



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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




LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Acting Executive Director

Date: April 20, 2022

Subject: April 29, 2022 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on April 29, 2022. We have also enclosed the following:

- The minutes from the Committee's March 25, 2022 meeting;
- A draft resolution and report on Winslow Township's master plan and ordinance amendments; and
- A memorandum and updated description of potential CMP amendments, as well as excerpts from the minutes of the Committee's October 29, 2021 and November 19, 2021 meetings at which this matter was previously discussed.

Please note that the agenda includes the Committee's review of a draft rule proposal related to the Commission's Electric Transmission Right-of-Way Maintenance Pilot Program. We will be providing a copy of the rule proposal under separate cover early next week.

The Committee meeting will be conducted via teleconference. Specific access information will be provided to all Committee members in a separate email. The public will be able to view and participate in the meeting through the following YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

/CS15

cc: All Commissioners (agenda only)



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



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

April 29, 2022 – 9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

To Provide Public Comment, Please Dial: 1-929-205-6099, Meeting ID: 821 0187 6065

Agenda

1. Call to Order
2. Adoption of minutes from the March 25, 2022 CMP Policy & Implementation Committee meeting
3. **Executive Director's Reports**

Winslow Township's 2019 Master Plan Reexamination Report Phase II, Master Plan Reexamination Report Addenda and Ordinance O-2022-004, amending Chapter 296 (Zoning Within Pinelands) of the Township's Code by implementing zoning changes along Route 73 within the Regional Growth Area
4. Review of draft rule proposal for the Electric Transmission Right-of-Way Maintenance Pilot Program
5. Continued discussion of CMP amendments: identification of priorities and schedules
6. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely
All participants were present via Zoom conference
The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/watch?v=7-JeVIOSJh4>

Meeting ID: 844 4223 0576

March 25, 2022 - 9:30 a.m.

Minutes

Members in Attendance – Alan W. Avery Jr., Jerome H. Irick, Mark Lohbauer, Laura E. Matos

Members Absent – Ed Lloyd

Other Commissioners in Attendance – Theresa Lettman

Commission Staff – Gina Berg, Ernest Deman, Marci Green, Susan R. Grogan, Paul Leakan, Jessica Lynch, Trent Maxwell, Stacey Roth, and Steve Simone. Also in attendance was Janice Venables from the Governor’s Authorities Unit.

1. Call to Order

Chair Matos called the meeting to order at 9:32 am. Acting Executive Director Susan R. Grogan introduced Commission rule-writing attorney Marci Green to new Commissioners Theresa Lettman and Laura E. Matos.

2. Adoption of the minutes from the February 25, 2022, CMP Policy & Implementation Committee meeting

Chair Matos asked for a motion to adopt the minutes from the February 25, 2022, CMP Policy & Implementation Committee meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Irick seconded the motion. All voted in favor.

3. Briefing on Pinelands Conservation Fund land acquisition schedule, priorities, and matrix

Commissioner Avery recused himself from the discussion due to his membership on the Ocean County Natural Lands Trust, a frequent applicant for Pinelands Conservation Fund acquisition funding. He was placed in the virtual waiting room.

Resource Planner Gina Berg discussed the Pinelands Conservation Fund (PCF) program to acquire land in the Pinelands. She requested authorization to re-launch a round of PCF grants using the same 2021 criteria matrix. She explained that the P&I Committee authorized opening a grant round in early 2021. However, only one project was received. It did not score highly on the

criteria matrix that was adopted by the P&I Committee, and the staff requested placing the acquisition round on hold pending a relaunch in 2022.

Ms. Berg mentioned that for this re-launch of the acquisition funding, the biggest difference from last year is an additional infusion of \$500,000, bringing the total funding made available to \$1.5 million for PCF acquisitions. She noted that funding for this new round comes from the amended Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA).

Ms. Berg then described the priorities and criteria for the round of land acquisition grants. Per the SJTA agreement, the highest priority is acquiring grassland habitat. Other priorities include the 20 planning areas identified by the Commission in the 1990s and the Section 502 areas that were identified with federal legislation. Ms. Berg continued that climate change remains a central concern for site selection, with fire risk and flood risk mitigation areas scoring highly. Bonus points will be awarded for large tracts of cedar swamp, Threatened and Endangered (T&E) species habitats, and capability of the acquiring organization to maintain the property in its natural state. Contiguity with previously preserved land is another important factor. These are the same priorities that the P&I Committee approved last year.

Ms. Berg explained the process for land acquisition project approvals. Invitations will be sent out to prospective preservation partners by the end of April. After applications have been received and evaluated, the staff will bring project recommendations back to the P&I Committee for review, tentatively set for the August committee meeting. Up to a third of the acquisition's costs can be funded by the PCF, and the recipient of the funds would have to cover the remainder through other means.

Commissioner Lohbauer asked if specific permission was needed from the P&I Committee on PCF matters or if it must be referred to the full Commission meeting. Ms. Grogan stated that it is the P&I Committee that establishes the priorities and endorses the schedule for PCF land acquisition. Commissioner Lohbauer commented that he is thrilled about the additional funding for the program and the climate considerations integrated into the decision making. Chair Matos agreed that she is fully supportive of the program. All Committee members present indicated their endorsement of the staff's recommendations.

Chair Matos asked a question about the 2021 proposal that did not score highly based on the matrix criteria, inquiring if they would receive word that the application process has reopened with the same priorities. Ms. Berg and Ms. Grogan both confirmed that the opportunity would be available to that organization.

Commissioner Avery returned to the meeting.

4. Review of draft CMP amendments: water management and the Kirkwood-Cohansey aquifer

Resource Planner Berg shared a presentation on the draft rule amendments for the Kirkwood-Cohansey (K-C) aquifer. The Commission has been working on these Comprehensive Management Plan (CMP) amendments for several years. Ms. Berg provided a brief refresher on the Kirkwood-Cohansey and its importance to the Pinelands and Pinelands communities.

Ms. Berg discussed the history behind the draft amendments, noting the 2001 Gibson Bill provided \$5 million to study impacts of water use on the Pinelands and to evaluate available water for human use. She further described the K-C Project and activities of Commission staff, the United States Geological Survey (USGS), Rutgers, and other researchers to review existing rules and evaluate water use impacts. She mentioned the need for clearer requirements, objective metrics, and the incorporation of the findings from the K-C Project studies into the CMP.

