area, construction of a 2,900 square foot addition to an existing records storage building (Date of Report: April 18, 2012);

1983-5250.014 **ATLANTIC CAPE COMMUNITY COLLEGE**, Hamilton Township, Regional Growth Area, replacement of an existing irrigation well (Date of Report: April 18, 2012);

1991-0779.010 **EVESHAM MUNICIPAL UTILITIES AUTHORITY**, Evesham Township, Rural Development Area, construction of a 1,175 square foot addition to an existing potable water well building (Date of Report: April 18, 2012);

2004-0116.001 **OCEAN COUNTY**, Manchester Township, Regional Growth Area, road improvement/re-alignment of 1,762 linear feet of Ridgeway Boulevard (Date of Report: April 23, 2012);

2007-0301.003 **NEW HANOVER TOWNSHIP BOARD OF EDUCATION**, Borough of Wrightstown, Pinelands Town of Wrightstown, construction of a 46 space paved parking lot (Date of Report: April 20, 2012); and

2012-0010.001 **TABERNACLE TOWNSHIP**, Tabernacle Township, Rural Development Area, replacement of two existing 36 inch road culverts with a 48 inch three sided culvert (Date of Report: April 17, 2012).

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.

1981-1303.009 **ATLANTIC COUNTY FACILITIES MANAGEMENT**, Hamilton Township, Regional Growth Area, construction of a 2,900 square foot addition to an existing records storage building (Date of Report: April 18, 2012);

1983-5250.014 **ATLANTIC CAPE COMMUNITY COLLEGE**, Hamilton Township, Regional Growth Area, replacement of an existing irrigation well (Date of Report: April 18, 2012);

1991-0779.010 **EVESHAM MUNICIPAL UTILITIES AUTHORITY**, Evesham Township, Rural Development Area, construction of a 1,175 square foot addition to an existing potable water well building (Date of Report: April 18, 2012);

2004-0116.001 **OCEAN COUNTY**, Manchester Township, Regional Growth Area, road improvements/ re-alignment of 1,762 linear feet of Ridgeway Boulevard (Date of Report: April 23, 2012);

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Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

State of New Jersey
THE PINELANDS COMMISSION
PO BOX 359
NEW LISBON, NJ 08064
(609) 894 7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR MINOR PUBLIC DEVELOPMENT

April 18, 2012

Leslie MacDonnell
Atlantic County Facilities Management
P.O. Box 1107
Atlantic City, NJ 08404

Application Information:	App. No. 1981-1303.009 Area of Parcel: 19.7 Acres Block 994, Lot 58.02 Hamilton Township
Proposed Development:	2,900 square foot addition to the Atlantic County records storage building
Management Area:	Regional Growth Area
Relevant Facts:	• The Atlantic County Justice Facility is located on the above referenced lot.
Public Notice:	• Public notice not required by the Pinelands Comprehensive Management Plan (CMP). • On April 3, 2012, the application was designated as complete on the Commission's website. No public comments received through the close of public comment period on April 13, 2012.
Conclusion	• The proposed development is consistent with the standards contained in the CMP.
Recommendation:	• On behalf of the Commission's Executive Director, I recommend that the Pinelands Commission approve this application at its May 11, 2012 meeting.

Appeal of Recommendation:	The CMP (N.J.A.C. 7:50-4.91) provides that parties who meet the legal requirement to qualify as an "interested party," the right to appeal this recommendation. Any appeal must be made in writing to the Commission within 18 days of the date of this Report and include the information specified in the CMP (N.J.A.C. 7:50-4.91). Any valid appeal will be forwarded to the New Jersey Office of Administrative Law for a hearing.

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

c. Secretary, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Regional Planning and Development
John Gibson, Jr.
Ernest Deman

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CHRIS CHRISTIE
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Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR MINOR PUBLIC DEVELOPMENT

April 18, 2012

Mark Streckenbein
Atlantic Cape Community College
5100 Black Horse Pike
Mays Landing, NJ 08330

Application Information:	App. No. 1983-5250.014 Area of Parcel: 312.7 Acres Block 996, Lot 26 Hamilton Township
Proposed Development:	Replacement of existing irrigation well
Management Area:	Regional Growth Area
Relevant Facts:	• A classroom building previously approved by the Commission (App. No. 1983-5250.012) is proposed to be constructed over the existing well. • The proposed replacement irrigation well will be located 75 feet from the existing well and will be completed to the same depth as the existing well (225 feet). • The will be no change to the existing water allocation or pumping rate.
Public Notice:	• Public notice not required by the Pinelands Comprehensive Management Plan (CMP). • On March 6, 2012, the application was designated as complete on the Commission's website. No public comments received through the close of public comment period on April 13, 2012.
Conclusion	• The proposed development is consistent with the standards contained in the CMP.

Recommendation:	• On behalf of the Commission's Executive Director, I recommend that the Pinelands Commission approve this application at its May 11, 2012 meeting.
Appeal of Recommendation:	The CMP (N.J.A.C. 7:50-4.91) provides that parties who meet the legal requirement to qualify as an "interested party," the right to appeal this recommendation. Any appeal must be made in writing to the Commission within 18 days of the date of this Report and include the information specified in the CMP (N.J.A.C. 7:50-4.91). Any valid appeal will be forwarded to the New Jersey Office of Administrative Law for a hearing.

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

c. Secretary, Hamilton Township Planning Board
Hamilton Township Environmental Commission
Atlantic County Department of Regional Planning and Development
John Helbig
Ernest Deman

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KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

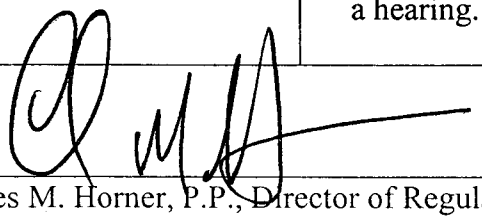
REPORT ON AN APPLICATION FOR MINOR PUBLIC DEVELOPMENT

April 18, 2012

Joseph Rizzuto, Executive Director
Evesham Municipal Utilities Authority
984 Tuckerton Road
Marlton, NJ 08053

Application Information:	App. No. 1991-0779.010 Area of Parcel: 0.8 Acres Block 51.59, Lot 84 Evesham Township
Proposed Development:	1,175 square foot addition to an existing potable water well building.
Management Area:	Rural Development Area
Relevant Facts:	• The proposed addition will contain additional potable water filtration and treatment equipment. • Existing Township Wells #13 & 14 are located on the lot. • The will be no change to the existing water allocation or pumping rate.
Public Notice:	• Public notice not required by the Pinelands Comprehensive Management Plan (CMP). • On April 2, 2012, the application was designated as complete on the Commission's website. No public comments received through the close of public comment period on April 13, 2012.
Conclusion	• The proposed development is consistent with the standards contained in the CMP.
Recommendation:	• On behalf of the Commission's Executive Director, I recommend that the Pinelands Commission approve this

	application at its May 11, 2012 meeting.
Appeal of Recommendation:	The CMP (N.J.A.C. 7:50-4.91) provides that parties who meet the legal requirement to qualify as an "interested party," the right to appeal this recommendation. Any appeal must be made in writing to the Commission within 18 days of the date of this Report and include the information specified in the CMP (N.J.A.C. 7:50-4.91). Any valid appeal will be forwarded to the New Jersey Office of Administrative Law for a hearing.



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

c. Secretary, Evesham Township Planning Board
Evesham Township Environmental Commission
Burlington County Planning Board
Thomas Cappetti, Jr.
Ernest Deman

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CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR MAJOR PUBLIC DEVELOPMENT

April 23, 2012

Frank Scarantino, P.E.
Ocean County Engineer
Ocean County
P.O. Box 2191
Toms River, NJ 08754

Please Always Refer To
This Application Number

Re: Application #: 2004-0116.001
Ridgeway Boulevard
Block 71, Lots 6 & 7
Manchester Township

Dear Mr. Scarantino:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its May 11, 2012 meeting.

FINDINGS OF FACT

This application is for the proposed realignment of a 1,762 linear foot portion of Ridgeway Boulevard in Manchester Township. The proposed development is located in a Pinelands Regional Growth Area.

In the area of the proposed project, Ridgeway Boulevard is an existing 30 foot wide two lane paved road. The application proposes to abandon an existing 1,506 liner foot section of Ridgeway Boulevard located immediately south of County Route 571. The existing pavement associated with this portion of Ridgeway Boulevard, approximately 45,180 square feet, will be removed.

To replace the section of road to be abandoned, the application proposes to construct a new 1,762 linear foot section of Ridgeway Boulevard on Block 71, Lots 6 & 7. This new section of Ridgeway Boulevard will be a 40 foot wide two lane road that forms a new "T" intersection with County Route 571. The new intersection will be located approximately 370 feet west of the current intersection.

The proposed development is consistent with the stormwater management standards of the Pinelands Comprehensive Management Plan (CMP). The application proposes the construction of two underground stormwater infiltration trenches.

The proposed roadway will be located in a wooded area. 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. The application proposes to use grasses that meet this recommendation for both the proposed roadway and to re-vegetate the abandoned portion of Ridgeway Boulevard.

The applicant completed a habitat evaluation for threatened and endangered plants. Based upon that evaluation, the applicant conducted a threatened and endangered species survey for Little ladies' tresses, Stiff tick trefoil, Butterfly pea and Narrow-leaf vervain. Sickle-leaved golden aster was already known to exist in the project area. Populations of Sickle-leaved golden aster and Little ladies' tresses, both threatened plant species, were confirmed during the survey.

The CMP prohibits development that will result in an irreversible adverse impact on the survival of any local population of threatened or endangered plants. A total of 18 individual Little ladies' tresses were initially identified within and immediately adjacent to the proposed road realignment. The proposed realignment of Ridgeway Boulevard will result in the direct loss of 2 individual Little ladies' tresses plants. Based upon that information, the Commission staff concluded that the loss of 2 out of a known population of 18 Little ladies' tresses plants could constitute an irreversible adverse impact on the survival of any local population of Little ladies' tresses.

Thereafter, on January 10, 2012, representatives of Ocean County and the Commission staff performed a joint site inspection to assess the observable extent of the Little ladies' tresses population within and in the immediate vicinity of the proposed road realignment. During the January 10, 2012 site inspection, approximately 50 additional Little ladies' tresses plants were located in the immediate vicinity of the proposed project. This results in an identified population of approximately 68 Little ladies tresses plants.

To address the CMP provision prohibiting development that would result in an irreversible adverse impact on local population of threatened and endangered plant species, the applicant submitted a "Rare Plant Management Plan Ridgeway Boulevard Re-alignment," prepared by Professional Design Services, dated September 16, 2010 and last revised April 14, 2011. That plan depicts the location of the proposed development in relation to the location of the Little ladies' tresses populations within and immediately adjacent to the proposed road. In addition to the direct loss of 2 Little ladies' tresses plants, 4 Little ladies' tresses plants are

located immediately adjacent to the proposed limits of clearing/land disturbance of the road realignment. To protect the concerned Little ladies' tresses plants, the applicant proposes to install protective fencing during construction in areas where the proposed limits of clearing/land disturbance is immediately adjacent to the Little ladies' tresses.

Thirteen Sickle-leaved golden asters are located in the existing sand shoulders immediately adjacent to the portion of the Ridgeway Boulevard pavement that is proposed to be removed. To protect the concerned Sickle-leaved golden aster plants, the applicant also proposes to install protective fencing during construction in areas where the proposed limits of clearing/land disturbance is immediately adjacent to the Sickle-leaved golden asters.

The applicant also proposes to implement the mowing regime recommended in the Commission's "Best Management Practices for Pine Barrens Roadside Plant Communities" to preserve and encourage growth of existing threatened and endangered plant populations. As also recommended in the Commission's "Best Management Practices for Pine Barrens Roadside Plant Communities," the applicant has indicated that a restricted mowing sign has been placed immediately adjacent to an area containing Sickle-leaved golden asters along an existing portion of Ridgeway Boulevard.

With the conditions recommended below, the proposed road realignment will be designed to avoid irreversible adverse impacts on the survival of any local population of Little ladies' tresses and Sickle-leaved golden aster.

A threatened and endangered species survey for Northern pine snake, Timber rattlesnake and Barred owl was completed for the proposed road realignment. The survey demonstrated that the project area does not contain critical habitat for any of the concerned animal species.

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite public notice. Newspaper public notice was completed on May 20, 2008. Notice to surrounding property owners located within 200 feet of the parcel was completed on May 22, 2008. The application was designated as complete on the Commission's website on March 29, 2012. The Commission's public comment period closed on April 13, 2012. The Pinelands Commission received one public comment regarding the application. At the April 13, 2012 Commission meeting, one individual offered verbal comments on the application and submitted a written version of those same comments. A copy of the written public comment is attached.

Public comments:

1. The commenter indicated that relatively large and productive populations of a rare plant could serve as one of a few remaining source areas or local population strongholds for a regional population; therefore, at least equally strong protection

should be provided to large populations as would be afforded to a very small population.

Staff Response: The CMP provides for equal protection of threatened and endangered plant populations, regardless of the size of the population. The CMP provides that no development shall be carried out unless it is designed to avoid irreversible adverse impacts on the survival of any local populations of those plants designated by the Department of Environmental Protection as endangered plant species pursuant to N.J.A.C. 7:5C-5.1 as well as those plants declared to be threatened or endangered plants of the Pinelands by the CMP. If an applicant demonstrates that proposed development will not result in an irreversible adverse impact to a local population of a threatened or endangered plant species, regardless of the size of that population, the proposed development would be consistent with the CMP's threatened and endangered species standard even if it results in the elimination of individual plants. The proposed development will result in the elimination of 2 out of a population of at least approximately 68 plants. It is the applicant's opinion, and the Commission staff agrees, that the elimination of 2 plants out of a population of at least approximately 68 plants will not result in irreversible adverse impacts to the local population of Little ladies' tresses.

2. The commenter is concerned about effects of exposure of a healthy population of a rare species to significant disturbance.

Staff Response: The applicant proposes protective fencing to avoid direct disturbance to 4 Little ladies' tresses and 13 Sickle-leaved golden asters. In addition, it should be noted that exposure of a population of threatened or endangered plant species to a "significant disturbance" can result in many types of impacts. The proposed road improvements will result in the exposure to disturbance of approximately four Little ladies' tresses plants, in addition to the 2 Little ladies' tresses plants to be eliminated and 13 Sickle-leaved golden aster plants. The Little ladies' tresses plants in the immediate vicinity of the proposed road are located in an area where varying levels of disturbance has occurred over the years. Based upon the Little ladies' tresses plant densities observed on January 10, 2012, a greater density of Little ladies tresses were found in an area where there has been significant past manmade disturbance, compared to wooded areas where a handful of individual plants were identified. For the Little ladies' tresses population, a significant disturbance resulting in an increase of light availability through opening of the tree canopy that occurred in the past has benefitted the population.

3. The commenter does not want to see the rare plant protection rules of the CMP used in a way that results in whittling down of large populations of rare plants because it is assumed that the population can handle the impact, and then only protect the population once they become so small and vulnerable that they are barely hanging on in any particular area.

Staff Response: Protection of threatened and endangered plant populations is not predicated on the size of the population. The CMP protects all threatened and endangered plant species populations, regardless of size. An applicant must demonstrate that proposed development will not result in an irreversible adverse impact to a local population of threatened or endangered plant species, whether that population is a large or small population.

4. The commenter questions whether indirect impacts to other threatened and endangered plants in the vicinity of the proposed development will result in significant impacts to those threatened and endangered plants.

Staff Response: There are 17 known plants (4 Little ladies' tresses plants and 13 Sickle-leaved golden aster plants) immediately adjacent to the proposed road improvements and the road pavement proposed for removal. The applicant has proposed the installation of protective fencing during construction and pavement removal to protect the 17 concerned plants. Additionally, post construction, the applicant proposes to implement a mowing and maintenance regime along the roadside that is consistent with the Commission's "Mowing and Maintenance Best Management Practices for Pine Barrens Roadside Plant Communities" that is included in the Memorandum of Agreement between Ocean County and the Commission that was approved by the Pinelands Commission on June 9, 2010. The "Mowing and Maintenance Best Management Practices for Pine Barrens Roadside Plant Communities" is designed to provide for specific mowing and maintenance activities along roadside edges to prevent impacts to threatened and endangered plant populations.

5. The commenter is concerned that, although the applicant is proposing the installation of protective fencing to protect the concerned threatened and endangered plants, past experience indicates that fencing can fail and allow sediment and debris with altered chemistry to breach these barriers and be carried outside of the anticipated disturbance area.

Staff Response: Fencing installation will create a physical barrier to prevent construction impacts, accidental trampling or deposition of material on the threatened and endangered plants located immediately adjacent to the development area. A condition is included in this Report requiring the County to ensure that the protective fencing is installed and maintained.

6. The commenter believes that it is common to see long-term indirect impacts of roads on nearby plant species through greatly elevated soil pH and invasive species encroachment along the roadside corridor. Therefore, for this project, the commenter indicates that, should this project be approved, the Little ladies' tresses plants adjacent to the project should be clearly marked and protected before, during and after the project and that the process is supervised.

Staff Response: A specific condition has been included in this Report to require the County to ensure that the protective fencing is installed and maintained. To discourage long-term indirect impacts and as recommended in the Commission's "Best Management Practices for Pine Barrens Roadside Plant Communities," the County should place restricted mowing signs immediately adjacent to the areas containing the Little ladies' tresses plants and the Sickle-leaved golden asters plants to alert of the presence of protected plants.

7. The commenter also requests that the adjacent land on which the remaining Little ladies' tresses plants occur be deed restricted by Manchester Township to keep it in its natural state and protect it from any future disturbance or development.