Ms. Berg provided a synopsis of the draft rules. She noted that the current CMP already contains many of the requirements to be amended; however, the current standards are abstract and have proven difficult to administer. She specified that the draft rules set fixed definitions and numerical standards particularly related to water transfers, alternative sources of water, ecological impacts, and water conservation. Ms. Berg indicated that new rules apply to those withdrawals from the Kirkwood-Cohansey aquifer that use 50,000 gallons of water per day (gpd) or more but would not apply to agricultural wells or wells in other aquifers.

Ms. Berg first detailed the amendment of the rule relating to inter-basin transfers. Under the current rules, inter-basin transfers are to be avoided to the maximum extent practical. The new rules specifically prohibit inter-basin transfers. She also noted that the prohibition on transporting water more than ten miles outside the Pinelands Area would remain in effect.

Ms. Berg further explained that the proposed rule includes a definition of the term basin because that term is not currently defined in the CMP. She shared an informational slide on watershed basins and described the Hydrologic Unit Code-11 (HUC-11) watersheds. She described how the HUC -11s combine to form Watershed Management Areas (WMAs) and WMAs combine to form basins. She indicated that a K-C well in the Delaware Basin would not be allowed to discharge water to the Atlantic Basin and vice versa under the draft rule.

Commissioner Lohbauer asked Ms. Berg about communities that are situated on borders between the two basins, and end up mixing basin discharges such as Winslow, Waterford, and Monroe townships. Ms. Berg replied that the Commission already has Memoranda of Agreement/ Understanding with those communities most impacted by the prohibition on interbasin transfers. The Memoranda set capacity limits for using Kirkwood-Cohansey wells in the Atlantic Basin portion of the aquifer. Ms. Berg commented that the lack of a definition for the term basin in the existing rules complicated water supply applications for those municipalities.

Ms. Grogan stated the main difference with the draft rule is reclassifying the Mullica Basin and dissolving it into the larger Atlantic Basin, thereby transfers from one HUC-11 to another would

be allowed in the basin. Ms. Berg elaborated that intra-basin transfers are not explicitly addressed in the current rule. However, under the proposed rule, intra-basin transfers would be expressly permitted to address the policy goal of providing water for future demand.

Commissioner Avery asked Ms. Berg if the MOAs have an expiration date or continue indefinitely. Ms. Berg responded that the MOAs do not expire. Ms. Grogan mentioned the MOAs are in effect until the community hits the capacity limit specified in the MOA/MOU and any additional water demand would have to be evaluated under new rules or an MOA/MOU amendment after the cap is reached.

Commissioner Irick asked for more clarity on the rule regulating the transportation of water more than ten miles outside the Pinelands Area. Ms. Berg said it is prohibited by statute and identified the New Jersey statute that sets the restriction.

Ms. Berg next introduced the diversion threshold at which new rules for wells would take effect. The current rule states that applicants for wells must apply to the Commission if they will pump 100,000 gallons of water per day (gpd) or more. The updated rule decreases the threshold to 50,000 gpd or more and applies to all the applicant's wells under the same water allocation permit and in the same HUC-11 watershed. The existing rules require evaluation under NJ Geological Survey Report (GSR) 29, while the draft rules would delete GSR-29 in favor of Technical Memorandum 12-2 (TM 12-2).

Ms. Grogan clarified that all applications for all new wells in the Pinelands Area are required by the CMP because they constitute development, regardless of source or withdrawal amount, unless they are exclusively for agricultural purposes. The proposed standards being discussed this morning would apply specifically to well applications that withdraw water from the Kirkwood-Cohansey aquifer and do not apply to other aquifers in the Pinelands Area.

Ms. Berg proceeded with the section of the draft rules that limits new or increased withdrawals of 50,000 gpd or more from the Kirkwood-Cohansey aquifer to specific Pinelands Management Areas. Under the current rule, there is no restriction on new diversions in any specific management areas. The draft rules categorically exclude new wells in the Preservation Area District, Forest Area, and Special Agricultural Production Area. This prohibition also pertains to Pinelands Villages situated in the Preservation Area, such as Green Bank or Warren Grove. New or increased diversions would remain acceptable in Regional Growth Areas, Pinelands Towns, Rural Development Areas, Agricultural Production Areas, Military/Federal Installation Areas, and Villages outside the Preservation Area.

Ms. Berg next discussed the rule amendment on alternative water sources. Current rules require applicants to demonstrate that there are no viable alternative water supply sources. The draft rules maintain this restriction but clarify the meaning of "alternative water supply sources". The Commission will need to compile a list of places where alternative sources have been identified through research on water purveyor franchise areas, known public water supply distribution systems, and knowledge of other aquifers that are yielding water in the Pinelands region.

Commissioner Lohbauer asked if the list of alternative water supply sources will be added into the language of the draft rule amendment or remain an open-ended and flexible list that Commission staff can draw upon. Ms. Berg confirmed that the list will be posted on the Commission's website and the contents of the list will not be fixed, though they are not likely to change often.

Ms. Berg then transitioned to proposed rule amendments regarding adverse ecological impacts in the Pinelands Area. The current rule simply states that the diversion cannot result in any adverse ecological impact on the Pinelands Area. Like other parts of the rule amendment, this update introduces specific numeric standards to gauge adverse ecological impacts. Adverse ecological impacts will need to be evaluated at both the regional and local levels.

Ms. Berg discussed the section of the draft rule dealing with no adverse regional ecological impacts. She noted that it relies on the statewide water supply plan published by the New Jersey Department of Environmental Protection (NJDEP) and uses the low flow margin for HUC-11 watersheds. The State's water supply plan includes an appendix of available low flow margins for streams in HUC-11 watersheds throughout New Jersey. The new rule is relying on these assessments and sets a standard of 20% of the low flow margin that can be used for all water diversions in each respective watershed.

Ms. Berg shared a graph of monthly median flows, which dip down to their minimum in September and peak in March. She pointed out that toward the bottom of the graph is the 7Q10 or passing flow. The low-flow margin of safety is calculated as the difference between the variable monthly median flows and the constant 7Q10 flow and 20% of this volume is the numerical limit set by the draft rules.

The draft rules incorporate offset requirements on a gallon-per-gallon basis if less than 20% of the stream low flow margin is available with or without a new diversion. Offset examples are included in the rule language.

Commissioner Irick asked if the gallon-per-gallon offset considers existing recharges or would require new recharges. Ms. Berg answered that it is only a new recharge that would address this proposed requirement.

Ms. Berg moved on to the no adverse local ecological impacts section of the draft rule and noted that the section scrutinizes the location of specific wells relative to wetlands and Forest Area/Preservation Area District boundaries. Under current rule, well diversions are required to minimize impacts on wetlands and surface waters. She said that the draft rule would set a numeric limit of four inches of drawdown in wetlands in most management areas, but that no drawdown would be allowed in the Forest Area, the Special Agricultural Production Area, or the Preservation Area District, as these are the more restrictive management areas.

The draft rules propose a four-step process of demonstrating no adverse local impact: applicants prepare a THIEM analysis, then design a pump test, followed by conducting said pump test, and

finally generate a Modflow model of the well. She stated that each step must demonstrate that there is less than four inches of drawdown at wetlands or no drawdown at the Forest Area or Preservation Area District boundary. The analysis and test would be validated through the Commission's draft agreement with USGS, though this is not included in the draft rule language.

Ms. Berg moved on to the rule amendment on water conservation. The current directive requires distribution system applications to address water conservation but sets no measurable goals for them to meet. The proposed rule lists more specific measures that can be completed by public or private applicants to address water conservation.

Ms. Berg next discussed a new section of the draft rule that would institute a new policy requiring applicants to provide notice of new diversions to affected municipalities. Previously, providing notice to municipalities was not a requirement. When two or more municipalities share any portion of an affected HUC-11 watershed, the applicant must notify them that the new or increased diversion is proposed.

Ms. Berg then reviewed a flow chart and discussed the process an applicant would have to go through for a new or increased well diversion from the Kirkwood-Cohansey of 50,000 gpd or more.

Last, she mentioned that the draft rules propose a change in application fees for Kirkwood-Cohansey wells drawing 50,000 gpd or more. Applications for new wells or increased diversions in the Kirkwood-Cohansey would have a fee of \$6,000 and other wells would have a fee of \$1,000.

Commissioner Lohbauer asked about wells that fail the hydrogeologic pump test and if they can reapply. Ms. Berg replied that this could happen at any point in the process. She discussed that an applicant could propose a new location, a different aquifer, or a different withdrawal rate if the proposed withdrawal fails at any point in the application process. An applicant can revise the application if the proposed well is in the wrong management area, or the analysis shows too much drawdown, or if the pump test shows too much impact to wetlands. She further elaborated that if the diversion will not meet the low flow margin of safety, the applicant will be responsible for gallon-per-gallon offsets or must find water somewhere else.

Ms. Berg shared a calendar of next steps in the draft rule adoption process. The P&I Committee will review the full rule proposal in May. Pending review by the Governor's office and authorization by the full Commission, the proposal could be published in the New Jersey Register in July. There would then be a public hearing on the matter in September. If all goes according to schedule, the amendments could take effect in early 2023.

Commissioner Lohbauer said he is impressed with the level of specificity that the Commission is inserting into the Kirkwood-Cohansey rules. He thought these new rules gave the Commission the strength it needs to protect wetland areas. He was unsatisfied with the standards for water conservation measures, and asked Ms. Berg about the Commission's internal discussion on the

contents of that section. She said there was extensive, internal discourse among staff in addition to feedback from the P&I Committee and other entities. Enforcing water conservation measures is challenging for the Commission, and generally the agency must rely on municipalities to enforce these measures on its behalf. She continued that the Commission has no ability to independently verify if private homeowners are adhering to conservation ordinances.

Ms. Grogan added that the rule language leaves open the ability for applicants to propose alternatives to meet water conservation guidelines. She also said that private agencies like New Jersey American Water have different tools and abilities to engage in water conservation than municipalities like Hammonton. For now, the Commission wants to provide some guidance on conservation but also leave room for flexibility.

Commissioner Lohbauer stated he does not want to impede the process of the Kirkwood-Cohansey draft rule adoption and feels that water conservation will be an important issue in future years. He said he is elated with the project and strongly supports it.

Ms. Grogan responded that water conservation would be a good topic for the Climate Committee to discuss in a broader context.

Commissioner Avery asked if an entity like the Hammonton Water Department applies for a new well through the public development process. Ms. Grogan replied yes, and that New Jersey American Water would have to apply through the private development process. Ms. Grogan stated that while drafting the rules, Commission staff had to remain cognizant that they would apply to both public and private applicants.

Commissioner Avery asked Ms. Berg for frame of reference on the size and nature of applications that might be subject to the proposed rules. Ms. Berg listed mobile home parks in the Rural Development Area, golf courses, large irrigation wells, and community systems where they exist.

Ms. Grogan said the draft rules would be further discussed at the P&I Committee's meeting in May, along with a full rule proposal package.

5. Update on rule proposal for Electric Transmission Right-of-Way Maintenance Pilot Program

The Commission's Chief of Legal and Legislative Affairs, Stacey Roth, provided an update on the rule proposal for the Electric Transmission Right-of-Way Maintenance Pilot Program. She stated that she and Marci Green are working on the project. It was a pilot program until it expired last year, and they have been working together on the rule language and the various summaries for Commission approval. Rule language was previously discussed with the P&I Committee and staff anticipates presenting a full draft notice of proposal at the April Committee meeting.

6. Public Comment

Rhyan Grech of the Pinelands Preservation Alliance (PPA) thanked the Commission for the opportunity to comment this morning. She stated that she was disappointed by the cancellation of the March Climate Committee meeting and said she was concerned that only three Committee meetings have been held since June 2021. She pointed out that the Commission has greater reach to regulate land management and protection policies in the Pinelands National Reserve than NJDEP, and that the rare species inhabiting it are more vulnerable to climate change and more worthy of protection than species outside the Pinelands Area. She concluded that the public is waiting for more action and deserves monthly meetings.

Ms. Grech mentioned the Aerohaven former landfill site in Evesham, criticizing the solar project that the Township approved several years ago. An amendment to the application was later approved in January. There is a letter from the Commission to the applicant dated August 2021, saying the Commission needed more information from the applicant to approve the amendment proposals. The Commission received confirmation that Evesham approved the amendment but needed more details on the Horizontal Directional Drilling (HDD) the applicant is using for interconnection cables. Final approval has not been formally granted, but Ms. Grech reported that construction has already begun at the site.