Staff Response: Deed restriction of land containing a threatened or endangered species population is not required by the CMP to demonstrate consistency with the CMP threatened and endangered species standards. Any future development application that proposes development on any parcel containing a threatened or endangered species population will be required to demonstrate consistency with the threatened and endangered species standards contained in the CMP as part of that application.

CONCLUSION

The proposed road realignment is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 and 6 of the CMP.

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, consisting of 12 sheets, prepared by Professional Design Services, and dated as follows:

   Sheets 1 & 3-11 – dated September 16, 2010 and revised to April 14, 2011; and
   Sheet 2 – dated September 16, 2010 and revised to April 20, 2012.

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

3. The proposed development 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 install protective fencing in accordance with the "Rare Plant Management Plan Ridgeway Boulevard Re-alignment," Sheet 12 of 12 of the above referenced development plan.

5. Prior to any development, the applicant shall designate a specific individual who,

on behalf of the County, shall be responsible for inspecting the proposed development areas prior to initiation of construction and pavement removal and on an ongoing basis during and after completion of construction/pavement removal to ensure that the integrity of the threatened plant protective fencing is maintained. Prior to undertaking any development activities, the County shall advise the Commission staff of the name of the individual.

6. In accordance with the "Mowing and Maintenance Best Management Practices for Pine Barrens Roadside Plant Communities" included in the Commission approved Memorandum of Agreement with Ocean County, the County shall ensure that the boundaries of the four Little ladies' tresses adjacent to the proposed section of Ridgeway Boulevard subject of this application are marked with signs to alert roadside managers to the approximate plant location. One sign shall be placed at least 100 feet north of the concerned plants and another sign at least 100 feet south of the concerned plants. Mowing shall occur in accordance with the threatened and endangered species (rare plants) dormant season mowing regime specified in the concerned MOA.

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

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.

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation 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 this Report and must include the following information:

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

2. the application number;

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

4. 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.

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.

Recommended for Approval by: _____
Charles M. Horner, P.P., Director of Regulatory Programs

Encl.(1): April 13, 2012 Public Comment Letter

c: Secretary, Manchester Township Planning Board
Manchester Township Environmental Commission
Ocean County Planning Board
Ian Borden, Professional Design Services
Amy Karpati, Pinelands Preservation Alliance

PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead, 17 Pemberton Road, Southampton, New Jersey 08088

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APP# 20040116.001
Doc Type 100

April 13, 2012

APR 16 2012

RE: Public Comments regarding application #2004-0116.001, Ridgeway Boulevard, Manchester Township

Scanned ✓

Ins Re. 3/8/12 ✓

I would like to offer comments concerning the Ridgeway Boulevard realignment project, particularly as it relates to the local population of Little ladies' tresses (*Spiranthes tuberosa*) on the proposed development site. A threatened and endangered plant survey performed by Ocean County in 2008 found 18 Little ladies' tresses individuals on and in the vicinity of the proposed project, and anticipated the direct loss of two of these individuals as a result of the road realignment activities. During a January 10, 2012 plant survey attended by members of the Commission staff and of the County's staff, an additional 50 individuals were found to be "in the vicinity" of the proposed project, resulting in "a total of 60 plus Little ladies' tresses on or in the vicinity of the proposed project."

Given the finding of these additional plants, the letter from the Commission to Frank Scarantino, Ocean County Engineer, dated March 5, 2012, indicates that the Commission now concurs with "the County's position that the loss of two plants within a known population of approximately 60 plants will not result in an irreversible adverse impact to the local population of Little ladies' tresses." Additionally, this letter states that the Commission concurs with "the County's position that the installation of protective fencing and implementation of Best Management Practices are appropriate protective measures to avoid irreversible adverse impacts to the local population of Little ladies' tresses."

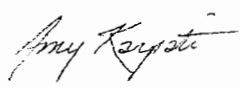
The premise embedded within both the Commission's and the County's logic appears to be that since there are approximately 60 Little ladies' tresses individuals scattered across the vicinity of the proposed development site, the direct loss of two of these individuals will not adversely impact the population. I would like to suggest an alternative approach to interpreting this information from a conservation science perspective. Relatively large and productive populations of a rare plant could very well serve as one of few remaining source areas or local population strongholds for a regional population. If there is indeed a population of 60+ Little ladies' tresses individuals within or near the proposed disturbance area, shouldn't this warrant at least equally strong protection as would be afforded to a very small population, since it may be representative of one of few healthy populations of a plant which is listed as a "species of concern" by the NJDEP Natural Heritage Program and is also declared by the CMP to be a "threatened or endangered plant" of the Pinelands? Is it not cause for concern that an existing,

healthy population of a rare species will be exposed to significant disturbance? We do not want to see the rare plant protection rules of the CMP to be used in this way – to allow for the whittling down of large populations of rare plants because we assume they can handle it, and only protecting them once they become so small and vulnerable that they are barely hanging on in any particular area.

So aside from just the two Little ladies' tresses individuals that are anticipated to be directly impacted by the road realignment, what about the indirect impacts to the others in the vicinity, keeping in mind that an *indirect* impact does not imply an *insignificant* impact? The Commission letter to the applicant dated December 17, 2010 said that "it must be demonstrated that the road construction will not result in an irreversible adverse impact to the Little ladies' tresses which are located immediately adjacent to the proposed limits of clearing/land disturbance." The applicant, in their January 24, 2011 letter, responded that "protective fencing will be installed where the proposed construction abuts the plant locations to ensure no disturbance to the plants." However, as we've seen before with road development projects in the Pinelands, such fencing can fail, allowing sediment and debris with altered chemistry to breach these barriers and be carried outside of the anticipated disturbance area. Also, it is common to see long-term indirect impacts of roads on nearby plant species through greatly elevated soil pH and invasive species encroachment along the roadside corridor. Therefore, it is our recommendation, that if this project is approved, that the Little ladies' tresses individuals adjacent to the project site be clearly marked and protected before, during, and after the project and that this process is supervised. Also, we would like to request that the adjacent land on which these remaining Little ladies' tresses individuals occur be deed-restricted by Manchester Township to keep it in its natural state and protect it from any future disturbance or development.

I hope that you consider this perspective in your decision regarding this application. We cannot keep chipping away at healthy populations of rare species and their habitats and expect these species to persist indefinitely.

Respectfully submitted,



Amy Karpati, Ph.D.
Director for Conservation Science

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Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR MAJOR PUBLIC DEVELOPMENT

April 20, 2012

Brian McBride, Superintendent
New Hanover Township Board of Education
122 Fort Dix Street
Wrightstown, NJ 08562

Please Always Refer To
This Application Number

Re: Application #: 2007-0301.003
New Hanover Elementary School
Block 401, Lot 35.02
Borough of Wrightstown

Dear Mr. McBride:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its May 11, 2012 meeting.

FINDINGS OF FACT

This application is for the construction of a 46 space paved parking lot on the above referenced 7.29 acre lot. There is an existing 38 space paved parking lot, a recreational field and a playground located on the lot. The proposed development is located in the Pinelands Town of Wrightstown.

The New Hanover Elementary School is located immediately adjacent to the above referenced lot. The school is located outside of the Pinelands Area. The proposed parking lot will serve the existing school. The proposed parking lot has been designed to accommodate school bus traffic. The applicant proposes to demolish the existing 38 space parking lot which is located on the lot.

The applicant has demonstrated that the proposed development is consistent with the stormwater management standards contained in the Pinelands Comprehensive Management Plan (CMP). The applicant will be constructing an underground stormwater infiltration facility.

The proposed development will be located over existing paved and maintained grassed areas. There are no wetlands located within 300 feet of the proposed development. 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. The applicant proposes to utilize a grass seed mixture that does not meet this recommendation. The applicant indicates that use of grasses recommended by the CMP would not be appropriate for re-vegetation because the concerned areas were previously disturbed and serve as lawn area for the school yard.

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

Information available to the Commission staff did not provide sufficient evidence of significant cultural resources to require a full cultural resource survey.

PUBLIC COMMENT

This applicant provided the requisite public notice. Required notice to landowners within 200 feet of the above referenced lot was completed on March 23, 2012. Newspaper public notice was completed for the application on March 26, 2012. The application was designated as complete on the Commission's website on April 2, 2012. The Commission's public comment period closed on April 13, 2012. The Pinelands Commission has not received any public comments regarding the application.

CONCLUSION

The proposed parking lot is a permitted use in a Pinelands Town (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapters 5 & 6 of the CMP and the Borough of Wrightstown certified master plan and land use ordinance.

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of ten sheets, prepared by Dante Guzzi Engineering Associates, L.L.C. and dated as follows:

   Sheets 1 & 3-10 – February 13, 2012; revised March 23, 2012
   Sheet 2 – February 13, 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.

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.

APPEAL

The CMP (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal this recommendation 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 this Report and must include the following information:

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

2. the application number;

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

4. 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.

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.

Recommended for Approval by: _____

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

CMH/ED

c: Secretary, Borough of Wrightstown Planning Board
Secretary, Burlington County Planning Board
Scott Brown
Ernest Deman

State of New Jersey
THE PINELANDS COMMISSION
PO BOX 359
NEW LISBON, NJ 08064
(609) 894 7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON AN APPLICATION FOR MINOR PUBLIC DEVELOPMENT

April 17, 2012

Douglas Cramer
Tabernacle Township
163 Carranza Road
Tabernacle, NJ 08088

Application Information:	App. No. 2012-0010.001 New Road Tabernacle Township
Proposed Development:	Replacement of two existing 36 inch road culverts with a 48 inch three sided culvert.
Management Area:	Rural Development Area
Relevant Facts:	• The culvert length will be increased from 35 feet to 40 feet. • The proposed three sided culvert is hydraulically equivalent to the existing culverts. • The proposed improvement is permitted in wetlands in accordance with the CMP (N.J.A.C. 7:50-6.13). • A total of 632 square feet (0.015 acre) of wetlands will be disturbed for the proposed development.
Public Notice:	• Public notice not required by the Pinelands Comprehensive Management Plan (CMP). • On March 27, 2012, the application was designated as complete on the Commission's website. No public comments received through the close of public comment period on April 13, 2012.
Conclusion	• The proposed development is consistent with the standards contained in the CMP.

Recommendation:	• On behalf of the Commission's Executive Director, I recommend that the Pinelands Commission approve this application, with the condition listed below, at its May 11, 2012 meeting.
Condition:	• Prior to any development, the applicant shall obtain authorization pursuant to the New Jersey Department of Environmental Protection Freshwater Wetlands Protection Act Rules.
Appeal of Recommendation:	The CMP (N.J.A.C. 7:50-4.91) provides that parties who meet the legal requirement to qualify as an "interested party," the right to appeal this recommendation. Any appeal must be made in writing to the Commission within 18 days of the date of this Report and include the information specified in the CMP (N.J.A.C. 7:50-4.91). Any valid appeal will be forwarded to the New Jersey Office of Administrative Law for a hearing.

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

c. Secretary, Tabernacle Township Planning Board
Burlington County Planning Board
Thomas Cappetti, Jr.
Ernest Deman

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 12

TITLE: Issuing an Order to Certify Ordinance 5-2012, Amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City

Commissioner Ficcaglia **moves and Commissioner** Witt **seconds the motion that:**

WHEREAS, on February 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor City; and

WHEREAS, Resolution #PC4-87-13 of the Pinelands Commission specified that any amendment to the City's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-87-13 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

WHERAS, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

WHEREAS, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

WHEREAS, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

WHEREAS, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

WHEREAS, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

WHEREAS, Commission staff subsequently provided a model ordinance and other guidance to Egg Harbor City to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, by email dated September 22, 2011, Egg Harbor City notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

WHEREAS, by letter dated September 23, 2011, the Executive Director notified the City that an extension was granted until December 30, 2011; and

WHEREAS, by email dated November 14, 2011, the City notified the Commission of the need for additional time to adopt and submit the necessary ordinance amendments; and

WHEREAS, by letter dated November 15, 2011, the Executive Director notified the City that a further extension was granted until February 29, 2012; and

WHEREAS, February 9, 2012, Egg Harbor City adopted Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the City's Code in response to the forestry, wetlands management and clustering amendments to the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission received a certified copy of Ordinance 5-2012 on February 21, 2012; and

WHEREAS, by letter dated March 5, 2012, the Executive Director notified the City that Ordinance 5-2012 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinance 5-2012 was duly advertised, noticed and held on April 11, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance 5-2012 is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance 5-2012 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance 5-2012 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; 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

1. An Order is hereby issued to certify that Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is in conformance with the Pinelands Comprehensive Management Plan.

2. Any additional amendments to Egg Harbor City's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

State of New Jersey
THE PINELANDS COMMISSION
PO BOX 359
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(609) 894-7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON ORDINANCE 5-2012, AMENDING CHAPTER 170 (LAND USE AND DEVELOPMENT) OF THE CODE OF EGG HARBOR CITY

April 27, 2012

Egg Harbor City
500 London Avenue
Egg Harbor City, NJ 08215

FINDINGS OF FACT

I. Background

The City of Egg Harbor is located within central Atlantic County, in the eastern portion of the Pinelands Area. Pinelands municipalities adjacent to Egg Harbor City include the Townships of Mullica and Galloway in Atlantic County, and Washington Township in Burlington County.

On February 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Egg Harbor City.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently provided a model ordinance and other guidance

to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.

By email dated September 22, 2011, Egg Harbor City notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated September 23, 2011, the Executive Director notified the City that an extension was granted until December 30, 2011.

By email dated November 14, 2011, the City notified the Commission of the need for additional time to adopt and submit the necessary ordinance amendments. By letter dated November 15, 2011, the Executive Director notified the City that a further extension was granted until February 29, 2012.

On February 9, 2012, Egg Harbor City adopted Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the City's Code in response to the forestry, wetlands management and residential clustering amendments to the Pinelands Comprehensive Management Plan. The Pinelands Commission received a certified copy of Ordinance 5-2012 on February 21, 2012.

By letter dated March 5, 2012, the Executive Director notified the City that Ordinance 5-2012 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

* Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, introduced on January 26, 2012 and adopted on February 9, 2012.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Land Use Ordinance Relating to Development Standards

Forestry

Ordinance 5-2012 amends Chapter 170 of the City's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 5-2012 further amends Chapter 170 by replacing Section 170-60D, in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on the amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

With respect to one silvicultural practice in particular, Ordinance 5-2012 adopts standards which are more restrictive than those set forth in the CMP. Specifically, Ordinance 5-2012 incorporates increased buffer requirements applicable to areas subject to clearcutting. Whereas the CMP specifies 50 foot buffer requirements, Ordinance 5-2012 requires that a buffer of 100 foot must be maintained between any clearcut and a public road, while 200 feet must be maintained between any clearcut and an internal property line.

Pinelands municipalities have always had the general ability to refine the various standards and provisions of the Comprehensive Management Plan and tailor them to local conditions, provided Comprehensive Management Plan goals and objectives continue to be achieved. N.J.A.C. 7:50-6.42 expressly provides that municipal forestry programs need not incorporate the literal terms of forestry standards set forth in the CMP; rather, municipalities may adopt alternative and additional techniques which will achieve protection of forestry resources. In addition, Subchapter 6 (Management Programs and Minimum Standards) of the CMP specifies that municipalities may adopt more restrictive regulations, provided such regulations are compatible with the goals and objectives of the CMP. In this case, Egg Harbor City has elected to adopt more restrictive buffer requirements for clearcutting, with the hope that these larger buffers will keep clearcutting activities from being as visible from roads and adjoining properties. In some cases (likely only on relatively small parcels), a minor reduction in the amount of clearcutting that can occur on a parcel may also result. The City's increased buffer requirements are entirely compatible with the CMP's goals and objectives for forestry management.

The amended forestry standards adopted by Ordinance 5-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

Wetlands Management

Ordinance 5-2012 amends Chapter 170 of the City's Code by adding wetlands management to the list of uses permitted in the City's Pinelands Preservation and Forest Area zoning districts (PA and R-20F). Ordinance 5-2012 also revises Section 170-74A(5), Note 22, to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 5-2012 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management

Development Transfer Program

Ordinance 5-2012 amends Chapter 170 by revising the provisions of the City's Forest Area development transfer program to clarify the types of uses which may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 5-2012 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted: low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses.

The amended development transfer program standards adopted by Ordinance 5-2012 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

Cluster Development

Ordinance 5-2012 amends Chapter 170 by adding residential cluster development as a permitted use in the City's R-20F (Residential – Forest) District. Furthermore, Ordinance 5-2012 indicates that whenever two or more residential units are proposed in these zoning districts, cluster development will be required. The ordinance then sets forth the standards which all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities.

According to Ordinance 5-2012, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation restriction. This open space area must be owned and managed by a homeowners association, a non-profit conservation organization or the City, or it may be incorporated as part of one of the lots within the cluster development area. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface.

Ordinance 5-2012 specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 170 for the R-20F District (one unit per 20 acres). For example, ten units would be permitted on a 200 acre parcel located in the R-20F District.

Ordinance 5-2012 also provides bonus density to parcels of 50 or more acres in size. This bonus density ranges from 20 to 30%, depending on the size of the parcel. The larger the parcel, the larger the percentage of bonus density provided. The bonus density percentages and acreage thresholds adopted by Ordinance 5-2012 are identical to those contained in N.J.A.C. 7:50-5.19(d)1 of the Comprehensive Management Plan.

The amendments adopted by Ordinance 5-2012 sufficiently respond to the April 2009, Comprehensive Management Plan amendments relative to cluster development.