Ms. Grech thanked the staff for a thoughtful presentation on the Kirkwood-Cohansey aquifer. She said the Commission should consider climate change when generating policy for water supply planning in the Pinelands. PPA recommends the Commission set targets for total withdrawals from the aquifer using information regarding water withdrawals, uses, transfers, and discharges from each basin. Additionally, the Commission should design plans to maintain current ecological functions and restore natural flows and water levels where existing withdrawals have already reduced water levels. She said that explicit criteria for determining which potential source will be considered is desirable for locations where the aquifer is stressed.

Commissioner Lohbauer replied to Ms. Grech, accepting responsibility for the cancellation of the March Climate Committee meeting. He said he works closely with Acting Executive Director Grogan on the agendas for such meetings but was not able to devote the time necessary to do so this month.

Chair Matos added that the meeting cancellation was not for lack of urgency and that the Commission concurs with Ms. Grech's concerns about the necessity and value of comprehensive climate mitigation in the Pinelands.

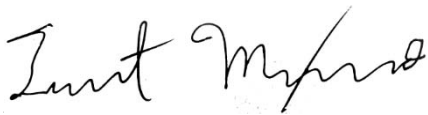
Fred Akers from the Great Egg Harbor Watershed Association called in to say he is pleased with the new Kirkwood-Cohansey rules, and that the 50,000 gpd minimum is very important because it encompasses more applicants than the NJDEP's 100,000 gpd threshold. He asked if the Commission had considered the depletive use of Kirkwood-Cohansey water resources in generating wastewater for Atlantic City, and whether the new rules apply to this setup which is transposing water from Regional Growth Areas (RGAs) situated inside the aquifer to areas outside of the aquifer. The water is then treated and then deposited into the Atlantic Ocean. Chair

Matos replied that Commission staff could not immediately address the question but would reach out to him later with more information.

Chair Matos closed public comment at 10:51 am.

Chair Matos motioned to close the meeting at 10:52 am. Commissioner Lohbauer seconded the motion. All voted in favor.

Certified as true and correct:



Trent Maxwell, Assistant Technical Planner

Date: April 12, 2022



**N.J.A.C. 7:50–6.86
DRAFT RULE AMENDMENTS**

KIRKWOOD – COHANSEY AQUIFER

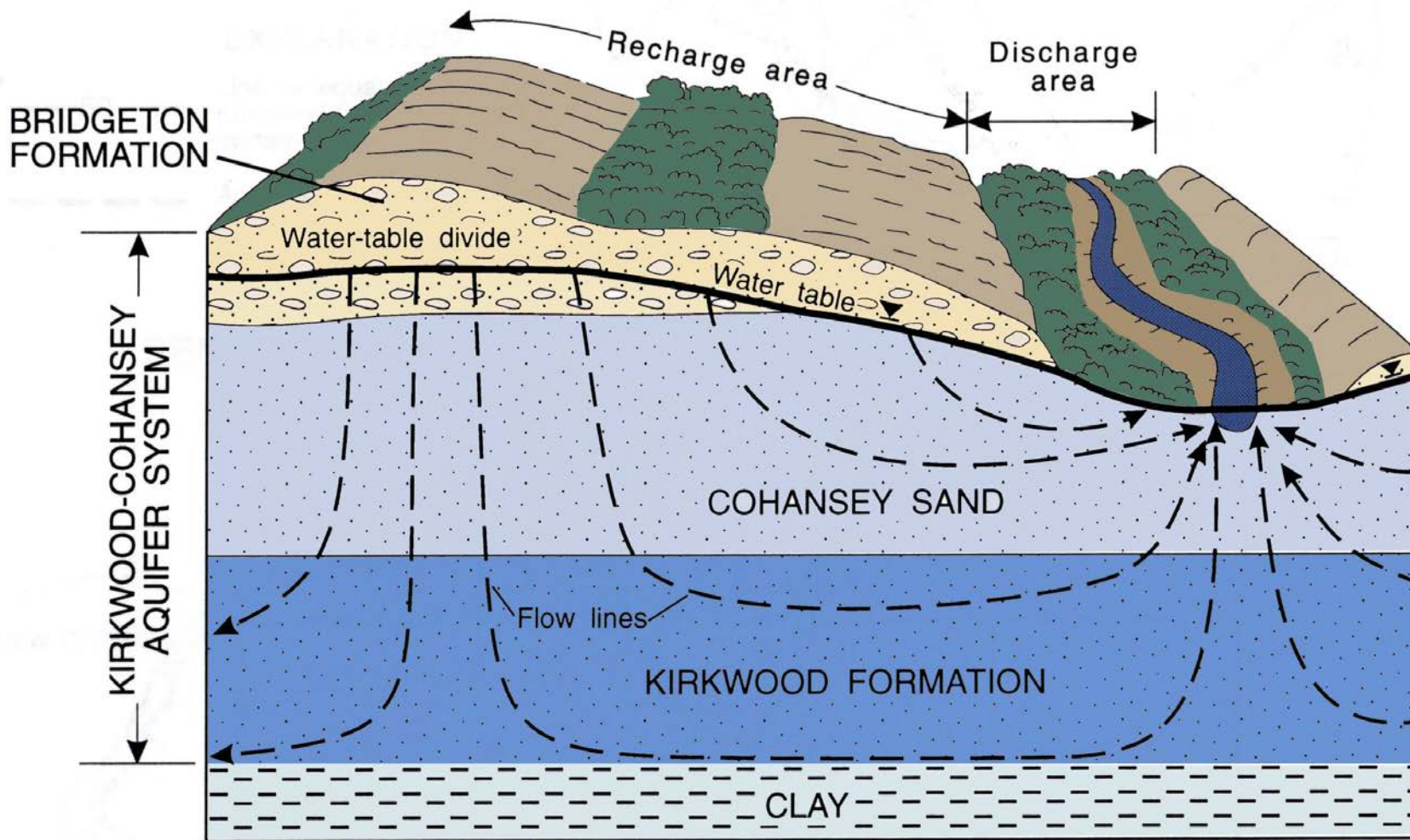
P&I COMMITTEE

MARCH 25, 2022



THE KIRKWOOD COHANSEY AQUIFER

- 17-TRILLION GALLON FRESH-WATER RESERVOIR UNDERLYING THE PINELANDS
- SUPPORTS UNIQUE PINELANDS VEGETATION AND ANIMAL COMMUNITIES
- PRODUCTIVE WATER SUPPLY SOURCE FOR HUMAN USES
- CHARACTERIZED BY LOW ACIDITY, LOW SUSPENDED SOLIDS, LOW SPECIFIC CONDUCTANCE (CLEAN)
- SHALLOW, EXTENSIVE CONE OF DEPRESSION FROM WELLS