Ordinance 5-2012 is consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

Ordinance 5-2012 amends Chapter 170 by replacing Section 170-60C, in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 5-2012 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance 5-2012, amending the Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

Ordinance 5-2012, amending Chapter 170 (Land Use and Development) of the Code of Egg Harbor City, is consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Egg Harbor City's application for certification of Ordinance 5-2012 was duly advertised, noticed and held on April 11, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

> Jaclyn Rhoads, representing the Pinelands Preservation Alliance, summarized her written comments (see Exhibit #1). She indicated that while PPA supports cluster development in general, it cannot support Egg Harbor City Ordinance 5-2012 unless changes are made to revise the bonus density requirements to expressly state that bonus densities are only provided if lots are aggregated. She stated that all of Egg Harbor City's Forest Area has an Ecological Integrity Assessment score between 70 and 100 percent, which justifies the need for more tailored bonus density provisions.
>
> There being no further testimony, the hearing was concluded at 9:45 a.m.

EXECUTIVE DIRECTOR'S REPONSE

The issue raised by Ms. Rhoads concerning density bonuses for cluster development in the Pinelands Forest Area is one which was the subject of much discussion by the Commission when the clustering rules were adopted in 2009. Ultimately, the Commission adopted amendments to the CMP which mandate the provision of bonus densities to all cluster developments which involve 50 or more acres in the Pinelands Forest and Rural Development Areas. Egg Harbor City has adopted these mandatory density bonus provisions verbatim; therefore, the provisions of Ordinance 5-2012 are fully consistent with the CMP.

The CMP does provide Pinelands municipalities with the opportunity to adopt clustering standards which are different from, and in some cases more restrictive than, those set forth in the CMP. However, municipalities are not obligated to do so. In some cases, Commission staff may recommend that municipality consider revised standards, particularly when necessary to recognize an existing density transfer program. The mere fact that a Forest Area contains a significant amount of land with high ecological integrity is unlikely to lead to such a recommendation as most, if not all, Pinelands Forest Areas exhibit that characteristic. Indeed, the need to limit scattered and piecemeal development in the Forest Area, due to its high ecological integrity, was one of the main reasons for the Commission's adoption of the mandatory clustering and bonus density provisions in 2009.

It is worth noting that the development potential in Egg Harbor City's Pinelands Forest Area is extremely limited, due to wetlands constraints and the fact that the vast majority of existing lots are well under one acre in size. Consolidation or aggregation of lots will therefore be necessary even for the development of one unit, much less a cluster development. The Executive Director does not believe that limiting the bonus density in the manner suggested by Ms. Rhoads is advisable or necessary in this case.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 5-2012 sufficiently implements the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan and complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 5-2012 of Egg Harbor City.

SRG/CEG
Attachment

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 13

TITLE: Issuing an Order to Certify the 2011 Master Plan Reexamination Report of the Town of Hammonton, Amendments to the Land Use Element of the Master Plan, and Ordinance 023-2011, Amending Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton

Commissioner Ronan Green **moves and Commissioner** Jackson **seconds the motion that:**

WHEREAS, on November 9, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Town of Hammonton; and

WHEREAS, Resolution #PC4-84-73 of the Pinelands Commission specified that any amendment to the Town's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-84-73 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on August 17, 2011, the Town of Hammonton Planning Board adopted a Master Plan Reexamination Report, reviewing the major problems and objectives identified in the Town's 2004 Master Plan, the extent to which these problems and objectives have been reduced or increased and significant changes in policies and objectives since 2004; and

WHEREAS, the 2011 Master Plan Reexamination Report also contains a series of recommended changes to the Town's Master Plan and municipal development regulations, including the extension of sewer beyond the boundaries of the Pinelands Town area, a White Horse Pike corridor study, rezonings within the "Downtown" Area, revised sign standards and Pinelands management area changes involving an existing airport; and

WHEREAS, on August 17, 2011, the Town of Hammonton Planning Board also adopted a set of Amendments to the Land Use Element of the Town's Master Plan, consisting of a "Downtown Area Plan" which sets forth a land use strategy, complete with recommendations for new zoning districts within the Pinelands Town area, and an urban design strategy with new standards for building design, building types, front and side yard setbacks, parking, impervious coverage ratios and buffers; and

WHEREAS, the Pinelands Commission received a copy of the Planning Board's resolution of adoption for the 2011 Master Plan Reexamination Report and Amendments to the Land Use Element of the Master Plan on August 23, 2011; and

WHEREAS, on November 28, 2011, the Town of Hammonton adopted Ordinance 023-2011, amending Chapter 175 (Land Use and Development) of the Town's Code for purposes of implementing the recommendations of the Land Use Element amendments through adoption of the "Hammonton Downtown Code" which sets forth a variety of revised design standards and establishes a multitude of new zoning districts within Hammonton's Pinelands Town area; and

WHEREAS, Ordinance 023-2011 also adopts a revised Zoning Map, dated February 2002 and last revised December 2011, which reflects the boundaries of the new zoning districts created in the Downtown Code, including the Downtown Districts (D-1, D-2, D-3 and D-4) and the Gateway Districts (G-1, G-2, and G-3); and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 023-2011 on December 6, 2011; and

WHEREAS, on December 9, 2011, the Pinelands Commission received a copy of the revised Zoning Map adopted by Ordinance 023-2011; and

WHEREAS, on January 11, 2012, at the Commission staff's request, the Town provided a shapefile of the adopted Zoning Map to facilitate identification and review of any changes in Pinelands management area designations; and

WHEREAS, a number of minor changes in Pinelands management area designations, involving the boundaries between the Pinelands Town and Agricultural Production Area, were subsequently identified; and

WHEREAS, by letter dated March 26, 2012, the Executive Director notified the Town that the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 was duly advertised, noticed and held on April 11, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011, amending Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton, are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that the Master Plan Reexamination Report, Master Plan Amendments and Ordinance 023-2011 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the Master Plan Reexamination Report, Master Plan Amendments and Ordinance 023-2011 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; 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

1. An Order is hereby issued to certify that the 2011 Master Plan Reexamination Report of the Town of Hammonton, Amendments to the Land Use Element of the Master Plan, and Ordinance 023-2011, amending Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton, are in conformance with the Pinelands Comprehensive Management Plan.

2. Any additional amendments to the Town of Hammonton's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON THE TOWN OF HAMMONTON'S 2011 MASTER PLAN REEXAMINATION REPORT, AMENDMENTS TO THE LAND USE ELEMENT OF THE TOWN'S MASTER PLAN, AND ORDINANCE 023-2011, AMENDING CHAPTER 175 (LAND USE AND DEVELOPMENT) OF THE CODE OF THE TOWN OF HAMMONTON

April 27, 2012

Town of Hammonton
100 Central Avenue
Hammonton, NJ 08037

FINDINGS OF FACT

I. Background

The Town of Hammonton is located in western Atlantic County, in the central portion of the Pinelands Area. Pinelands municipalities that abut Hammonton Town include the Borough of Folsom and the Townships of Hamilton and Mullica in Atlantic County, the Townships of Waterford and Winslow in Camden County, and the Townships of Shamong and Washington in Burlington County.

On November 9, 1984, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Town of Hammonton.

On August 17, 2011, the Town of Hammonton Planning Board adopted a Master Plan Reexamination Report which reviews the major problems and objectives identified in the Town's 2004 Master Plan, the extent to which these problems and objectives have been reduced or increased and significant changes in policies and objectives since 2004. The 2011 Master Plan Reexamination Report also contains a series of recommended changes to the Town's Master Plan and municipal development regulations, including the extension of sewer beyond the boundaries of the Pinelands Town area, a White Horse Pike corridor study, rezonings within the "Downtown" Area, revised sign standards and Pinelands management area changes involving an existing airport.

On August 17, 2011, the Town of Hammonton Planning Board also adopted a set of Amendments to the Land Use Element of the Town's Master Plan, consisting of a "Downtown Area Plan". This Downtown Area Plan includes a land use strategy, complete with

recommendations for new zoning districts within the Pinelands Town area, and an urban design strategy with new standards for building design, building types, front and side yard setbacks, parking, impervious coverage ratios and buffers.

The Pinelands Commission received a copy of the Planning Board's resolution of adoption for the 2011 Master Plan Reexamination Report and Amendments to the Land Use Element of the Master Plan on August 23, 2011.

On November 28, 2011, the Town of Hammonton adopted Ordinance 023-2011, amending Chapter 175 (Land Use and Development) of the Town's Code for purposes of implementing the recommendations of the Land Use Element amendments. Specifically, Ordinance 023-2011 adopts the "Hammonton Downtown Code" which sets forth a variety of revised design standards and establishes a multitude of new zoning districts within Hammonton's Pinelands Town area. Among these are the Downtown Districts (DT-1, DT-2, DT-3 and DTl-4) and the Gateway Districts (GW-1, GW-2, and GW-3). Ordinance 023-2011 also adopts a revised Zoning Map, dated February 2002 and last revised December 2011, which reflects the boundaries of the new zoning districts created in the Downtown Code. The Pinelands Commission received a certified copy of Ordinance 023-2011 on December 6, 2011.

On December 9, 2011, the Pinelands Commission received a copy of the revised Zoning Map adopted by Ordinance 023-2011. On January 11, 2012, at the Commission staff's request, the Town provided a shapefile of the adopted Zoning Map to facilitate identification and review of any changes in Pinelands management area designations. A number of minor changes in Pinelands management area designations, involving the boundaries between the Pinelands Town and Agricultural Production Area, were subsequently identified.

By letter dated March 26, 2012, the Executive Director notified the Town that the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification:

* 2011 Master Plan Reexamination Report of the Town of Hammonton, adopted by the Planning Board on August 17, 2011;

* Amendments to the Land Use Element of the Master Plan of the Town of Hammonton, adopted by the Planning Board on August 17, 2011; and

* Ordinance 023-2011, amending Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton, including a revised Zoning Map dated February 2002 and last revised December 2011, introduced on October 24, 2011 and adopted on November 28, 2011.

These master plan and ordinance amendments has been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Land Use Ordinance Relating to Development Standards

Form-Based Code

As noted above, Hammonton's Master Plan has been amended to incorporate a Downtown Area Plan, applicable to a specific portion of the municipality's Pinelands Town area. The Downtown Area Plan includes a land use strategy, complete with recommendations for new zoning districts within the Pinelands Town area, and an urban design strategy with new standards for building design, building types, front and side yard setbacks, parking, impervious coverage ratios and buffers. The goals of the Plan are to encourage a mutually-supportive mix of retail, residential, office, service and civic uses, provide land use flexibility and conserve sensitive areas, such as the Bellevue Avenue retail area. To accomplish these goals, the Plan recommends that the traditional "use-based" zoning be replaced with a "Character District-based Zoning Framework" which focuses on form rather than use, as a means of protecting neighborhood character and achieving community design and functionality goals. Critical to the new zoning framework is the reorganization of the zoning currently in place within the Downtown Area, such that the distinct design character of different areas is recognized.

Ordinance 023-2011 implements the recommendations made by the master plan amendments through adoption of the Hammonton Downtown Code. This Code reflects the form-based zoning strategies outlined in the master plan amendments, including the importance of replacing the large, general commercial zones within the Downtown Area with multiple smaller zoning districts tailored to the character and needs of specific areas. To these ends, Ordinance 023-2011 eliminates the B-1 (Town Business) District and creates seven new zoning districts. These include three Gateway Districts clustered around the intersection of Route 54 and the White Horse Pike: GW-1 (Gateway Avenue); GW-2 (Gateway Boulevard); and GW-3 (Gateway Crossroads). Four Downtown Districts are also created within the traditional downtown area around Bellevue Avenue: DT-1 (Near Town); DT-2 (In Town, Railway); DT-3 (In Town); and DT-4 (Downtown). Lists of permitted uses for the new zones are adopted by Ordinance 023-2011, along with minimum lot size requirements and permitted building types. Exhibit #1 shows the locations of the new zones, as well as the applicable permitted uses and building types.

All of the new zoning districts created by Ordinance 023-2011 are located entirely within Hammonton's existing Pinelands Town area. The CMP gives Pinelands municipalities a great deal of latitude in determining the types of zoning districts and uses they feel are most appropriate within their Pinelands Town boundaries. The zoning plan adopted by Ordinance 023-2011 is fully consistent with CMP standards for Pinelands Towns.

Other Pinelands Town Zoning Changes

Ordinance 23-2011 also makes changes involving two existing zones within Hammonton's Pinelands Town. First, the M-D (Mixed Use) District is renamed as the M-2 (Multi-Use) District, with no changes in permitted uses. Second, the B-2 (Highway Business) District is renamed as the H-B (Highway Business) District, and the permitted uses therein are revised to include a variety of local retail activities, local service activities, restaurants, banks and professional offices, along with automotive service stations, funeral parlors and apartments on the second and third floors of nonresidential buildings. These changes are fully consistent with the land use standards of the Comprehensive Management Plan.

Pinelands Management Area Changes

The Zoning Map adopted by Ordinance 023-2011 also reflects a small number of very minor changes in Pinelands management area designations. All of these changes affect lots which are currently split between the Agricultural Production Area and Hammonton's Pinelands Town area. Ordinance 023-2011 redraws the management area boundary so that in each instance, the affected lots will now be either entirely within the Agricultural Production Area or entirely within the Pinelands Town.

The first area affected by Ordinance 023-2011 is situated on 11th Street. The previously certified management area boundary in this location was drawn to follow a 400 foot setback off 11th Street. Ordinance 023-2011 redraws the boundary to coincide with the rear lot lines of Block 1301, Lots 4.01 and 4.02, both small residentially developed lots. This reduces the RR Zone from a depth of 400 feet to a depth of 325 feet. As a result, the lot to the rear, Block 1301, Lot 22, will now be entirely located in the Agricultural Production Area. Approximately 0.50 acres are added to the Agricultural Production Area. Further down 11th Street, Ordinance 023-2011 redraws the management area boundary to coincide with the rear lot lines of Block 1301, Lots 10 and 10.01. In this case, the RR Zone is expanded from a depth of 400 feet to a depth of 514 feet, resulting in an increase to the Pineland Town area of approximately 0.9 acres.

The second area affected by Ordinance 023-2011 is located at the southeasterly corner of the Plymouth Road and Bridge Avenue intersection. Here the previously certified Pinelands Town boundary extended across Plymouth Road and across portions of Block 4801, Lots 21 and 22. Ordinance 023-2011 adjusts this boundary line so that all of Block 4801, Lot 22 (a small, residentially developed lot) will now be located in the R-3 Zone. This results in the redesignation of approximately 0.25 acres from the Agricultural Production Area to the Pinelands Town. A similarly sized portion of block 4801, Lot 21

is rezoned from the R-3 Zone to the Agricultural Production Area, so that the entire lot will now be located in the Agricultural Production Area.

The management area changes made by Ordinance 023-2011 are nothing more than small adjustments made for purposes of ensuring that management area and zoning lines coincide with lot lines. This is a practice which the Commission has long encouraged and should aid in administration of the zoning lines by both the Town and Commission staff. In terms of net changes, a small (less than half an acre) increase in the Pinelands Town results. No offsetting management area changes are required for an increase of this size.

Other Amendments

As noted previously, Hammonton's 2011 Master Plan Reexamination Report includes recommendations for ordinance, zoning and management area changes in the Pinelands Area which go beyond those related to the Downtown Area Code or the minor management area adjustments described above. Notably, the Master Plan Report refers to possible Pinelands management area changes for an existing airport, currently located in the Agricultural Production Area. The recommendation made in the Master Plan Report is very general and no specific management area changes involving the airport are identified. The Zoning Map adopted by Ordinance 023-2011 does not reflect any management area changes for the airport property. It is the Executive Director's understanding that the Town will be addressing the zoning of the airport property through a separate ordinance amendment. Any such ordinance amendment would require review and approval by the Pinelands Commission. At the present time, the Master Plan Report's recommendation remains just that, a recommendation. It has not been implemented and therefore is not the subject of this report.

The 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

3. Requirement for Certificate of Filing and Content of Development Applications

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

The 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011, amending the Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

The 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011, amending the Chapter 175 (Land Use and Development) of the Code of the Town of Hammonton, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

None of the management area changes adopted by Ordinance 023-2011 involve lands which are adjacent to any other municipalities. Likewise, the new Downtown Area Code and seven new zoning districts established by Ordinance 023-2011 do not affect lands on Hammonton's boundaries with other municipalities. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning the Town of Hammonton's application for certification of its 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 was duly advertised, noticed and held on April 11, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

Jaclyn Rhoads, representing the Pinelands Preservation Alliance (PPA), stated that PPA is supportive of form-based codes as they accommodate more sustainable development, mixed use and better design. She stated that PPA supported Ordinance 023-2011, provided the changes in Pinelands management area boundaries were of a minor nature.

There being no further testimony, the hearing was concluded at 9:45 a.m.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan and Ordinance 023-2011 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the 2011 Master Plan Reexamination Report, Amendments to the Land Use Element of the Master Plan, and Ordinance 023-2011 of the Town of Hammonton.

SRG/CHT
Attachments

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 14

TITLE: To Authorize the Executive Director to Enter into an Agreement with the US Geological Survey (USGS) to Include Matching Funds from the USGS to Assist the Commission in Performing a Rapid Assessment of Uncapped Landfills Within the Pinelands Area

Commissioner Jackson **moves and Commissioner** Ronan Green **seconds the motion that:**

WHEREAS, N.J.A.C. 7:50-6, Part VII (Waste Management), of the Pinelands Comprehensive Management Plan (CMP) requires that all landfills in the Preservation Area which ceased operation on or after September 23, 1980 and all landfills in the Protection Area which ceased operation on or after January 14, 1981 be capped with an impermeable material unless specific conditions can be clearly demonstrated; and

WHEREAS, one such condition exempting a landfill from the requirement to be capped is a demonstration that the landfill accepted only vegetative waste or construction debris; and

WHEREAS, another condition that exempts a landfill from the obligation to be capped is a demonstration that an alternative means of addressing the public health and ecological risks associated with the landfill is available and where such an alternative would provide for the protection of Pinelands resources equivalent to that which would be provided if the landfill were capped with an impermeable material; and

WHEREAS, the last condition that exempts a landfill from the obligation to be capped is a demonstration that no leachate plume exists and the landfill is not generating leachate; and

WHEREAS, the CMP requires that plans to cap landfills or to implement alternate closure methods shall have been submitted to the Commission by May 20, 1997; and

WHEREAS, capping or alternate closure must have begun immediately following approval of such plans except where an extension of the capping/closure deadline was granted by the Commission as a result of specific conditions being clearly demonstrated ; and

WHEREAS, the conditions necessary for the granting of a deadline extension include a finding that 1) the level of chemical constituents in a leachate plume do not exceed background levels of those pollutants as measured at the parcel line and the plume is not moving offsite, or 2) the levels of chemical constituents in the leachate plume exceed background levels, or the plume is moving offsite but the chemical levels or plume do not pose a significant public health risk as determined by the Department of Environmental Protections **and** the plume does not pose a significant ecological risk as determined by examining whether the plume is located within an undisturbed watershed or is likely to impact publically owned conservation lands or systems which support known populations of threatened or endangered species; and

WHEREAS, the great majority of landfills in the Pinelands Area remain uncapped and do not have closure plans approved by the Commission, yet are generally subject to the periodic reporting of groundwater monitoring to NJDEP pursuant to NJDEP regulations; and

WHEREAS, the possible existence of landfill leachate plumes and the potential ecological threat that such plumes may impose remains largely uncharacterized throughout the Pinelands Area; and

WHEREAS, Commission staff conducted a pilot demonstration project during the summer of 2010 which included the review of select NJDEP files on Pinelands Area landfills , the collection of landfill monitoring well data from the NJDEP files, a comparison of detected chemical constituent levels with NJDEP water quality standards, a geographic information system (GIS) analysis of the landfills which included mapping of landfill parcels, landfill boundaries, Pinelands Management Area, land use-land cover characteristics, surface water bodies, wetlands, soil type (as an estimate for depth to seasonal high

water) and ecological integrity score (as a surrogate for watershed disturbance and potential presence of threatened or endangered species); and

WHEREAS, after completing the pilot demonstration project, Commission staff determined that the application of a similar, more comprehensive rapid assessment analysis, if coupled with fate and transport analysis of landfill plume chemical constituents, would be of significant value to the Commission, to NJDEP and to landfill owners in estimating the risk level that each landfill poses to the environment and in prioritizing the need for, or release from, mandatory landfill closure requirement; and

WHEREAS, the results of the pilot demonstration project were shared with NJDEP and USGS and were considered valuable and worthy of further development; and

WHEREAS, Commission staff requested that the USGS expand on the basic demonstration project approach and provide the Commission with a proposal to undertake a comprehensive rapid assessment of Pinelands Area Landfills; and

WHEREAS, the USGS has developed a draft rapid assessment protocol that meets the Commission's needs with respect to the rapid ranking of the threat level of existing Pinelands Area landfills using existing groundwater monitoring and GIS data; and

WHEREAS, Pinelands Commission Resolution PC4-05-25 establishes Pinelands Commission policies for the use and management of the Pinelands Conservation Fund as detailed in a plan titled New Jersey Pinelands Commission Pinelands Conservation Fund and dated April 7, 2005; and

WHEREAS, one of the objectives of the Pinelands Conservation Fund is to support planning and research initiatives that directly benefit the conservation of Pinelands resources; and

WHEREAS, the Pinelands Conservation Fund Program policies provide for the eligibility of planning and research initiatives, undertaken by the Commission or by another governmental organization, that would directly benefit Pinelands resource protection; and

WHEREAS, in FY 2010, the Commission entered into a $20,000 agreement with the USGS to provide technical assistance to the Commission in the planning for the Buena Borough Municipal Utilities Authority land application of wastewater facility; and

WHEREAS, this $20,000 agreement was financed from the Pinelands Conservation Fund; and

WHEREAS, the USGS agreed to provide matching funds in the amount of $20,000 to the Pinelands Commission to provide the additional technical assistance in the planning of a wastewater land application facility and to provide technical assistance to the Commission in reviewing and interpreting geologic and hydrogeologic submittals made to the Commission on behalf of the Buena Borough Municipal Utilities Authority; and

WHEREAS, the Executive Director recommended to the Personnel and Budget Committee that the agreement with USGS be amended to incorporate a $20,000 matching contribution from USGS for a total agreement of $40,000; and

WHEREAS, the study by the USGS of the Buena Borough Municipal Utilities Authority was terminated shortly after it began as a result of the USGS rapidly identifying the proposed land application site as unsuitable for the proposed use due to hydrogeologic limitations; and

WHEREAS, as a result of the USGS' rapid completion of the Buena Borough Municipal Utilities Authority study, a total of $36,400 remains available from the original $40,000 budgeted for that project; and

WHEREAS, the Commission received a contribution of $152,900 to the Pinelands Conservation Fund for use in evaluating other Pinelands Area landfills as an environmental offset in exchange for authorizing the installation of solar photovoltaic panels at the site of the impermeably capped Stafford Township landfill; and

WHEREAS, the attached program outline and scope of work, dated April 17, 2012, developed in conjunction with the USGS, would provide for the implementation of a rapid assessment and threat level ranking of Pinelands Area landfills, thereby directly benefitting the conservation of Pinelands water resources; and

WHEREAS, the bylaws of the Pinelands Commission require the Commission's approval of contracts in excess of the threshold stipulated in N.J.S.A. 52:25:23, currently set by the State Division of Purchase and Property at $36,000; and

WHEREAS, both the Policy and Implementation Committee and the Personnel and Budget Committee have considered the Executive Director's recommendation and recommended that the Commission adopt a resolution to award a contract to the USGS for the rapid assessment of Pinelands Area landfills pursuant to the attached program outline and scope of work; 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:

1. The Pinelands Commission authorizes the Executive Director to enter into an agreement with the USGS to incorporate a matching $20,000 contribution from USGS for a total agreement of $180,000 for the USGS to provide technical assistance to the Commission in the development and application of a rapid assessment of Pinelands Area landfills.

2. The $180,000 cost shall be funded by utilizing $36,400 remaining from the now complete Buena Borough Municipal Utilities Authority land disposal site analysis and a $143,600 contribution from the Pinelands Conservation Fund, all of which was derived from the Stafford Township solar photovoltaic project contribution.

3. The Executive Director is authorized to approve agreement modifications as necessary to accomplish the project's goal, provided that any such modifications do not materially change the project's objectives and do not increase the Commission's costs.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

Rapid Assessment of Uncapped Landfills within the Pinelands Area v 1.1 04/17/2012

Purpose

To define potential water quality issues originating from selected uncapped landfills within the Pinelands Area and determine their likelihood to reach critical receptors based upon existing datasets and models. Upon completion, the "threat level" each landfill poses to nearby receptors will be determined. This will provide critical guidance to the New Jersey Pinelands Commission (NJPC) as opportunities to reutilize these landfills are explored by Pineland communities.

Approach

The Pinelands Commission staff will identify uncapped landfills within the Pinelands Area to include in this assessment. It is anticipated that approximately sixty landfills will be the subject of this study. Selection criteria will include the following: accepted waste other than strictly vegetation or construction materials; ceased operation on or after Sept. 23, 1980 if in the Preservation Area or after Jan. 14, 1981 if in the Protection Area; and not already undergoing capping or monitoring as part of an ongoing remediation effort. In order to evaluate the threat level associated with each of the subject landfills, existing data will be compiled, a groundwater fate and transport analysis will be conducted and the need for an ecological evaluation (EE) or Ecological Risk Assessment (ERA) will be determined.

Data Compilation

Acquire Existing Groundwater Monitoring Data from NJDEP files (Data Mining)

The New Jersey Department of Environmental protection (NJDEP) Bureau of Landfill and Hazardous Waste Permitting maintains paper records for the subject landfills. These records will be examined by USGS staff and pertinent documents will be scanned using a portable document scanner into searchable PDF files. A database of critical information (detailed below) will be created based upon the available data for each landfill. As many of these landfills were constructed before land application or monitoring well records were required, we anticipate that not all desired information will be available.

Target documents:

- Solid waste disposal permits or other records indicating period of operation, types of wastes accepted and water quality monitoring requirements.
- Monitoring well permits or other records indicating the locations and construction details (ex. depth and screen length) of monitoring wells.
- Driller's logs or other records indicating the subsurface lithology.

- Water quality results including date of analysis, name of laboratory, analyte name, analyte concentration, concentration units, laboratory reporting limits and quality assurance data.
- Groundwater level measurements.
- Any other records deemed pertinent to the hydrology, water quality and potential impact of leachate originating from the target landfill to Pinelands resources.

Geographic Analysis

Pertinent geographic information within the PNR will be assembled using ARC GIS by Pinelands scientists and shared with USGS staff upon completion. Data elements will include (but not be limited to):

- Pinelands Area
- Topographic position
- Soils
- Proximity to Wetlands & Surface Waters (ecological receptors)
- Proximity to development, esp. drinking water wells (human receptors)
- Estimated depth to seasonal high water table
- Proximity to known or likely threatened and/or endangered species habitat
- Proximity to known or likely public and private drinking water supply wells

Groundwater Fate and Transport Analysis

The travel time to and concentration of contaminants of concern (COCs) at human and ecological receptors identified during the data compilation phase of this project will be estimated using an Excel-based version of the Domenico (1987) analytical model for multidimensional transport of decaying contaminant species. Key tasks include:

- Define input parameters
    - Use existing models and published studies of Pinelands hydrogeology to determine relevant hydraulic input parameters (hydraulic conductivity and gradient)
    - Use compiled data to generate a list of COCs to include in model runs for each landfill
        - Assemble literature-based physical/chemical input parameters (K_{oc}, dispersivity, decay coefficients, and retardation factors) for each COC.
        - Use highest observed concentration of each COC as the source concentration input parameter

- Use compiled data and relevant published datasets to estimate site specific input parameters (source width and thickness, porosity, soil bulk density and organic carbon content)
- In all cases, the most conservative input parameters will used in order to generate a model for each COC at each landfill in order to construct a model that is conservative with respect to the protection of Pinelands resources

- Perform sensitivity analysis and adjust input parameters with appropriate "safety factors" to account for uncertainty
- Create a table of results for each landfill and COC indicating the distance and time at which the COC concentration equals a relevant regulatory standard (ex. MCL, USEPA Aquatic Life Benchmark) and the practical quantitation level (PQL) for the corresponding analytical method.

Threat Level Assessment

The threat to receptors posed from COC originating from evaluated landfills will be categorized based upon a logic structure similar to the ecological evaluation process utilized by NJDEP (NJDEP, 2011)(Figure 1):

Threat Level = Unknown

- Data compiled from NJDEP Bureau of Landfill and Hazardous Waste Permitting is insufficient to characterize the presence of COCs at the landfill.
- Assuming that sufficient data was retrieved to validate that the existing monitoring wells were constructed appropriately, these wells would need to be sampled for suite of water quality parameters (to include likely COCs based upon the types of waste that the facility received) before the threat level of subject landfill could be fully assessed.
- Using the above described groundwater transport model, minimum source concentrations for each COCs will be determined that meet the following criteria:
  - COC concentration equals the PQL at the nearest receptor
  - COC concentration equals 50% of any relevant regulatory standard
  - COC concentration equals 100% of any relevant regulatory standard

Threat Level = Low

- Data compiled from the NJDEP Bureau of Landfill and Hazardous Waste Permitting is sufficient to characterize the presence of COCs.
- Results of the groundwater fate and transport analysis indicate that COCs identified in existing monitoring wells do not reach identified receptors at concentrations greater than the PQL.

Threat Level = Moderate

- Data compiled from the NJDEP Bureau of Landfill and Hazardous Waste Permitting is sufficient to characterize the presence of COCs.

- Results of the groundwater fate and transport analysis indicate that COCs identified in existing monitoring wells reach receptors at concentrations greater than the PQL but less than 50% of any relevant regulatory standard.

Threat Level = High

- Data compiled from the NJDEP Bureau of Landfill and Hazardous Waste Permitting is sufficient to characterize the presence of COCs.
- Results of the groundwater fate and transport analysis indicate that COCs identified in existing monitoring wells reach receptors at concentrations greater than or equal to 50% of any relevant regulatory standard.

Deliverables

- Digital copies of all materials retrieved during the data compilation phase from NJDEP records and all final Domenico model Excel spreadsheets for each COC at each landfill.
- An on-line interpretive report describing the above approach and the results of the "threat level" analysis for each of the subject landfills.

Timeline

Months 1-4

- USGS and NJPC staffs complete data compilation tasks
    - Deliver data compiled from NJDEP to NJPC
- Select input parameters for Domenico model and conduct preliminary sensitivity analysis

Month 5

- Present study design and results of data compilation to NJPC and stakeholders.
- Meet with NJPC to verify final list of selected landfills and COCs
- If necessary, adjust approach per results of data compilation NJPC or stakeholder comments

Months 6-9

- Present table of COCs and relevant regulatory standards to NJPC.
- Conduct groundwater fate and transport analysis for each COC at each landfill
    - Deliver final Domenico model Excel spreadsheets for each COC at each landfill to NJPC
- Conduct threat level assessment for each landfill

Months 10-12

- Present results of study to NJPC and stakeholders
- Submit interpretive report documenting the approach and results of this study to USGS colleague and NJPC review

Months 13-15

- Address technical and editorial comments on report
- Prepare report for on-line publication

Month 16

- Final report available to public via USGS-hosted website

Budget

Total budget = $180,000 ($150k from NJPC + $30k remaining from USGS/NJPC Buena Borough study)

Expense Summary	
Labor	$85,080
Direct Science Support (Technical Oversight, Database, Clerical, Drafting, Vehicles)	$35,500
Equipment	$1,000
Total Direct Cost	$129,580
Total Indirect Cost (Overhead)	$50,420
Total	$180,000

Labor - $85,081.32 – Funding necessary to complete USGS elements of workplan, attended meetings and make presentations as described above.

Direct Science Support - $35,499.43 – Includes cost of on-line publication of a USGS interpretive report.

Equipment – $1,000 - Purchase of a portable document scanner, large capacity portable hard drives and other digital storage media.

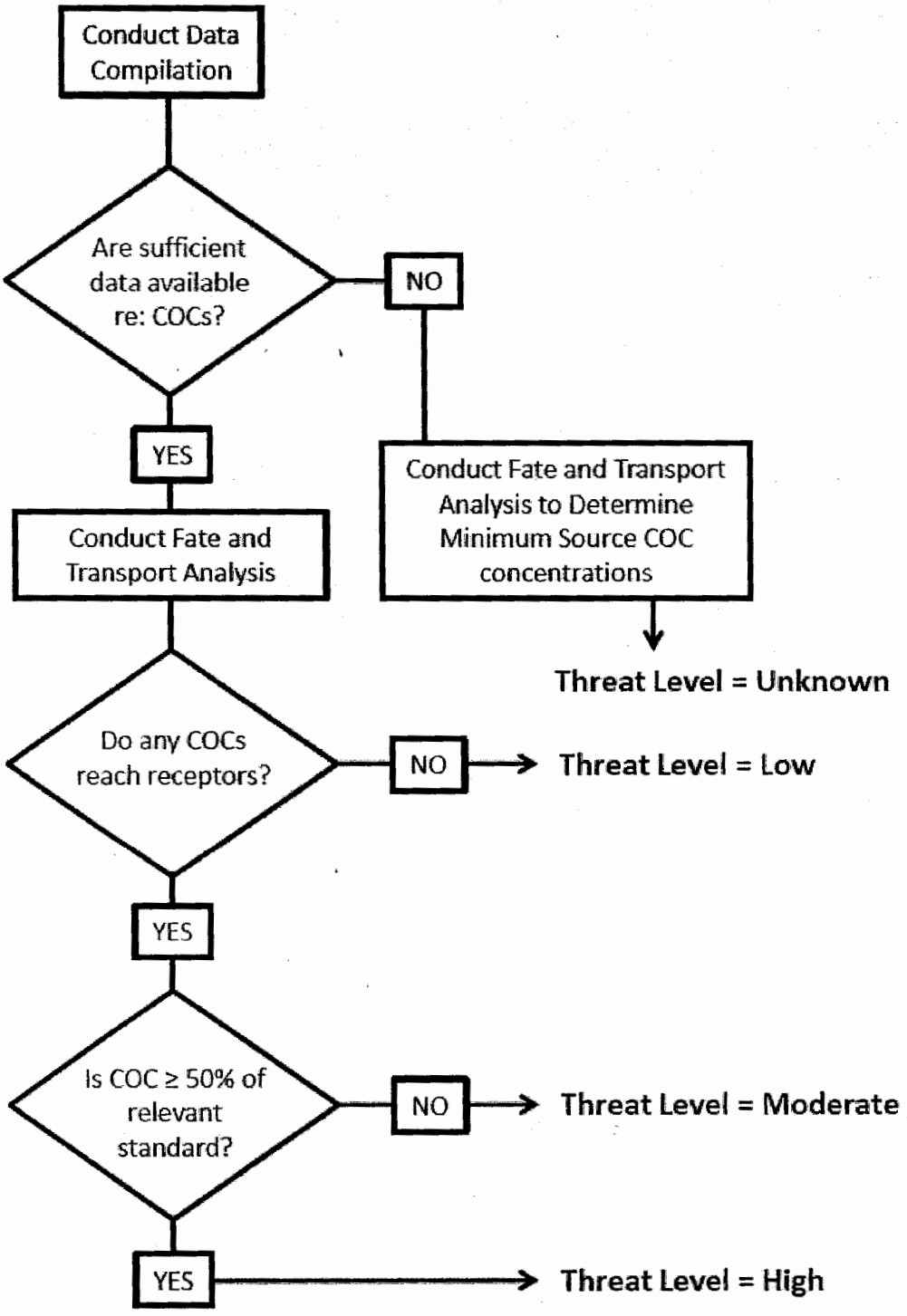
NOTE – The above costs were determined based upon the inclusion of sixty one landfills in this assessment. Should the number of landfills included in this study change, the project budget will be recalculated and increased or decreased accordingly.