NOT TO SCALE

BACKGROUND

K-C Project

- Gibson Bill
- Hydrologic studies
- Habitat & Species impact studies

Need for Improvements to CMP

- Clearer requirements
- Objective metrics
- Incorporate K-C Project studies

Progressive Protections

- Greater protections in Preservation Area District, Special Agricultural Production Area & Forest Area
- Allow withdrawals in less restrictive Management Areas

POLICY GOALS

Clearer terms and standards

Quantitative rather than qualitative standards

Ensuring water supply for development

OVERVIEW OF PROPOSED RULE

- INTERBASIN TRANSFERS PROHIBITED
- INTRABASIN TRANSFERS PERMITTED (SUBJECT TO STANDARDS)
- KIRKWOOD-COHANSEY AQUIFER DIVERSION STANDARDS
 - MANAGEMENT AREAS WHERE DIVERSIONS ARE PERMISSIBLE
 - VIABLE ALTERNATIVE SOURCES
 - NO ADVERSE ECOLOGICAL IMPACT
 - NO ADVERSE REGIONAL IMPACT
 - NO ADVERSE LOCAL IMPACT
- WATER CONSERVATION REQUIREMENTS
- NOTICE REQUIREMENTS

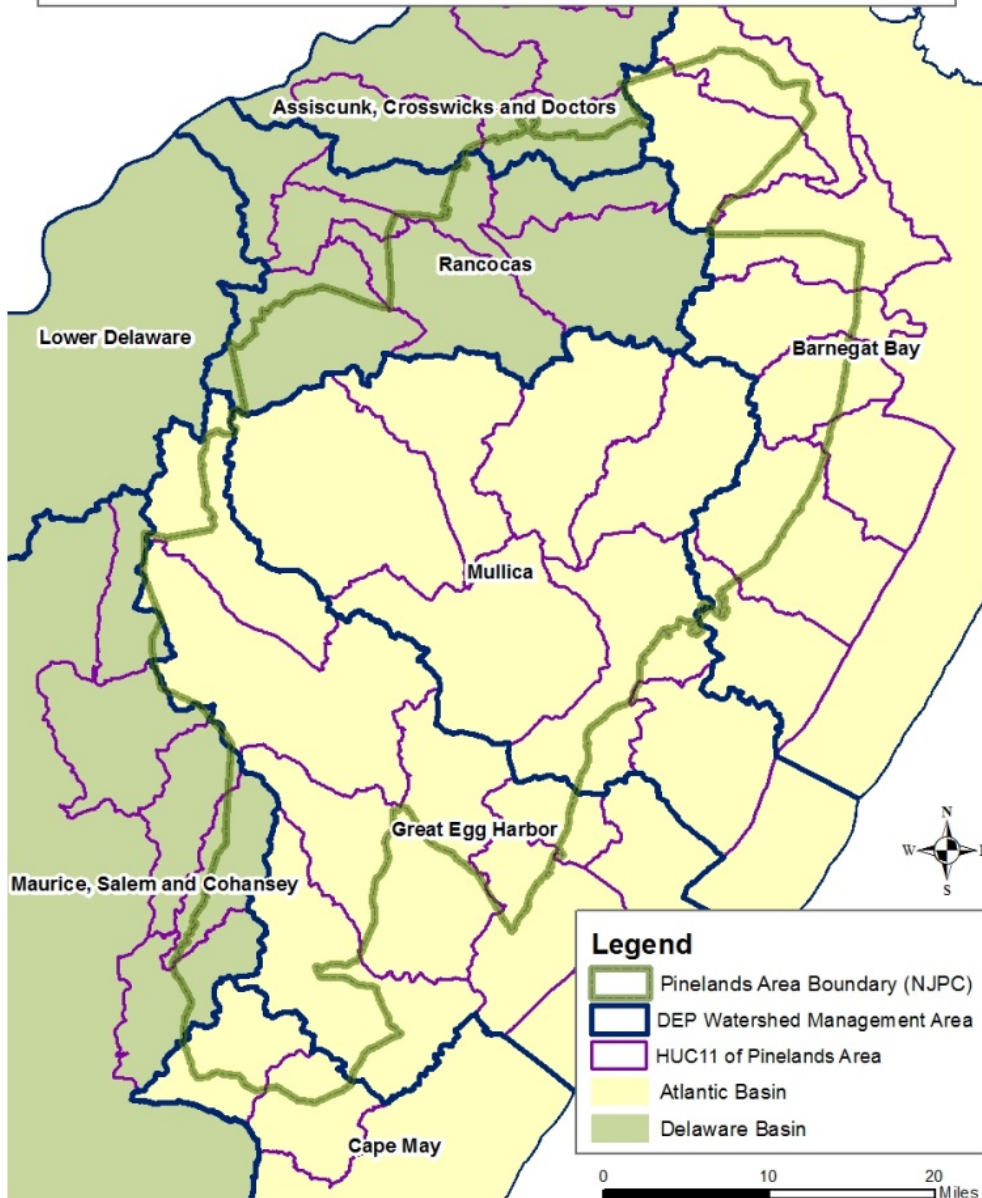
INTERBASIN TRANSFERS



50,000+
gpd
from K-C
wells

- CURRENT RULE: INTERBASIN TRANSFER OF WATER TO BE AVOIDED TO MAXIMUM EXTENT PRACTICAL
- PROPOSED RULE AMENDMENT:
 - SPECIFICALLY PROHIBIT INTERBASIN TRANSFER
 - DEFINE “BASIN”
 - ATLANTIC
 - DELAWARE

Hydrologic Unit Code -11
Watersheds



TERMS: HUC – 11 & BASIN

HUC-11 WATERSHEDS ARE DELINEATED BY
USGS

COMBINED THEY MAKE UP WATERSHED
MANAGEMENT AREAS DELINEATED BY
NJDEP

WATERSHED MANAGEMENT AREAS
COMBINED MAKE UP BASINS TO BE USED
FOR RULE

INTRABASIN TRANSFERS



50,000+
gpd
from K-C
wells

- CURRENT RULE: DOES NOT ADDRESS TRANSFER OF WATER WITHIN THE SAME BASIN
- PROPOSED RULE AMENDMENT:
 - ALLOWS TRANSFER OF WATER BETWEEN HUC-11 WATERSHEDS IN THE SAME BASIN.
 - IF TRANSFER INVOLVES WATER SOURCED FROM KIRKWOOD-COHANSEY AQUIFER, DIVERSION MUST MEET STANDARDS AND CRITERIA IN THE RULE