References

Domenico PA (1987). An analytical model for multidimensional transport of decaying contaminant species. *Journal of Hydrology* **91:** 49-58.

New Jersey Department of Environmental Protection (2011). Ecological Evaluation Technical Guidance, Draft 8/24/2011, accessed 2/2012 at http://www.nj.gov/dep/srp/guidance/srra/ecological_evaluation.pdf

Figure 1. Landfill "Threat Level" Decision Tree



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 15

TITLE: Issuing an Order to Approve the Comprehensive Public Safety Tower Plan for Pinelands

Commissioner Richardson **moves and Commissioner** Haines **seconds the motion that:**

WHEREAS, the Pinelands Commission adopted amendment to the Pinelands Comprehensive Management Plan in 1995 to permit local communications facilities to exceed the 35 foot height limitation set forth in N.J.A.C. 7:50-5.4, if a comprehensive plan for all of a provider's proposed local communications facilities throughout the Pinelands Area is approved by the Pinelands Commission; and

WHEREAS, providers of cellular service submitted a comprehensive plan that was approved by the Pinelands Commission on September 11, 1998; and

WHEREAS, providers of PCS service submitted an amendment to the comprehensive plan that was approved by the Pinelands Commission on January 14, 2000; and

WHEREAS, AT&T Wireless of PCS of Philadelphia, LLC and its Affiliates submitted an amendment to the comprehensive plan that was approved by the Pinelands Commission on December 12, 2003; and

WHEREAS, T-Mobile Northeast LLC doing business as T-Mobile submitted an amendment to the comprehensive plan that was approved by the Commission on November 10, 2011; and

WHEREAS, the State of New Jersey's Office of Information Technology has submitted an amendment to the comprehensive plan, entitled Comprehensive Public Safety Tower Plan for Pinelands (hereinafter referred to as the Amendment) which the Executive Director deemed complete for purposes of review on December 16, 2011; and

WHEREAS, a public hearing on the amendment was duly advertised, noticed and held on February 21, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the OIT's technical consultant reviewed the Amendment and submitted a report of its finding to the Commission; and

WHEREAS, the Executive Director has reviewed the Amendment and OIT's technical consultant's report; and

WHEREAS, the Executive Director has considered all public comments received on the Amendment; and

WHEREAS, the Executive Director has submitted a April 27, 2012 report of her findings to the Commission; and

WHEREAS, the Executive Director has found that the Amendment is consistent with the Pinelands Comprehensive Management Plan's "need" test and, except for proposed facilities 19 and 21, with all of the standards of N.J.A.C. 7:50-5.4; and,

WHEREAS, proposed facilities 19 and 21 are currently inconsistent with the standards of N.J.A.C. 7:50-5.4(c)4vi; and

WHEREAS, proposed facilities 19 and 21 can be made consistent with the standards of N.J.A.C. 7:50-5.4(c)4vi, if facility 19 is sited at an appropriate location, if facility 21 is appropriately reduced in height, as a result of the heightened scrutiny provided for in N.J.A.C. 7:50-5.4(c)6, if the Commission grants an appropriate waiver, or if the Commission executes an appropriate Memorandum of Agreement; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Amendment and the Executive Director's report and has recommended that the Amendment be approved, provided that prior to construction of proposed facility 21, the Commission grants a Waiver of Strict Compliance or enters into a Memorandum of Agreement; and

WHEREAS, the Commission finds that the Amendment is consistent with the standards of N.J.A.C. 7:50-5.4, provided that prior to construction of proposed facility 21, the Commission grants a Waiver of Strict Compliance or enters into a Memorandum of Agreement, insofar as those standards apply to the preparation and approval of an amendment to a comprehensive plan for local communications facilities; and

WHEREAS, the Commission expressly recognizes that approval of this Amendment establishes a framework for siting local communications facilities but does not approve any specific application for development for any local communications facility; and

WHEREAS, the Commission also recognizes that this Amendment may be further amended pursuant to N.J.A.C. 7:50-5.4 and that the Executive Director shall advise the Commission of the need for amendments as specific conditions arise consistent with the advice of the Attorney General's office; and

WHEREAS, the Commission accepts the recommendation of the Executive Director to approve the Amendment, provided that prior to construction of proposed facility 21, the Commission grants a Waiver of Strict Compliance or enters into a Memorandum of Agreement, and hereby affirms the recommended procedures for the siting of individual wireless communications facilities, as set forth in Appendix E to her report; 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

1. An Order is hereby issued to approve the Comprehensive Public Safety Tower Plan for Pinelands, dated August 23, 2011, and revised November 3, 2011.

2. The Pinelands Commission expressly affirms that the review of all applications for development for all of the local communications facilities within the Amendment shall be done in accordance with the Executive Director's Report, dated April 27, 2012, including its appendices, in order to be consistent with CMP requirements.

3. Proposed facilities 19 and 21 will be subject to heightened scrutiny, at the time an application for development is submitted for either, if they are proposed at sites or heights, respectively, that are inconsistent with the standards of N.J.A.C. 7:50-5.4(c)vi.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

Nancy Wittenberg
Executive Director

REPORT ON THE PROPOSED COMPREHENSIVE PUBLIC SAFETY TOWER PLAN FOR PINELANDS

April 27, 2012

Office of Information Technology, State of New Jersey
P.O. Box 212
Trenton, NJ 08625-0212

I. INTRODUCTION

a. Background

Since 1981, when the Pinelands Comprehensive Management Plan (CMP) went into effect, a 35-foot height limit has prevented the construction of tall structures throughout much of the Pinelands Area. The CMP's height restrictions are intended to prevent the proliferation of structures that significantly detract from the scenic qualities of the Pinelands Area, which federal and state legislation have directed the Pinelands Commission to protect. Of course, there have always been exceptions to the CMP's 35-foot height limit. Within Regional Growth Areas, Pinelands Towns, and portions of Military and Federal Installation Areas, there are no height restrictions at all; and, within the remainder of the Pinelands Area, certain structures are permitted to exceed 35 feet in height.

In 1995, the Pinelands Commission amended the CMP's height restrictions in recognition of what had, at that time, already become a legitimate need: the provision of wireless communications services throughout the United States and within the Pinelands Area. Accordingly, local communications facilities, which provide wireless communication services, were permitted to exceed the 35-foot height limit where a comprehensive plan for the installation of such facilities throughout the entire Pinelands Area has been approved by the Pinelands Commission. The CMP's amended restrictions recognize that well designed and integrated wireless communications networks can greatly reduce the unnecessary proliferation of wireless communications structures throughout the Pinelands Area, and, most importantly, in its most conservation-oriented areas.

The Commission approved the Comprehensive Plan for Cellular Telephone Facilities (the Cell Plan) in September 1998. The first amendment to the Cell Plan, entitled the Comprehensive Plan for PCS Communications Facilities in the Pinelands (the PCS Plan), was approved by the Commission in January 2000. In December 2003, the second amendment to the Cell Plan, entitled the Amendment to the Comprehensive Plans for Cellular and Personal Communications Service to include AT&T Wireless PCS of Philadelphia, LLC and its affiliates for Wireless Communications Facilities in the Pinelands (the AT&T Plan), was approved by the Commission.

In 2006, the CMP's height restrictions were again amended, in part, to recognize that altering certain aspects of wireless communications structures themselves can reduce their visual impact upon the scenic resources of the Pinelands Area. The third amendment to the Cell Plan, entitled the Amendment to the Comprehensive Plan for PCS Communications Facilities in the Pinelands on Behalf of T-Mobile Northeast, LLC (Doing Business as T-Mobile) (the T-Mobile Plan), was approved by the Commission under these amended rules in November 2011. The proposed Comprehensive Public Safety Tower Plan for Pinelands submitted by the Office of Information Technology (OIT) is also subject to the Commission's review under the amended height restrictions.

b. Appendices to this Report

The following documents are attached hereto:

Appendix A – Comprehensive Public Safety Tower Plan for Pinelands

Appendix B – Map of Sites Proposed in the Comprehensive Public Safety Tower Plan for Pinelands

Appendix C – Statement from the Office of Information Technology, State of New Jersey Concerning N.J.A.C. 7:50-5.4(c)1

Appendix D – Statement from V-Comm, LLC's Concerning N.J.A.C. 7:50-5.4(c)1

Appendix E – Hierarchical policy for siting individual wireless communications facilities;

Appendix F – Written comments from Pinelands Preservation Alliance concerning the Comprehensive Public Safety Tower Plan for Pinelands (dated February 23, 2012)

Appendix G – Written comments from Forked River Mountain Coalition concerning the Comprehensive Public Safety Tower Plan for Pinelands (dated February 22, 2012)

Appendix H – Chart of Sites Proposed in the Comprehensive Public Safety Tower Plan for Pinelands

c. Submission of this Amendment

In October 2010, various public agencies, including representatives from several Pinelands counties, the Office of Homeland Security & Preparedness (NJOHSP), the New Jersey Department of Environmental Protection (DEP), and OIT, approached the Commission concerning a comprehensive plan for the provision of public safety communications towers in southern New Jersey. Over the course of the following year, these public agencies, especially OIT and NJOHSP, closely collaborated with the Commission to also include all seven Pinelands counties, New Jersey Transit (NJT), and the New Jersey State Police (NJSP) as participants in the process of developing a unified, Pinelands Area-wide comprehensive plan for public safety communications towers. This plan, entitled the Comprehensive Public Safety Tower Plan for Pinelands (the OIT Plan) was first submitted for the Commission's review on August 23, 2011. A slightly revised version of the OIT Plan was submitted on November 3, 2011. The OIT Plan constitutes the 4th amendment to the original Cell Plan[1]. OIT's Plan is a cumulative plan that, in addition to incorporating each of the Commission's four prior approvals, proposes the installation or construction of 50 local communications facilities. OIT's Plan was deemed complete for purposes of Commission review on December 16, 2011[2].

A public hearing to receive testimony concerning the consistency of the OIT Plan with the standards and provisions of the CMP was duly advertised, noticed and held on February 21, 2012.

d. Summary of this Amendment's Facility Siting Proposal

OIT's Plan proposes a total of 49 local communications facilities within the Pinelands Area[3]. A local communications facility consists of an antenna or antennas and any support structure together with any accessory facilities. For example, a local communications facility could be an antenna installed on a lattice tower (its support structure) together with its ground station (typically, small shed-sized buildings or cabinets); an antenna installed on a monopole (its support structure) together with its ground station; or, an antenna installed on a water tower (its support structure) together with its ground station. Of the 50 facilities included within the OIT Plan, forty-one are to be located at sites previously approved by the Commission. The remaining nine facilities included within OIT's Plan will require the construction of new support structures (towers or otherwise). Two of these nine facilities are proposed in Regional Growth Areas where the CMP's height limits are inapplicable and one of these nine facilities is proposed within the Pinelands National Reserve but not within the Pinelands Area. The Commission lacks regulatory jurisdiction over this facility. The other six new facilities proposed in the OIT Plan are within the CMP's height-restricted management areas.

To demonstrate whether these six facilities can likely be sited consistent with the standards of N.J.A.C. 7:50-5.4(c), OIT and the Commission analyzed a one-mile-radius area surrounding the coordinates for each proposed facility. Based on this analysis, it is likely that all but one of the

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[1] For the Commission's purposes, all seven counties, NJOHSP, OIT, NJT, NJSP, and DEP are considered participants in the OIT Plan.

[2] A completeness determination simply acknowledges that OIT has provided sufficient information upon which to begin the formal review process. It does not *per se* imply that OIT's Plan is consistent with the CMP.

[3] Although the OIT Plan includes 50 facilities, one of these 50 is within the Pinelands National Reserve but outside of the Pinelands Area.

six proposed new facilities can, in fact, be sited consistent with the specific siting standards of N.J.A.C. 7:50-5.4(c)[4]. As a result, at the time an application for development is submitted for this facility (i.e., proposed facility 19), the facility will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6, which provides for a more intense review for antenna support structures that cannot meet the CMP's specific siting standards[5].

II. CONFORMANCE WITH THE COMPREHENSIVE MANAGEMENT PLAN

a. Introduction

N.J.A.C. 7:50-5.4 sets forth the standards by which the OIT Plan must be reviewed. If these standards are met, the Commission must approve OIT's proposed amendment. If the standards are not met, the Commission may conditionally approve or disapprove OIT's Plan, depending on the extent and severity of the amendment's deficiencies. The Commission has historically interpreted its regulations to require that, wherever technically feasible, the OIT Plan incorporate, amend, and expand upon the facility array and all other applicable provisions contained in the previously approved comprehensive local communications facility siting plan as well as the amendments thereto. OIT's Plan does just that by incorporating each of the Commission's four prior approvals in its proposal to install or construct its own 50 local communications facilities.

For purposes of this report, N.J.A.C. 7:50-5.4's standards have been separated into ten criteria. A discussion of each criterion and the amendment's conformance therewith follows. To aid in the review of this fourth amendment to the Cell Plan, V-Comm, LLC (V-Comm) was retained by OIT to evaluate whether there is a need, as that term used in N.J.A.C. 7:50-5.4(c)1, for each of the facilities proposed in the OIT Plan. V-Comm's conclusion regarding this matter is appended to this report as Appendix D and is reflected, as appropriate, in the findings which follow.

b. Standards

1. The amendment must be agreed to and submitted jointly by all providers of the same type of service, where feasible. N.J.A.C. 7:50-5.4(c)6.

This requirement is intended to ensure that the greatest possible degree of coordinated planning occurs so as to minimize the number of new structures within the Pinelands Area. While developing the OIT Plan, OIT and V-Comm contacted all major first responder agencies serving the Pinelands Area as well as NJT. Admirably, OIT was able to enlist all seven Pinelands counties; NJOHSP; NJSP; DEP; and, NJT as plan participants, thereby ensuring the highest possible level of coordinated planning. In addition, the February 21, 2012 public hearing to receive testimony concerning the consistency of the OIT Plan with the CMP was duly advertised

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[4] A second facility at a site previously approved by the Commission is proposed at a height which is not consistent with the standards of N.J.A.C 7:50-5.4(c)5. Prior to the construction of this facility, an applicant will have to obtain a Waiver of Strict Compliance on behalf of a plan participant or the Commission will have to enter into an appropriate Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2.

[5] Proposed facility 19 will also likely need to obtain a release from applicable deed restrictions as well as a Green Acres diversion from DEP.

and noticed by the Commission. Thus, non-first responder providers of wireless communication services were given adequate notice of the OIT Plan. None of these other providers of wireless communications services expressed interest in becoming an OIT Plan participant, nor were any comments or objections received from providers of wireless communication services. To deny the proposed public safety amendment based on a lack of participation by private sector wireless communication providers would be inappropriate.

The Executive Director concludes that this standard has been met.

2. The amendment must review alternative technologies that may become available for use in the near future. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to identify other technologies that should, at the very least, be considered as the pending amendment is reviewed. The OIT Plan expressly addresses a technology known as Distributed Antenna Systems (DAS). DAS employs a series of low-mounted antennas, generally attached to telephone poles and connected by fiber-optic cable, in lieu of taller towers. The proposed amendment concludes that DAS is not a technically feasible alternative to the use of antennas mounted on tall structures. While it is not the Commission's intent to require the use of any specific alternative technology, the Commission notes that in order to meet the CMP's height requirements, visual impact requirements, or siting requirements, even participants in the OIT Plan may be required to use a technology other than the preferred or customary technologies.

Although the Commission recognizes that DAS is not, at this time, a feasible alternative for purposes of this proposed amendment, the Commission notes that certain siting and camouflaging techniques may be used to reduce the visual impacts of proposed antenna support structures. Where it does not seem likely that a proposed antenna support structure can be sited consistent with the CMP's siting and visual impact standards (e.g. proposed facility 19, which is proposed within an extensive area of publicly owned conserved lands[6]), it is within the Commission's regulatory authority to require participants in the OIT Plan to develop said structures using such techniques (as is required per the CMP).

The Executive Director concludes that this standard has been met.

3. The amendment must show the approximate location of all proposed facilities. N.J.A.C. 7:50-5.4(c)6.

In order to evaluate the consistency of the OIT Plan with various CMP standards, the proposed amendment must identify the approximate locations of all facilities identified therein, including those which will utilize existing structures and those which will require new ones. OIT's proposed amendment provides both a graphic depiction of each proposed facility's location as well as a narrative and detailed tables identifying the county in which each facility will be located; the municipality in which each facility will be located; as well as, the proposed height of each proposed facility. Appendix H to this report also notes the management area in which each proposed facility will be located; whether a proposed facility has been previously approved by

[6] See footnote 5.

the Commission; and, where applicable, whether the facility can likely be sited consistent with the CMP's siting and visual impact standards. In addition, OIT has agreed to locate each of the facilities in its proposed amendment within a one-mile-radius area surrounding these coordinates.

The Executive Director concludes that this standard has been met.

4. The amendment must include five- and ten-year horizons. N.J.A.C. 7:50-5.4(c)6.

OIT's Plan separates its proposed facilities into three phases. Seventeen facilities are included in Phase 1. These seventeen facilities will likely become operational within the next five years. Phase 2 includes six facilities, which will likely become operational within the next five to ten years. Twenty-seven facilities are included within Phase 3. Phase 3 consists of facilities, which will be needed to accommodate the next generation of on-street and in-building broadband communications (4G-LTE (Long Term Evolution)). For a number of reasons beyond OIT's control, predicting when the 4G-LTE facilities will likely become operational is not possible at this time.