WELLS SUBJECT TO NEW STANDARDS

- DIVERSIONS FROM KIRKWOOD-COHANSEY AQUIFER GREATER THAN 50,000 GALLONS OF WATER A DAY
 - CURRENT RULE APPLIES ONLY TO 100,000 GALLONS OF WATER OR MORE A DAY
- NEW STANDARDS WILL NOT APPLY TO:
 - REPLACEMENT OF EXISTING WELLS IF NO INCREASE IN ALLOCATION
 - EXCLUSIVE AGRICULTURAL OR HORTICULTURAL USE



50,000+
gpd
from K-C
wells



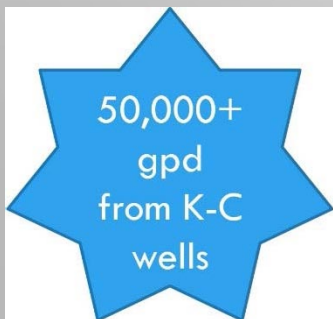
50,000+
gpd
from K-C
wells

PINELANDS MANAGEMENT AREAS

- CURRENT RULE DOES NOT RESTRICT NEW DIVERSION TO SPECIFIC MANAGEMENT AREAS
- PROPOSED RULE AMENDMENT:
 - NEW OR INCREASED DIVERSION NOT ALLOWED IN:
 - PRESERVATION AREA DISTRICT, FOREST AREA, OR SPECIAL AGRICULTURAL PRODUCTION AREA
 - VILLAGES DERIVED FROM PRESERVATION AREA
 - NEW OR INCREASED DIVERSION ALLOWED IN:
 - REGIONAL GROWTH AREA, TOWNS, RURAL DEVELOPMENT AREA, AGRICULTURAL PRODUCTION AREA, MILITARY-FEDERAL INSTALLATION AREA & CERTAIN VILLAGES

NO ALTERNATIVE WATER SOURCES

- CURRENT RULE: DIVERSION PERMITTED ONLY IF NO VIABLE ALTERNATIVE WATER SUPPLY SOURCES
- PROPOSED RULE AMENDMENT:
 - RETAINS THIS RESTRICTION
 - CLARIFIES WHAT IS MEANT BY “ALTERNATIVE WATER SUPPLY SOURCES”



NO ADVERSE ECOLOGICAL IMPACTS

- EXISTING RULE: SIMPLY STATES THAT THE DIVERSION CANNOT RESULT IN ANY ADVERSE ECOLOGICAL IMPACT ON THE PINELANDS AREA
- PROPOSED RULE AMENDMENT:
 - INCLUDES SPECIFIC, OBJECTIVE STANDARDS TO MEASURE ADVERSE ECOLOGICAL IMPACT
 - BREAKS DOWN ADVERSE ECOLOGICAL IMPACT INTO:
 - ADVERSE REGIONAL IMPACT
 - ADVERSE LOCAL IMPACT