The Executive Director concludes that this standard has been met.

5. The amendment must demonstrate that it is likely that every facility proposed in the Pinelands Area is necessary to provide adequate service within the Pinelands Area and that it is likely that all such facilities must be located within the Pinelands Area in order to provide adequate service. N.J.A.C. 7:50-5.4(c)1.

OIT, in its technical capacity, found that there is a "critical" public safety need for each of the facilities proposed in its plan. OIT notes that, wherever possible, sites outside of the Pinelands Area were selected to fulfill this critical public safety need. To demonstrate the necessity for every local communications facility proposed in the OIT Plan, V-Comm analyzed data provided to it by the various participating public agencies. V-Comm then produced signal propagation maps depicting both the existing coverage within the area of each proposed facility as well as the expected level of coverage post-installation. V-Comm confirms that these signal propagation maps demonstrated that there is a need for each of the proposed facilities to serve the communications needs of the plan participants. V-Comm further confirms that "the only way to provide adequate service" to the plan participants is "to locate the [proposed] facilities within the Pinelands Area."

OIT has demonstrated that all of the facilities proposed within the OIT Plan are needed to provide adequate service within the Pinelands Area. **Accordingly, the Executive Director concludes that this standard has been met.**

6. The amendment must demonstrate that the facilities to be located in the Preservation Area District, the Forest Area, the Special Agricultural Production Area and 17 specific Pinelands Villages are the least number necessary to provide adequate service, taking into consideration the location of facilities outside the Pinelands. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to provide a heightened level of scrutiny for new facilities proposed in conservation-oriented management areas. As was the case with the Commission's four previous approvals, OIT's system of local communications facilities represents a network of facilities, each of which may affect the locations of other facilities in the system. Thus, the location of facilities outside conservation-oriented management areas may be relevant when evaluating the need for new facilities within conservation-oriented management areas. In order to demonstrate consistency with this standard, the OIT Plan relies upon its signal propagation maps. V-Comm confirms that the signal propagation maps demonstrate that, taking into account the location of facilities outside the Pinelands Area, the new facilities proposed in conservation-oriented management areas are the least number necessary to provide adequate service.

The Executive Director concludes that this standard has been met.

7. The amendment must demonstrate that it is likely that, to the extent practicable, existing communications or other structures have been used. N.J.A.C. 7:50-5.4(c)3.

The purpose of this standard is to ensure that the fewest possible number of new towers are constructed throughout the Pinelands Area. The OIT Plan includes 50 proposed facilities. However, 41 of these proposed facilities are at sites previously approved by the Commission under one of the four previous plans. Of the nine facilities not included in a previous plan, two are Regional Growth Area facilities and one facility is located in the Pinelands National Reserve. OIT acknowledges that if there are existing structures available proximate to one of the remaining six new facilities, it must evaluate whether such existing structures are suitable prior to constructing a new structure of its own[7]. Moreover, all proposed facilities included in the OIT Plan will be subject to the Commission's hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E).

The Executive Director concludes that this standard, insofar as it applies to this amendment, has been met.

8. The amendment must demonstrate, or note the need to demonstrate when the actual siting of facilities is proposed, that, if a new support structure is to be constructed, it can likely be sited consistent with the six criteria in N.J.A.C. 7:50-5.4(c)4. These criteria deal with satisfying technical operating requirements; minimizing visual impacts from public areas, wild and scenic rivers and special scenic corridors, the Pine Plains, the Forked River Mountains and residential areas; and, if proposed in the Preservation Area District, Forest Area, Special Agricultural Area, or Rural Development Area, locating the facility in nonresidential zones, unpreserved public lands, mines, first aid or fire stations, and landfills.

Staff's analysis of the one-mile-radius area surrounding each of OIT's proposed facilities has identified only one site that cannot likely be sited consistent with the CMP's specific height,

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[7]For example, prior to the construction of proposed facility 41, OIT will have to establish that the existing tower nearby is not suitable for its use. If, OIT can establish that that is, in fact, the case, when OIT constructs proposed facility 41, the existing tower will have to be demolished and all current users of that tower will have to be given the opportunity to collocate on the new tower at their current heights on that tower.

siting, and visual standards (proposed facility 19). This proposed facility is proposed within the Preservation Area District in Burlington County's Washington Township. Facility 19 is proposed on conserved, publicly owned land and is, therefore, not consistent with the CMP's siting standards. Since there is no land within a one-mile radius of the proposed facility that is not on conserved, publicly owned land, the proposed facility cannot likely be sited consistent with the CMP's siting standards. As a result, OIT will likely need to obtain a release of applicable deed restrictions from DEP. OIT will also likely need to obtain a diversion from the Green Acres program. It is important to note that he Commission lacks jurisdiction over both of these issues and the Commission's approval of the OIT Plan should not be construed as the Commission's endorsement of either the release or the diversion, if such are required. A second facility (proposed facility 21) is proposed at a site the Commission approved under a previous plan; however, the facility is proposed at a height (250 feet), which is inconsistent with the CMP's height standards at N.J.A.C 7:50-5.4(c)5. Prior to the construction of this facility, an applicant will have to apply for, and obtain approval of, a Waiver of Strict Compliance on behalf of a plan participant or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 will have to be executed based upon the applicant having established that appropriate grounds exist therefor.

Although proposed facility 19 cannot likely be sited consistent with the CMP's height, siting, and visual criteria, the CMP does not require that the proposed amendment be denied as a result. Nor, does the CMP even require that this proposed facility be removed from the proposed amendment. Rather. the CMP requires that, at the time an application for development is submitted for proposed facility 19, the facility will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6. To wit, OIT will be required to specify how the use of alternatives could reduce the anticipated visual impact of this facility[8]. Proposed facility 21 is proposed at a height 50 feet taller than is maximally permitted by the CMP. As noted above, at the currently proposed height, a Waiver of Strict Compliance or a Memorandum of Agreement will be required prior to construction of this proposed facility.

Each of the facilities proposed in the OIT Plan, including proposed facilities 19 and 21, are critical for the provision of adequate public safety communications within the Pinelands Area and, where appropriate, will also accommodate non-plan participants' wireless communications needs. **Therefore, the Executive Director concludes that this standard has been met, provided that (1) prior to construction of proposed facility 19, OIT obtains a release of deed restrictions and a diversion from the Green Acres program, if applicable; and, (2) prior to the construction of proposed facility 21, either the height of the proposed facility be reduced to not more than 200 feet, the Commission grants a Waiver of Strict Compliance to permit the height, or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 is executed based upon the applicant having established that appropriate grounds exist therefor.**

9. The amendment must demonstrate, or note the need to demonstrate when the actual siting of facilities is proposed, that support structures are designed to accommodate the needs of any other local communications provider which has identified a need to locate a facility within an overlapping service area. N.J.A.C. 7:50-5.4(c)2. A closely related standard also requires that the plan must demonstrate, or note the need to demonstrate

[8] See footnote 5.

when the actual siting of facilities is proposed, that the support structure, if initially constructed at a height less than 200 feet, can be increased to 200 feet to accommodate other local communications facilities in the future. N.J.A.C. 7:50-5.4(c)5. Another closely related standard in N.J.A.C. 7:50-5.4(c)6 requires that the plan must provide for joint construction and use of the support structures.

Each of these three standards is intended to facilitate, to the greatest extent practicable, collocation amongst wireless communications providers. OIT's proposed amendment expressly agrees to design and construct the support structure of its proposed facilities such that, if initially constructed at a height less than 200 feet, they can be increased to 200 feet to accommodate other public safety agencies' communications needs in the future. OIT has also acknowledged that, with respect to non-plan participants, all sites within the OIT Plan are subject to the same collocation and design policies as are incorporated into the four prior private sector plans.

Therefore, the Executive Director concludes that these standards have been met.

10. If it reduces the number of facilities to be developed, shared service shall be part of the plan unless precluded by federal law. N.J.A.C. 7:50-5.4(c)6.

The purpose of this standard is to encourage wireless communications providers to consider the possibility of single server coverage. While OIT has not agreed, and, in fact, with respect to non-plan participants, cannot agree to "shared services" as originally contemplated by the Commission, like all of the four previous plan participants, OIT has agreed to a common collocation policy.

Accordingly, the Executive Director concludes that this standard has been met.

III. PUBLIC HEARING AND REVIEW PROCESS

A public hearing to receive testimony on the T-Mobile Plan was duly advertised, noticed and held on February 21, 2012 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Mr. Tyshchenko conducted the hearing at which the following testimony was received:

> Joseph C. Saiia of OIT's Office of Emergency Telecommunications Service noted that the proposed OIT Plan was the culmination of many years of work to address the need for a comprehensive public safety communications plan in the Pinelands Area - a need that has existed for as many as 15 years. Mr. Saiia stated that the proposed plan struck an appropriate balance between important public safety agencies' needs and the needs of DEP and the Commission.
>
> There being no further testimony, the hearing was concluded at 9:51 a.m.

Written comments on the OIT Plan were accepted through February 24, 2012 and were received from the following parties:

Theresa Lettman, Director for Monitoring Programs, Pinelands Preservation Alliance (see Appendix F)

Kerry Jennings, Forked River Mountain Coalition (see Appendix G)

On behalf of the Pinelands Preservation Alliance, Ms. Lettman provides comments on five of OIT's proposed facilities. She opines that proposed facilities 19, 27, 28, and 38 cannot be sited consistent with the CMP's specific siting criteria and, therefore, they should be removed from OIT's proposed amendment. She also notes that proposed facility 41 is within one mile of an existing tower and the proposed facility should be required to collocate on the existing tower. She further notes that a tower anywhere within a one-mile-radius of the coordinates provided for proposed facility 41 would have a significant visual impact on the view from the Forked River Mountains.

On behalf of the Forked River Mountain Coalition (JB MDL), Mr. Jennings objects to proposed facility 41. He correctly notes that the proposed facility is within a five-mile-radius of the Forked River Mountains. He further notes that while the OIT Plan states proposed facility 41 is intended to service the area around Old Road and Stone Hill Road, these roads are merely sand trails. Mr. Jennings concludes that, therefore, there really is "nothing to service." Mr. Jennings also observes that proposed facility 41 is within one mile of an existing tower and, therefore, the proposed facility should be required to collocate on the existing tower. Mr. Jennings requests that the Commission require proposed facility 41 to be removed from the OIT Plan.

EXECUTIVE DIRECTOR'S RESPONSE

Ms. Lettman argues that proposed facilities 19, 27, 28, and 38 should be removed from the proposed amendment because they are inconsistent with CMP's siting standards. She and Mr. Jennings also argue that proposed facility 41 should be required to be collocated at an existing tower nearby. Facilities 27, 28, 38, and 41 of the OIT Plan are proposed to be constructed at sites previously approved by the Commission under one of the four predecessor plans. As such, these sites are not subject to review again. The Commission has already determined that sites exist in the vicinity of these proposed facilities that are consistent with the CMP's standards. However, even if the Commission had not already determined this, removal is not the appropriate remedy under the CMP for a facility for which it has been demonstrated there is a need but which cannot likely be sited consistent with the CMP's visual or siting requirements. Rather, the correct remedy would be to subject such facilities to a heightened level of scrutiny by requiring an alternatives analysis, which would demonstrate how OIT might reduce the potential visual impact of the proposed facilities. Although proposed facilities 27, 28, 38, and 41 will not be subjected to this heightened level of scrutiny because they have already been approved by the Commission[9], proposed facility 19 will be subject to it since it cannot likely be sited consistent with the CMP's siting and visual standards and it has not already been approved by the Commission.

Ms. Lettman's and Mr. Jennings' comments both note that proposed facility 41 should be required to be collocated at an existing tower nearby. The Commission agrees. If, at the time an

[9] Unless these proposed facilities are sited at locations other than where the existing towers are sited.

application for development is submitted for proposed facility 41 or, indeed, for any of the other proposed facilities in the OIT Plan, an antenna support structure already exists that can be used, the Commission will require, in accordance with its hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E), that said structure be used. However, if, and only if, the existing structure nearby cannot be used, the Commission will authorize OIT to construct a new antenna support structure in accordance with its hierarchical policy for siting individual wireless communications facilities (attached hereto as Appendix E). The new antenna support structure would have to accommodate the needs of both OIT and the then-current users of the existing tower and the existing tower would have to be demolished[10]. If, on the other hand, a new antenna support structure is needed in addition to the existing tower, the new tower would need to meet all of the standards of a new facility.

With respect to Mr. Jennings' comments that Old Road and Stone Hill Road are just sand trails and, therefore, proposed facility 41 has "nothing to service," Mr. Jennings is simply mistaken. The material of which a road is constructed is wholly irrelevant to whether a gap in service coverage exists in the area of said road. Through the use of signal propagation maps, OIT has objectively demonstrated, and V-Comm has confirmed, that a coverage gap exists in the area of proposed facility 41. Moreover, it is worthwhile pointing out that, unlike for-profit wireless communications providers, the facilities proposed in the OIT Plan are not designed to service densely populated areas only. In fact, one of the primary goals of the OIT Plan is to provide emergency communications services for remote areas. For, although many emergencies may not occur in these remote areas, when they do occur, reliable coverage is just as important as it is anywhere else. While proposed facility 41 could conceivably one day provide service for someone to phone in a take-out order, it was not included in OIT's proposed amendment for this purpose. Rather, it is in OIT's plan so that a first-responder can communicate effectively with other first-responders or nearby hospitals in the event of an emergency. As such, Mr. Jennings' observations concerning a lack of anything to service in the vicinity of Old Road and Stone Hill Road miss the mark.

IV. CONCLUSION

The OIT Plan proposes a total of 49 facilities within the Pinelands Area and anticipates the construction of 9 new towers not previously approved by the Commission (two of which will be in Regional Growth Areas and one of which will be in the Pinelands National Reserve but not within the Pinelands Area). Proposed facility 19 cannot likely be sited in accordance with the CMP's specific siting and visual standards. As such, it will be subject to a heightened standard of review pursuant to N.J.A.C. 7:50-5.4(c)6. To wit, OIT will be required to specify how the use of alternatives could reduce the anticipated visual impact of this facility at the time an application for development is submitted for this facility. Proposed facility 21 is proposed at a height 50 feet taller than is maximally permitted by the CMP. As such, a Waiver of Strict Compliance or a Memorandum of Agreement would be required prior to construction of this proposed facility, unless its height is reduced prior to construction. Although proposed facilities 19 and 21 cannot, in the absence of the detailed review that will occur upon application for these facilities, likely be sited consistent with all of the CMP's height, siting, and visual standards, the proposed amendment, as a whole, is consistent with the goals and standards of the CMP.

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[10] See footnote 7.

Though consistent, the OIT Plan is not without potential issues. Several new facilities are proposed within the most sensitive portions of the Pinelands Area. Thus, sensitive Pinelands viewsheds may be negatively impacted. Nevertheless, OIT's amendment establishes a framework, which will allow it to provide critical public safety communications service within the Pinelands Area and will result in less visual pollution than is likely in other parts of the State and the nation and than would occur otherwise. Furthermore, even with approval of this amendment, individual facilities will have to be approved by the Commission in accordance with the provisions of N.J.A.C. 7:50-5.4 (including visual assessment) and other applicable CMP standards. In the review of such applications, the Commission will be guided by the hierarchical policy for siting individual wireless communications facilities, which is appended to this report as Appendix D.

OIT has demonstrated that there is a need for each of the 49 facilities proposed within the Pinelands Area. The Executive Director has concluded that the "Comprehensive Public Safety Tower Plan for Pinelands" is consistent with the goals and standards of the Comprehensive Management Plan, provided that (1) prior to construction of proposed facility 19, OIT obtains a release of deed restrictions and a diversion from the Green Acres program, if applicable; and, (2) prior to the construction of proposed facility 21, either the height of the proposed facility is reduced to not more than 200 feet, the Commission grants a Waiver of Strict Compliance to permit the height, or a Memorandum of Agreement pursuant to N.J.A.C. 7:50-4.52(c)2 is executed based upon OIT having established that appropriate grounds exist therefor. Accordingly, the Executive Director recommends that the Pinelands Commission approve the "Comprehensive Public Safety Tower Plan for Pinelands." The Executive Director further recommends that the Pinelands Commission expressly affirm that the review of any application for development for any facility included within the OIT Plan shall be done in accordance with this report, including its appendices.

Attachments

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-12- 16

TITLE: To Authorize the Executive Director to Modify the Cooperative Agreement with the National Park Service for Pinelands Monitoring

Commissioner Ashmun **moves and Commissioner** Jackson **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 three subsequent amendments including Task Agreement J4531090733 with the National Park Service providing an additional $1,069,200 for this long term environmental and economic monitoring program; and

WHEREAS, the National Park Service has prepared the attached draft Modification # 03 to Task Agreement J4531090733 under Cooperative Agreement H4506080713 providing an additional $267,300 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 Modification # 03 to Task Agreement J4531090733 under Cooperative Agreement H4506080713 with the National Park Service, consistent with the attached draft, to continue the Long Term Economic and Environmental Monitoring Programs.

Record of Commission Votes

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

Adopted at a meeting of the Pinelands Commission

Date: May 11, 2012

Nancy Wittenberg
Executive Director

Mark S. Lohbauer
Chairman

MODIFICATION 03

to

TASK AGREEMENT J4531090733

under

COOPERATIVE AGREEMENT H4506080713

between

THE UNITED STATES DEPARTMENT OF THE INTERIOR NATIONAL PARK SERVICE

and the

STATE OF NEW JERSEY THE PINELANDS COMMISSION

In accordance with Article XI- Modification and Termination, Task Agreement J4531090733 under Cooperative Agreement H4506080713 is hereby modified as follows.