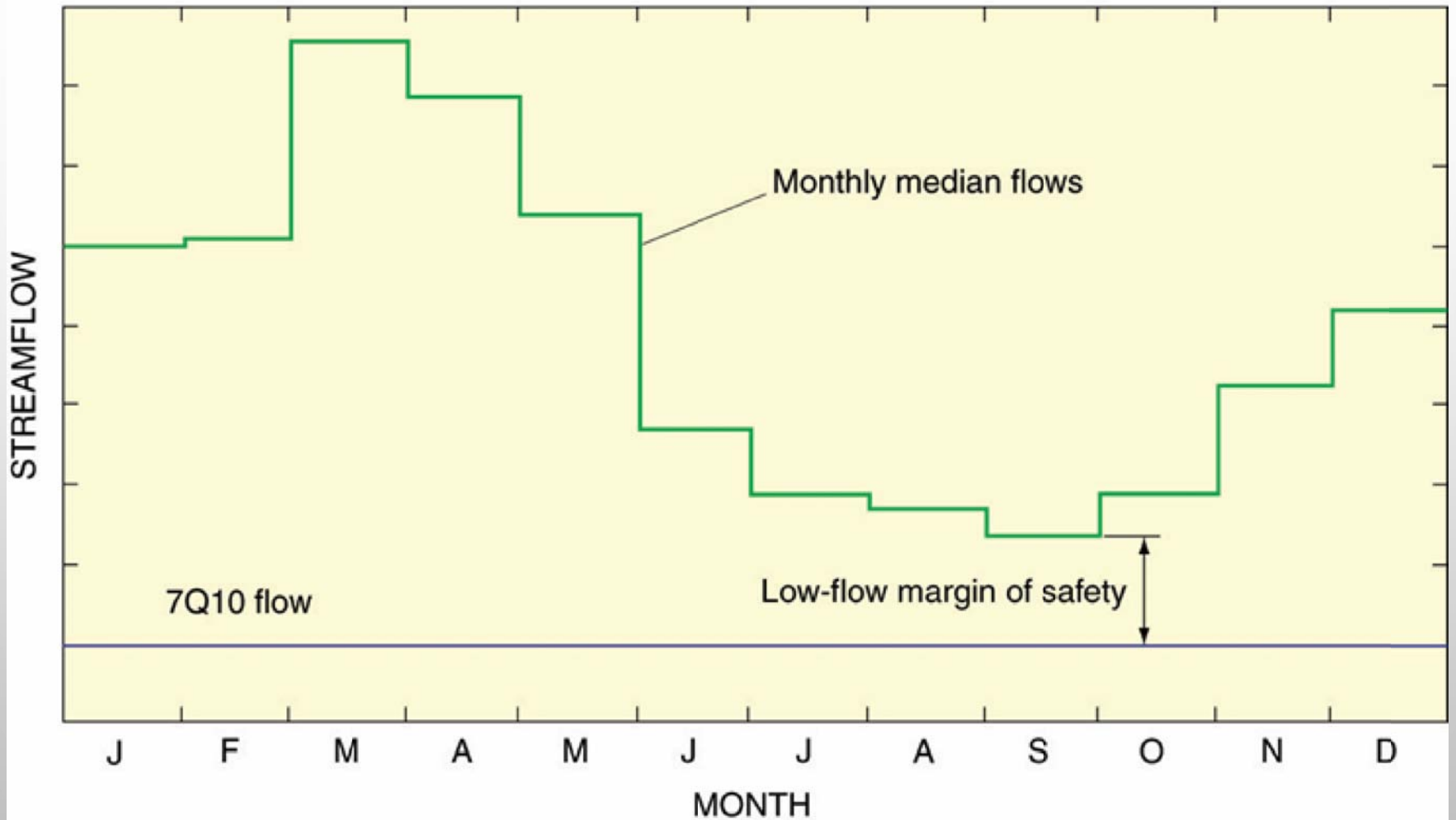


50,000+
gpd
from K-C
wells

NO ADVERSE REGIONAL IMPACT

- CURRENT RULE: DOES NOT REQUIRE AN ASSESSMENT OF THE IMPACT OF A DIVERSION ON THE REMAINING WATER CAPACITY IN THE WATERSHED
- PROPOSED RULE AMENDMENT: REQUIRES CALCULATION OF HOW MUCH WATER IS AVAILABLE FROM A WATERSHED AND ALLOWS DIVERSION ONLY IF WATERSHED HAS SUFFICIENT CAPACITY AS MEASURED BY THE STREAM LOW FLOW MARGIN
 - RELIES ON STATEWIDE WATER SUPPLY PLAN FOR LFM
 - IF EXISTING USE OF WATER IN A WATERSHED IS ALREADY MORE THAN 20% OF THE LFM, THEN NO ADDITIONAL WITHDRAWAL ALLOWED UNLESS USE IS OFFSET (*SEE NEXT SLIDE*)
 - IF PROPOSED DIVERSION WILL RESULT IN MORE THAN 20% OF LFM BEING USED, THEN PROPOSED USE MUST BE OFFSET
 - NO OFFSETS REQUIRED IF STREAM WILL NOT REACH 20% OF LFM

LOW-FLOW MARGIN OF SAFETY



OFFSETS

- APPLICANT REQUIRED TO PERMANENTLY OFFSET DIVERSION ON GALLON-FOR-GALLON BASIS IF:
 - STREAM LOW FLOW MARGIN IS LESS THAN 20% WITH OR WITHOUT NEW DIVERSION
- EXAMPLES OF OFFSETS INCLUDED IN RULE





50,000+
gpd
from K-C
wells

NO ADVERSE LOCAL IMPACT

- CURRENT RULE: REQUIRES ONLY THAT DIVERSION MINIMIZE IMPACTS ON WETLANDS AND SURFACE WATERS
- PROPOSED RULE:
 - MEASURABLE, NUMERICAL STANDARDS TO ENSURE MINIMAL IMPACTS ON WETLANDS AND SURFACE WATERS
 - CLEAR PROCESS OF DEMONSTRATING NO LOCAL IMPACT
 - FOUR STEP PROCESS:
 - THIEM
 - HYDROGEOLOGIC TEST DESIGN
 - HYDROGEOLOGIC (PUMP) TEST
 - MODFLOW MODEL
 - ANALYSES, TESTS, MODELS TO BE EVALUATED FOR VALIDITY BY USGS

stages of pond-breeding frogs. Although different measures were used for the short-term and long-term simulations, the results of all simulations indicated that impacts would generally begin to occur at water-depth reductions of 10 to 15 cm. For all simulations, successively greater reductions would have caused increasing impacts that varied by species and pond, with the 50-cm reductions shortening pond hydroperiods enough to practically eliminate the possibility of larval development and metamorphosis for all three species.



WATER CONSERVATION

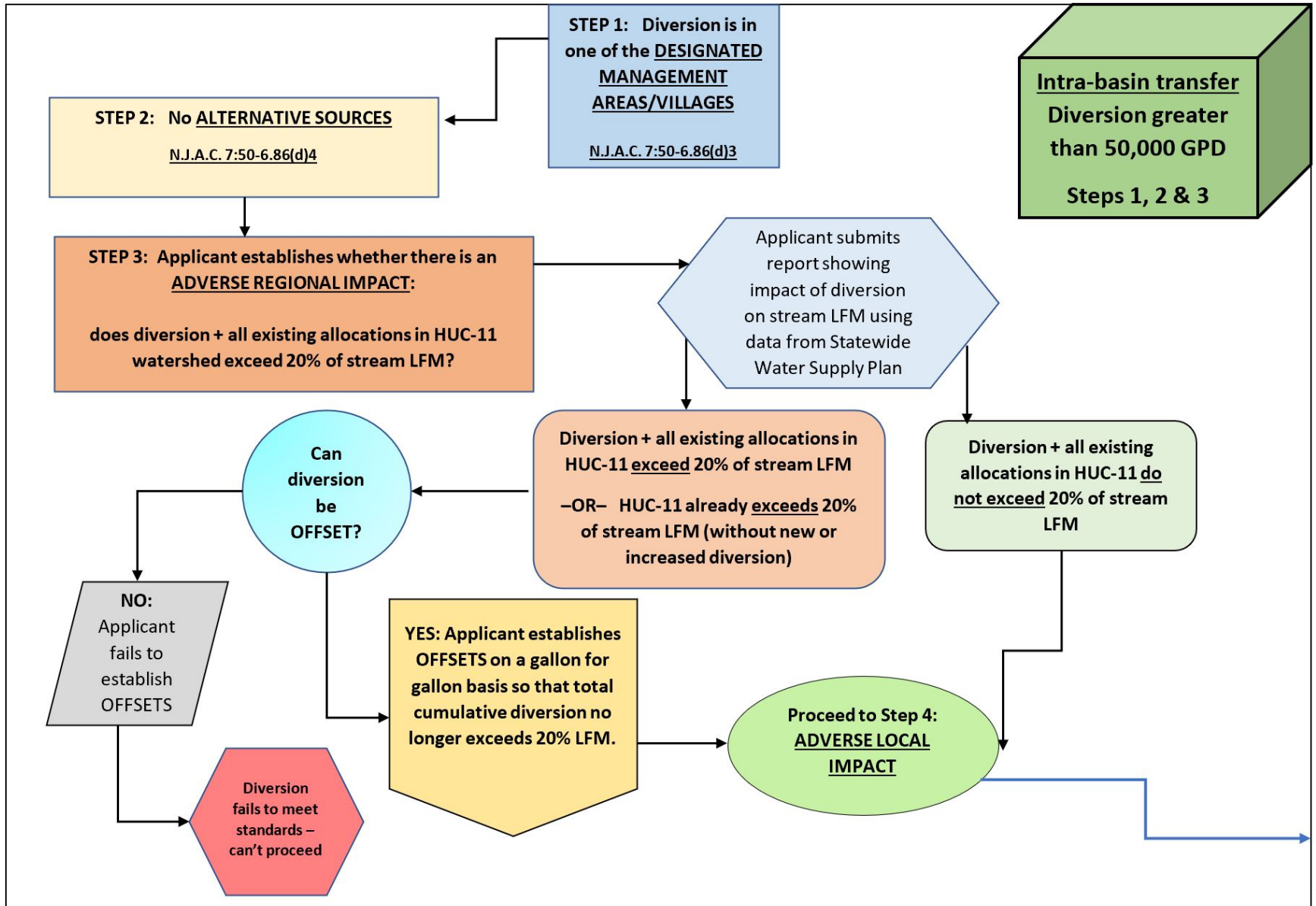
- CURRENT RULE: REQUIRES ALL WATER SUPPLY WELLS AND DISTRIBUTION SYSTEM APPLICATIONS TO “ADDRESS” WATER CONSERVATION
- PROPOSED RULE AMENDMENT:
 - REQUIRES SPECIFIC, MEASURABLE WATER CONSERVATION MEASURES TO BE IN EFFECT, OR PLANNED FOR IMPLEMENTATION, TO REDUCE WATER DEMAND AND REDUCE LOSSES IN WATER DISTRIBUTION