ARTICLE III — STATEMENT OF WORK

The Cooperator agrees to continue to conduct activities under the original Statement of Work, as annually modified, including:

(1) in 2012, finalize all of the water-quality, vegetation, fish, and anuran data collected in the four study watersheds and initiate data analysis, compare the results between the two rounds of surveys, and explore ranking the stream and impoundment sites sampled during the second round using the multiple-indicator approach developed for the Mullica River Watershed. A report that describes the relationship between the various indicators monitored and upstream land-use conditions will be completed in 2013;

(2) monitor pH and specific conductance in 2012, at a bimonthly frequency, at the network of 47 benchmark stations, and collect data on nutrients and major ions at the 47 sites during some of the bimonthly sampling rounds and at least one new winter sampling round;

(3) in 2012, continue surveys of vocalizing frogs and toads at the 20 Mullica River Basin ponds, monitor water levels at 14 of those ponds, the 15 ponds established as part of the Kirkwood-Cohansey Project, and the five newly established southern ponds, maintain the continuous water-level recorders installed in three ponds, and monitor water-table levels in the five pitch pine lowland forest plots and the 30 forest plots established as part of the Kirkwood-Cohansey Project. If pond water levels recede enough in 2012, continuous recorders will be installed in two additional ponds;

(4) prepare annual stream-flow trend-analysis updates for Camden County Municipal Utilities Authority and Monroe Municipal Utilities Authority streams in 2012;

(5) complete the wetland-buffer study by analyzing the frog-survey and wetland-forest-vegetation data and prepare a report describing the methods and results of the study;

(6) initiate a project to evaluate the vulnerability of intermittent Pinelands ponds to the impacts of land use in 2012 by mapping all of the open-water and herbaceous ponds in the Pinelands;

(7) complete and release the 2011 Annual Long-term Economic Monitoring Report in early 2012, and continue to evaluate how best to improve the format of the report itself, the presentation of the data, and the clarity of the narratives;

(8) during 2012, conduct *ad hoc* analyses using data from the Pinelands Development Credit Supply & Demand Study to support the Policy and Implementation Committee's ongoing consideration of new rules for the PDC program;

(9) begin a comprehensive review of the Comprehensive Management Plan, as well as all actions taken pursuant thereto by the Commission or the Executive Director, in 2012;

(10) conduct a special study in 2012 to examine the problem of split towns, an issue that has confronted the Commission since it first began rigorously examining the region's economy; and

(11) accomplish all study objectives and tasks according to the specific methods, procedures, schedules, and budget identified in the attached 2011 annual environmental and economic monitoring program plans.

And, the Service agrees to:

(1) provide the Cooperator with information on all relevant Service environmental and economic resource related legislation, policies, guidelines, objectives, and research and monitoring activities related to Pinelands resources and issues;

(2) assist, when necessary and based on personnel availability, with field sampling activities;

(3) assist, where appropriate, with description, interpretation, evaluation, and dissemination of monitoring data;

(4) provide personnel, when available, to serve on technical advisory committees to the environmental and economic programs, review program plans, methodology, data, and reports on a periodic basis, evaluate program progress, and provide recommendations on program and policy goals and strategies;

(5) provide reimbursement to the Cooperator in the additional amount of, not to exceed, $267,300 in FY2012 funding pursuant to the terms and conditions of this Cooperative Agreement, as modified, and in accordance with the project activity and budget schedule provided in the attached and hereby incorporated December 2011 annual environmental and economic monitoring program plans; and

(6) based upon availability of funding, authorize additional annual funding to the Cooperator to continue to conduct activities as specified by proposed tasks and budgets of annual monitoring program plans.

ARTICLE VI — AWARD AND PAYMENT

On a cost-reimbursable basis, the Service will make available an additional, not to exceed, $267,300 to be paid to the Cooperator for the conduct of activities covered under the Agreement's Statement of Work (Article III, as modified) and as specified by the proposed tasks, schedules, and budgets of the attached December 2011 environmental and economic monitoring program plans incorporated within this Agreement. The Cooperator shall be reimbursed for indirect costs at the negotiated rate of 16.89% of Total Direct Costs expended under this Cooperative Agreement.

Appropriation Data: The FY2012 chargeable appropriation is:

$267,300 against 4531-PIN1-SYP

This appropriation of funds is in addition to the following chargeable appropriations previously awarded:

Cooperative Agreement H4506080713	$267,300	dated August 19, 2008
Task Agreement J4531090733	$267,300	dated May 26, 2009
Task Agreement J4531090733 Mod01	$267,300	dated September 2, 2010
Task Agreement J4531090733 Mod02	$267,300	dated August 31, 2011

This award increases the funding obligated to this Agreement by $267,300 to a total of, not to exceed, $1,336,500. Based upon the availability of annual funding, additional commitment of funds, on a cost-reimbursable basis, by the Service to the Cooperator will need to be authorized by a new Cooperative Agreement and individual annual Modifications according to attached monitoring program plans describing the proposed activities and amount of requested financial assistance.

In order to ensure proper payment, the Cooperator should register with the Central Contractor Registration (CCR), accessed at http://www.ccr.gov. Failure to register can impact payments under this Agreement and/or any other financial assistance or procurement documents the Cooperator may have with the federal government.

Payment under individual Task Agreements will be made no more frequently than monthly and will be paid by electronic funds transfer directly into the recipient's account located at the financial institution as designated in the Central Contractor Register. The preferred payment frequency is quarterly. The submission of quarterly requests should be timed to coincide with quarterly submission of SF-425 Federal Financial Reports (FFR). Payments will be conditioned upon satisfactory program progress and the timely submission of acceptable deliverable requirements as described in Article IX.

The recipient must submit Standard Form 270 (SF-270), "Request for Advance or Reimbursement," for payment, in signed original to:

Invoice Coordinator
National Park Service Northeast Region
200 Chestnut Street, 3rd floor
Philadelphia, PA 19106

with a copy addressed to the NPS Agreements Technical Representative:

Mr. John Karish
Regional I&M Program Manager
National Park Service
423 Forest Resources Building
University Park, PA 16802

Inquiries concerning status of payment requests can be made via e-mail to ner_agree_pay@nps.gov.

Unless arranged prior to the award of the Agreement, requests for advance payment will not be considered.

Nothing contained in this Agreement will be construed as binding the NPS to expend in any one fiscal year any sum in excess of the appropriation made by Congress for purposes of this Agreement in that fiscal year.

ARTICLE IX — REPORTS AND/OR DELIVERABLES

Add the following requirements:

In accordance with 43 CFR Part 12, the recipient will submit the following reports to the NPS Contracting Officer at the address specified in Article V. The recipient will also submit a copy of each report to the NPS ATR at the address specified in Article V.

Project Reports: Based upon the authorized commitment of funding under this Modification, the Cooperator shall complete (a) an annual progress report and (b) a proposed workplan/budget for the following year's efforts for each the environmental and economic monitoring programs by December 31, 2012, and submit electronic files of the report and workplan/budget to the Service key official on March 31, 2013. The progress report shall contain a comprehensive review of the previous year's data collection and analysis activities and a description of any problems encountered. The work plan/budget shall describe the following year's proposed efforts and highlight any proposed major deviations in program scope or goals. Copies of reports from individual monitoring projects and special studies shall be submitted as they become available.

The recipient will keep records concerning this Agreement in accordance with the requirements of the General Provisions, CFR and applicable Office of Management and Budget Circulars.

ARTICLE XIII — ATTACHMENTS

The following is attached to this Modification and made a part of this Cooperative Agreement:

Cooperator Proposal - New Jersey Pinelands Long-Term Environmental and Economic Monitoring Program: Summary and Budget of Proposed Upcoming Activities. New Jersey Pinelands Commission, dated December 2011.

All other terms and conditions of the Cooperative and Task Agreements shall remain the same.

ARTICLE XIV — SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Modification on the latter date set forth below.

STATE OF NEW JERSEY
THE PINELANDS COMMISSION

_____ _____

Nancy Wittenberg
Executive Director

Date

NATIONAL PARK SERVICE

_____ _____

NER Contracting Officer

Date

Approved to as form only:
ATTORNEY GENERAL, STATE OF NEW JERSEY

by:_____

Deputy Attorney General

Date

Pinelands Commission

NEW JERSEY PINELANDS LONG-TERM ENVIRONMENTAL AND ECONOMIC MONITORING PROGRAM

PROPOSAL FOR FY2012 FUNDING OF UPCOMING ACTIVITIES

Mark S. Lohbauer
Pinelands Commission Chairman

Nancy Wittenberg
Executive Director

DECEMBER 2011

NEW JERSEY PINELANDS LONG-TERM ENVIRONMENTAL MONITORING PROGRAM

PROPOSAL FOR FY2012 FUNDING OF UPCOMING ACTIVITIES

DECEMBER 2011

PINELANDS COMMISSION SCIENCE OFFICE

John F. Bunnell, Chief Scientist
Kim J. Laidig, Principal Research Scientist
Dr. Nicholas A. Procopio, Research Scientist
Patrick M. Burritt, Research Technician

Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064
609-894-7300
www.nj.gov/pinelands

INTRODUCTION

In the early 1990's, the Pinelands Commission initiated a Long-term Environmental-monitoring (LTEM) Program with the ultimate goal of evaluating the ecological consequences of the Comprehensive Management Plan. The main objectives of the program are to characterize the effect of existing land-use patterns on aquatic and wetland resources and to monitor long-term changes in these resources. Discussed below is a description of the work completed from January 2011 through December 2011, the current status of the monitoring program, related studies, and upcoming activities.

WATERSHED SURVEYS

The Mullica River Watershed was the initial focus of the LTEM Program. A comprehensive report describing the results of the Commission's landscape, water-resources, and wetland-community monitoring program in the basin was released in 2001 (Zampella et al. 2001). Three other reports describing the ecological status of surface waters in the Rancocas Creek Watershed (Zampella et al. 2003), Great Egg Harbor River Watershed (Zampella et al. 2005), and Barnegat Bay Watershed (Zampella et al. 2006) were released in subsequent years. All four watershed reports are available for download on the Commission web page at http://www.state.nj.us/pinelands/science/complete/watershed/.

The second round of watershed surveys was scheduled to be conducted over a period of five years beginning in 2007. During each survey, water quality (pH and specific conductance), stream-vegetation, impoundment-vegetation, stream-fish, impoundment-fish, and anuran (frogs and toads) assemblages were sampled. The second round of surveys was completed in the Mullica River Watershed in 2007 and 2008, the Rancocas Creek Watershed in 2009, and the Great Egg Harbor River Watershed in 2010.

In 2011, the second round of surveys was completed in the Barnegat Bay Watershed. Specific conductance and pH were sampled during the 8-month growing season at 61 stream and impoundment sites throughout the watershed. Biological surveys were also completed in the watershed. Vegetation was surveyed at 44 stream sites and 18 impoundments, fish were sampled at 44 stream sites and 18 impoundments, and anuran-vocalization surveys were conducted at 23 impoundments.

In 2012, Commission scientists will finalize all of the water-quality, vegetation, fish, and anuran data collected in the four watersheds and initiate data analysis. Although sampling methods differed somewhat between the first and second round of watershed surveys, we will compare the results between the two rounds of surveys. We will also explore ranking the stream and impoundment sites sampled throughout the Pinelands during the second round of surveys using the multiple-indicator approach developed for the Mullica River Watershed (Zampella et al. 2006). A report that describes the relationship between the various indicators monitored and upstream land-use conditions will be completed in 2013.

PINELANDS-WIDE WATER-QUALITY MONITORING

In 2005, a network of 47 benchmark stations was selected from the pool of sites monitored during the initial four watershed surveys for monitoring long-term trends in pH and specific conductance throughout the region. The 47 benchmark-station sites are distributed throughout the Pinelands, represent a range of pH and specific conductance values, and, with a few exceptions, have been monitored monthly during the growing season of each year since 2005. Because water-quality sampling associated with the individual watershed surveys is completed on different years, this separate benchmark-station network, which is monitored each year, was also established for the purpose of calibrating water-quality conditions to a common time period for the future comprehensive assessment of all four watersheds. Based on a study that evaluated normalizing water-quality data to a single time period (Procopio 2011), it is not necessary to adjust pH and specific conductance data that was collected during different years to a single time period. Furthermore, based on the results of the same study, sampling frequency was reduced in 2011 from a monthly (8 visits) to a bimonthly (4 visits) regimen. Although the reduced sampling frequency will be maintained in future years, additional sampling may occur during some winter months to collect data on nutrients and major ions (See Upcoming Activities below for more details on future nutrient sampling).

In 2012, as part of the monitoring plan, pH and specific conductance will continue to be monitored at the network of 47 benchmark stations that was established in 2005. As mentioned previously, sampling frequency was reduced from a monthly to a bimonthly regimen in 2011 and sampling will continue at a bimonthly frequency in the future. In 2012, we will begin to collect data on nutrients and major ions at the 47 sites during some of the bimonthly sampling rounds and at least one new winter sampling round.

WATER-LEVEL MONITORING: FORESTED WETLANDS AND COASTAL PLAIN PONDS

Monitoring of water levels at five pitch pine lowland reference sites continued for the twenty-fourth year. With the exception of one year, these sites have been monitored continuously since 1987. Water levels were monitored at 14 intermittent Coastal Plain ponds for the sixteenth consecutive year (1996-2011). Surveys for calling anurans (frogs and toads) were also completed annually at these 14 ponds, along with 6 other ponds, during the same 16-year period. From 2004-2007, water levels at 15 intermittent Coastal Plain ponds and 30 forest plots were monitored as part of the Kirkwood-Cohansey Project, which is a multi-ageny study of the potential ecological impacts associated with groundwater withdrawals. Since 2008, water-level monitoring at these 15 ponds and 30 forest plots was continued as part of the LTEM Program. Long-term water-level data from several of the ponds and forest plots were relied upon for portions of the frog-larval-development study and the forest-wetland study that were completed as part of the Kirkwood-Cohansey Project.

In late 2010, four additional ponds, which were recently monitored for breeding frogs and toads as part of the EPA-funded Wetland-buffer Study described below, were added to the suite of long-term monitoring ponds. In early 2011, a fifth Wetland-buffer Study pond was added to the monitoring program. These five ponds are located in the southern portion of the Pinelands, which broadens the geographic extent of our water-level monitoring and will enhance the

understanding of pond hydrology in the southern part of the region. To track continuous changes in pond-water levels, a continuous water-level recorder was installed in one of the 15 ponds in 2004, one of the 14 ponds in 2005, and one of the newly established southern ponds in 2010. Water-level data for all 34 ponds and the 35 forest plots are available at the LTEM link provided in the Introduction.

Commission scientists will continue to survey vocalizing frogs and toads at the 20 Mullica River Basin ponds and continue to monitor water levels at 14 of the ponds in 2012. Water-level monitoring at the 15 ponds established as part of the Kirkwood-Cohansey Project, as well as the five newly established southern ponds, will also continue as part of the LTEM Program network. We will also maintain the continuous water-level recorders installed in three ponds. If pond water levels recede enough in 2012, we will install continuous recorders in two additional ponds to further expand the geographic distribution of ponds with continuous data loggers. Commission scientists will also continue to monitor water-table levels in the five pitch pine lowland forest plots and the 30 forest plots established as part of the Kirkwood-Cohansey Project.

STREAM-DISCHARGE MONITORING PROGRAMS

The Commission and the U. S. Geological Survey (USGS) continued to implement two cooperative stream-gaging programs. The Camden County Municipal Utilities Authority (CCMUA) funded project is designed to determine whether wastewater transfers from the southern Camden County area are affecting stream discharge in portions of the Mullica River Basin. The Commission and the USGS are conducting a similar stream-gaging project at five stream stations in the Upper Great Egg Harbor River Basin in cooperation with the Monroe Municipal Utilities Authority (MMUA). The analytical method used to assess trends in streamflow is based on a study conducted by Commission scientists (Dow 1999). In this study, changes in base flow at monitoring sites are assessed relative to flows at index sites.

In 2012, annual stream-flow trend-analysis updates for Camden County Municipal Utilities Authority and Monroe Municipal Utilities Authority streams will be prepared.

Camden County - Mullica River

An initial trend analysis of streams in the Camden County study area revealed no changes in streamflow during the period 1991-1998. Staff completed a second trend analysis for the period April 1991 through September 2002 (Procopio 2003). Decreases in streamflows were detected within the study area and the changes appeared to coincide with an increase in wastewater flows to the Delaware River. However, for most of the study sites that showed a significant decrease in flow from April 1991 through September 2002, the annual percentage decreases estimated through the analysis far exceeded the amount of water withdrawn. Five subsequent annual analyses completed in 2005 through 2009 revealed no significant changes in baseflow within the study area. The analysis was completed again this year for the period April 1991 through September 2010. No significant decrease in base flow was observed for any of the study sites for this period.

Monroe Township - Great Egg Harbor River

In 1990, the Commission, in cooperation with the MMUA and the USGS, began a long-term stream-monitoring program to evaluate the impact of inter-basin water transfers at five stream sites in the Upper Great Egg Harbor River Basin in Monroe Township. Five annual analyses completed in 2005 through 2009 for the months of March through September revealed that no significant changes in baseflow occurred within the study area. The analysis was completed again this year for the period March 1990 through September 2010. As with the previous analyses, no significant decreases in streamflow were observed.

The Effectiveness of Upland Buffer Zones in Mitigating the Impact of Suburbanization on the Integrity of Wetland Communities

In 2008, the Commission received an EPA grant to quantify the relationship between the proximity of developed lands and the ecological integrity of Pinelands wetlands. A brief description of the wetland-buffer study can be found on the Commission web page at http://www.state.nj.us/pinelands/science/current/buffer/. Although not a component of the LTEM Program, the results of this study will contribute to the goals of the program and, as mentioned above, some of the intermittent ponds established as part of this study have already been incorporated into the LTEM Program. The biological indicators that will be examined in the wetland-buffer study include forested-wetland plants and pond-breeding frogs and toads. The ultimate goals of the project are to determine the distance between wetlands and upland development needed to protect the ecological integrity of wetlands and to identify relationships that can be more broadly applied throughout the Pinelands as part of the Commission review of proposed development projects. In 2009 and 2010, 52 frog and toad breeding ponds were surveyed, water quality was sampled in 42 of the ponds, and the month that each pond dried was recorded. In 2010, vegetation surveys were completed at 37 wetland-forest study sites and vegetation-survey transect locations were recorded with a global positioning system. In 2011, all of the data were entered and proofed and data analysis was initiated. The final report will be completed in 2012.

In 2012, commission scientists will complete the wetland-buffer study by analyzing the frog-survey and wetland-forest-vegetation data collected and describing the methods and results of the study. A report will be completed and submitted to the EPA.

Assessing the Ecological Integrity of Intermittent Ponds and their Vulnerability to Land-use Impacts

In 2011, the Commission received a grant from the EPA to evaluate the vulnerability of intermittent Pinelands ponds to the impacts of land use. Although not a component of the LTEM Program, the results of this study will contribute to the goals of the program and some of the intermittent ponds established as part of this study will likely be incorporated into the LTEM Program in the future. As part of the study, all Pinelands ponds that contain open-water or herbaceous-vegetation communities will be identified, the boundary of the pond and major pond-structural features will be delineated, and a land-use profile for the area surrounding each pond will be determined. Ponds will be visited to distinguish natural and artificial ponds, verify the

pond-vegetation structure, and record the occurrence of off-road vehicle activity and other stressors in or adjacent to the pond. Water-quality and hydrologic monitoring and vegetation, anuran (frog and toad), and odonate (dragonfly and damselfly) surveys will be completed for 100 ponds that represent the range of pond sizes, vegetation structure, and vulnerability scores from reference to degraded ponds. Quantitative models linking land-use-based vulnerability to water-quality, hydrologic, and biological indicator-based metrics will be developed that can be used to predict the integrity of the other unsurveyed ponds in the region. Results of the study will be used by the Commission and the NJDEP for planning, policy, regulation, and enforcement and increased protection of intermittent Pinelands ponds.

The project will be initiated in 2012. Commission scientists will initiate this study by mapping all of the open-water and herbaceous ponds in the Pinelands.

THREE-YEAR SCHEDULE FOR THE LONG-TERM ENVIRONMENTAL-MONITORING PROGRAM.			
Topic	**1/12-12/12**	**1/13-12/13**	**1/14-12/14**
Surface-water Quality and Stream Discharge	Monitor pH and specific conductance and sample for nutrients and major ions at the 47 Pinelands-wide stations.	Monitor pH and specific conductance and sample for nutrients and major ions at the 47 Pinelands-wide stations.	Monitor pH and specific conductance and sample for nutrients and major ions at the 47 Pinelands-wide stations.
	Manage Pinelands-wide water-quality data and water-quality data from the four watersheds.	Manage Pinelands-wide water-quality data.	Manage Pinelands-wide water-quality data.
	Complete stream-flow-trend-analysis update for CCMUA and MMUA streams.	Complete stream-flow-trend-analysis update for CCMUA and MMUA streams.	Complete stream-flow-trend-analysis update for CCMUA and MMUA streams.
Wetland Plant and Animal Communities	Manage biological data from four watersheds (Mullica River, Rancocas Creek, Great Egg Harbor River, and Barnegat Bay).		
	Continue to conduct vocalization surveys at the 20 long-term-anuran-study ponds.	Continue to conduct vocalization surveys at the 20 long-term-anuran-study ponds.	Continue to conduct vocalization surveys at the 20 long-term-anuran-study ponds.
	Continue to monitor forested-wetland and pond-water levels.	Continue to monitor forested-wetland and pond-water levels.	Continue to monitor forested-wetland and pond-water levels.
Long-term Environmental-monitoring Program Reports	Finalize survey data from the second round of watershed surveys in the four watersheds and initiate data analysis.	Prepare a comprehensive report on the results of the second round of watershed surveys.	Develop a three-year environmental-monitoring plan.

ESTIMATED LONG-TERM ENVIRONMENTAL MONITORING EXPENSES IN 2012 AND 2013 TO BE FUNDED BY MODIFICATION #03 TO COOPERATIVE AGREEMENT H4506080713.

EXPENSES	1/12-12/12	1/13-12/13**	TOTAL
PERSONNEL	100,000	75,000	175,000
PROFESSIONAL SERVICES	0	0	0
SUPPLIES AND EQUIPMENT	8,000	5,000	13,000
OTHER (1)	3,500	3,000	6,5000
INDIRECT COSTS (2)	18,800	14,000	32,800
TOTAL	$130,300	$97,000	**$227,300**

(1) INCLUDES TRAINING, TRAVEL, MEALS, AND OTHER MISCELLANEOUS EXPENSES.
(2) INDIRECT COSTS ARE CALCULATED AT THE NEGOTIATED RATE OF 16.89% OF DIRECT COSTS.

** Additional funding through National Park Service Cooperative Agreements will be necessary to fund this project for the latter portion of 2013 and in future years.

NEW JERSEY PINELANDS LONG-TERM ECONOMIC-MONITORING PROGRAM

PROPOSAL FOR FY2012 FUNDING OF UPCOMING ACTIVITIES

DECEMBER 2011

THE PINELANDS COMMISSION

Mark S. Lohbauer, Chairman
John A. Haas, Vice Chairman

Candace McKee Ashmun
William J. Brown
Sean W. Earlen
Leslie M. Ficcaglia
Paul E. Galletta
D'Arcy Rohan Green
Richard L. Harris
Robert Jackson
Edward Lloyd
Ed McGlinchey
Gary Quinn
Francis A. Witt

Nancy Wittenberg, Executive Director

PINELANDS COMMISSION PLANNING OFFICE

Larry L. Liggett, Director, Land Use and Technology Programs
Susan R. Grogan, Chief Planner
Paul W. Tyshchenko, Principal Planner
Michael P. Yaffe, Planner

Pinelands Commission
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INTRODUCTION

In the mid-1990's, the Commission initiated a long-term economic-monitoring program with the ultimate goal of evaluating the economic consequences of the Comprehensive Management Plan. The main objective of the program is to continually evaluate the health of the economy of the Pinelands region in an objective and reliable way. These objectives have typically been accomplished by two means: through the publication of an annual report of indicators, and through the commissioning of *ad hoc* special studies. The annual report takes the "temperature" of the regional economy, while the special studies have, in the past, taken a more in-depth look at specific topics. For the period January 2011 through December 2011, as a result of reduced staffing levels, once again no special study was conducted.

Discussed below is a description of the work completed from January 2011 through December 2011, the current status of the monitoring program, and upcoming activities.

Annual Long-Term Economic-Monitoring Report

Data collection for the 2011 Annual Report began in late 2011. The 2011 Annual Report will be released in early 2012 and will be the fifteenth such report compiled by the Pinelands Commission. This year's annual report features a revised format. The new format seeks to present data in a simpler, more streamlined format. Unlike prior years, those variables that have not been updated since last year's report will no longer be included in the report itself. Instead, the data, maps, and charts for these variables are included within an appendix to the annual report. In order to publish a clearer, more compact and more readable document, only those variables that have been updated since last year's report are included within the report itself. The maps, charts, and especially the narratives that have typically accompanied the data for updated core variables are also presented in a revised format. In 2012, the Commission will continue to evaluate how best to present the annual report. Improving the format of the report itself, the presentation of the data, and the clarity of the narratives is a high priority for the Commission and is part of an ongoing process. Electronic copies of the annual report are expected to be issued in the first half of 2012.

This year's report will include the following updates:

Core Variables Updated

Nineteen out of twenty-one core variables were updated this year, including three core variables that have not been updated in the Commission's annual report since 2003. Data on population estimates were not updated this year since population estimates are not updated at the municipal level in years when census data is released. Nor were agricultural census data updated this year since these data are released only every five years. New agricultural census data are scheduled to be released in time for inclusion within next year's report.

Updated Charts

As in the past, this year's report includes a number of illustrative charts and maps. The Municipal Fact Book section of this year's report once again features a different chart. Last year's chart, which compared the number of building permits issued for the construction of new dwelling units within a given municipality to the average number of such permits issued within southern New Jersey, has been replaced with a chart depicting population data, including the most recent population data available from the U.S. Census Bureau's 2010 Census.

Once compiled, electronic copies of the Annual Report and paper copies of the Executive Summary will be distributed to advisory groups; stakeholder organizations; selected state and federal agencies; county and municipal governments; libraries; and. various environmental, trade, and, other non-profit organizations. The full Report as well as the Executive Summary will be accessible via the Pinelands Commission's website at http://www.nj.gov/pinelands.

PROJECTS

Pinelands Development Credit Supply & Demand Study (On-going Project)

In the fall of 2005, the Pinelands Commission staff began a reexamination of the effectiveness of the Pinelands Development Credit (PDC) program. The PDC program is an integral tool in the implementation of the Comprehensive Management Plan. In order to facilitate the process of directing growth to appropriate areas in the Pinelands region, the PDC program was established to create a market for development rights in the Pinelands. Owners of properties in designated sending areas are afforded the opportunity to "sever" their development interests in their properties and sell those rights to land developers in receiving areas. The developers then use these rights to increase the maximum permitted development densities in regional growth areas, thereby directing growth from preservation areas to more suitable growth areas. Thus, owners of land in preservation areas are financially compensated for deed-restricting their land from future development.

Since the PDC program is market-driven, its ultimate success depends upon a healthy balance between supply and demand pressures in the land development market in the Pinelands. Initially, the PDC program was slow to be utilized by both developers and land owners in the region. However, there had been quite a bit of activity in the PDC market before the current recession, with the price of a development right rising from an initial value of $2,250 in 1985 to as much as $40,000 in 2006.

The Pinelands Development Credit Supply & Demand Study not only comprehensively reviewed which aspects of the PDC program have performed well, it also examined new ideas on how to further stimulate PDC use. The study was, and continues to be, relied upon by the Policy and Implementation Committee as it considers the prudence of new rules for the PDC program. Upon completion of the Commission's fourth five-year progress report, it is expected that the Committee will resume its examination of the PDC program with the LTEM program providing necessary supporting analyses.

Throughout the course of 2012, as it did last year, staff will conduct *ad hoc* analyses using data from the Pinelands Development Credit Supply & Demand Study to support the Policy and Implementation Committee's ongoing consideration of new rules for the PDC program.

Fourth Five-Year Progress Report

The Comprehensive Management Plan (N.J.A.C. 7:50-1 *et seq*) requires that, at least every five years after its adoption, the Commission's Executive Director comprehensively review the Plan itself as well as all actions taken pursuant thereto by the Commission or the Executive Director. Although it was anticipated that this review would begin in 2011, the project has been delayed for a number of reasons. Now that the Commission has a full membership, it is likely that this overdue review commence in 2012. An evaluation of the impact of the Commission's regulations on the region's economy may be a component of this review as well as other *ad hoc* analyses.

Special Study: "Split Towns"

The Commission is scheduled to conduct a special study in 2012 for the first time since 2008. This special study will examine the problem of split towns, an issue that has confronted the Commission since it first began rigorously examining the region's economy.

The state-designated Pinelands Area encompasses portions of seven counties within southern New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Ocean. There are 53 municipalities that are completely or partially within the Pinelands Area. Most of the variables monitored in the Commission's annual report are obtained at the municipal level, since this is typically the most precise level of geography available. Municipal values are then aggregated into Pinelands and Non-Pinelands regions, based on a so-called "10% rule." Any municipality with at least 10% of its land within the Pinelands Area is considered to be a Pinelands municipality (i.e., within the Pinelands Area for purposes of the annual report). All of the remaining municipalities within southern New Jersey (i.e., the seven counties mentioned above and Salem County) are considered to be Non-Pinelands municipalities (i.e., outside of the Pinelands Area for purposes of the report). Of the 53 municipalities completely or partially within the Pinelands Area, 47 were considered to be Pinelands municipalities and six were considered to be Non-Pinelands municipalities.

This method of aggregating values based on the 10% rule has, in the past, been the most viable method for comparing Pinelands municipalities with Non-Pinelands municipalities based on data currently available although it is less than ideal. The drawbacks of this approach have always been readily acknowledged by the Commission. Many municipalities are split by the Pinelands Area boundary, so activities and phenomena present outside the Pinelands Area boundary are counted as occurring inside the Pinelands Area and *vice versa*. In some cases, areas inside a Pinelands municipality, but outside the Pinelands Area boundary, are growing rapidly. This growth can distort the Pinelands aggregate, indicating that the Pinelands is growing rapidly, while in reality much of the growth is occurring just outside of the Pinelands Area boundary.

Obtaining data at a sub-municipal level can circumvent this problem. For instance, the population for each Pinelands municipality was calculated at the block level using census data to obtain population counts for areas of Pinelands municipalities inside and outside the Pinelands Area boundary. The results of the count showed that, in 2000, approximately 277,000 people lived within the Pinelands Area boundary, while approximately 413,000 people lived outside of the boundary, but within Pinelands municipalities. Population growth between 1990 and 2000 was 5.5% within the boundary, and 14.3% outside of the boundary within Pinelands municipalities. The census block analysis further revealed that certain municipalities with as much as 30% of their land within the Pinelands Area had practically no residents at all within the Pinelands Area. Clearly, the Pinelands aggregates are including a measurable amount of Non-Pinelands activity. It is likely that the opposite effect also occurs, albeit on a smaller scale.

Analysis has shown that simply altering the 10% rule in favor of a 20%, 25%, or even 30% rule yields no significant difference in the value of the aggregates. As a result, other methods of obtaining sub-municipal data will be explored. The Commission believes that, through the use of GIS, it may be possible to attribute certain data to relatively precise geographic locations thereby allowing the Commission to more accurately attribute data within those municipalities split by the Pinelands Area boundary than would otherwise have been possible using the 10% rule. Doing so would enable the Commission to more accurately evaluate the impact of its policies upon those areas within the Pinelands Area and to better compare portions of southern New Jersey within the Pinelands Area to those outside. The Commission intends to examine only a select number of core variables as part of this special study. It is hoped that the results of this study will either buttress the Commission's use of the 10% rule, revise it, or eschew it in favor of a more precise methodology.

COORDINATION AND OUTREACH

The findings of both this year's and last year's reports will be presented to the Pinelands Municipal Council in the first quarter of 2012. As in the past, this year the LTEM program is expected to continue to provide support to the various Pinelands municipalities through the issuance of periodic updates on relevant economic information.

THREE-YEAR SCHEDULE FOR LONG-TERM ECONOMIC-MONITORING PROGRAM			
Topic	**1/12-12/12**	**1/13-12/13**	**1/14-12/14**
Annual Long-Term Economic-Monitoring Report	2011 final report & summary to be issued early 2012. 2012 final report & summary to be issued late 2012.	Final report & summary to be issued late 2013.	Final report & summary to be issued late 2014.
Pinelands Development Credit Supply & Demand Study	Conduct *ad hoc* analyses.		
4th 5-Year Progress Report	Evaluate impact of Commission's regulations. Conduct *ad hoc* analyses.		
Special Study: "Split Towns"	Evaluate whether GIS is a better alternative to the Commission's "10% rule."		

ESTIMATED LONG-TERM ECONOMIC MONITORING EXPENSES IN 2012 AND 2013 TO BE FUNDED BY MODIFICATION #03 TO COOPERATIVE AGREEMENT H4506080713

EXPENSES	1/12-12/12	1/13-12/13**	TOTAL
PERSONNEL	20,000	11,000	31,000
PROFESSIONAL SERVICES	0	0	0
SUPPLIES AND EQUIPMENT	1,500	1,500	3,000
OTHER (1)	100	125	225
INDIRECT COSTS (2)	3,650	2,125	5,775
TOTAL	$25,250	$14,750	**$40,000**

(1) INCLUDES TRAINING, TRAVEL, MEALS, AND OTHER MISCELLANEOUS EXPENSES.
(2) INDIRECT COSTS ARE CALCULATED AT THE NEGOTIATED RATE OF 16.89% OF DIRECT COSTS.

** Additional funding through National Park Service Cooperative Agreements will be necessary to fund this project for the later portion of 2013 and in future years.

TOTAL ESTIMATED LONG-TERM ENVIRONMENTAL AND ECONOMIC MONITORING EXPENSES TO BE FUNDED BY MODIFICATION #03 TO TASK AGREEMENT J4531090733 UNDER COOPERATIVE AGREEMENT H4506080713

EXPENSES	1/12-12/12	1/13-12/13**	TOTAL
PERSONNEL	120,000	86,000	206,000
PROFESSIONAL SERVICES	0	0	0
SUPPLIES AND EQUIPMENT	9,500	6,500	16,000
OTHER (1)	3,600	3,125	6,725
INDIRECT COSTS (2)	22,450	16,125	38,575
TOTAL	**$155,550**	**$111,750**	**$267,300**

(1) INCLUDES TRAINING, TRAVEL, MEALS, AND OTHER MISCELLANEOUS EXPENSES.

(2) INDIRECT COSTS ARE CALCULATED AT THE NEGOTIATED RATE OF 16.89% OF DIRECT COSTS.

** Additional funding through National Park Service Cooperative Agreements will be necessary to fund this project for the later portion of 2013 and in future years.