NOTICE



- CURRENT RULE: DOES NOT REQUIRE NOTICE OF PROPOSED NEW DIVERSION TO AFFECTED MUNICIPALITIES
- PROPOSED RULE AMENDMENT: REQUIRES NOTICE TO MUNICIPALITIES
 - WHEN 2 OR MORE MUNICIPALITIES SHARE ANY PORTION OF AN AFFECTED HUC-11 WATERSHED, APPLICANTS TO PROVIDE NOTICE TO MUNICIPALITY IN WHICH DIVERSION WILL BE LOCATED, AS WELL AS ANY OTHER MUNICIPALITY IN THE AFFECTED HUC-11 WATERSHED

(STEPS 1-3)



(STEP 4)

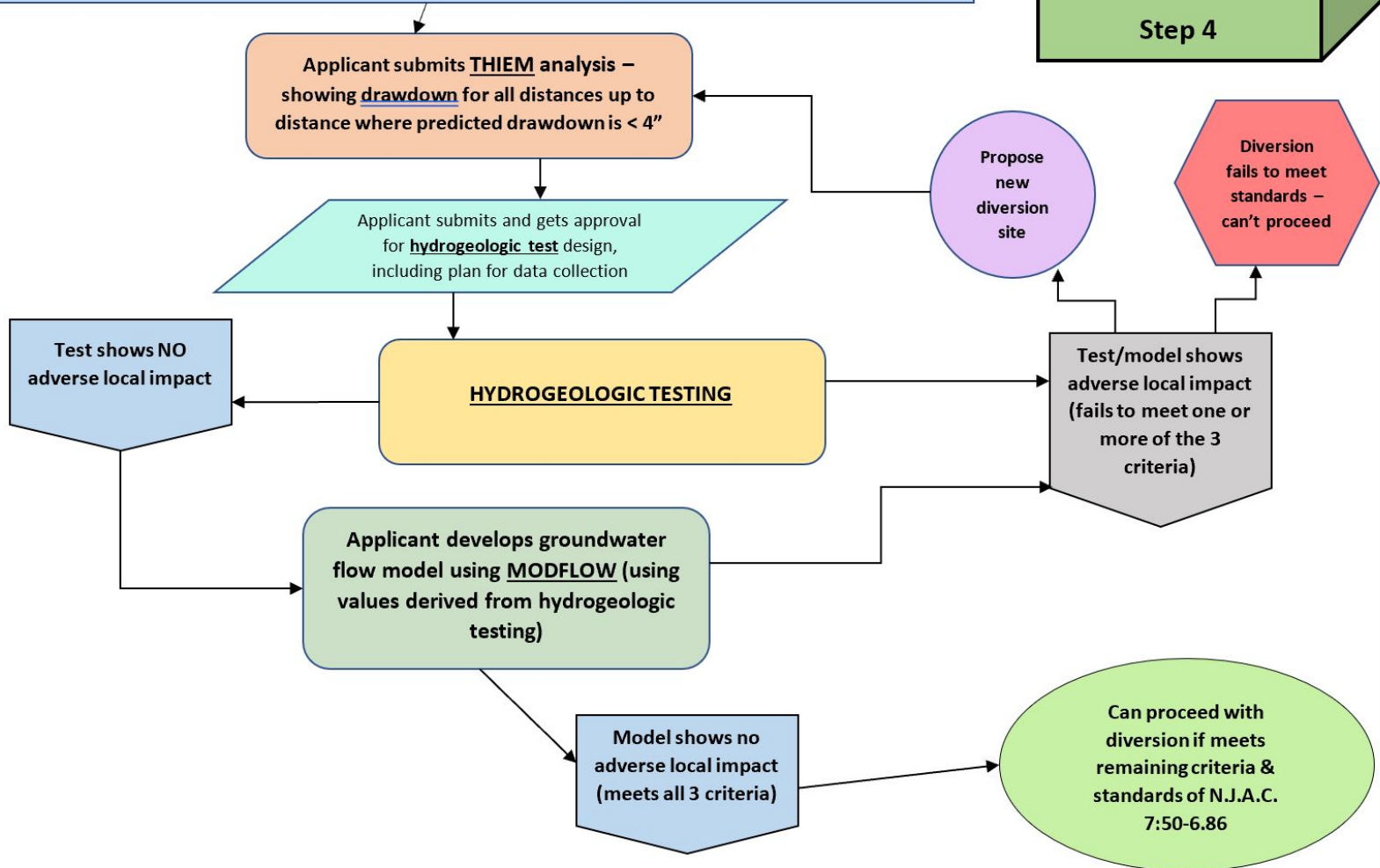
STEP 4: Applicant establishes whether there is **ADVERSE LOCAL IMPACT**: N.J.A.C. 7:50-6.86(d)7

Drawdown of water table:

- Preservation Area District, Forest Area or Special Agricultural Production Area (in affected HUC-11 watershed)
- more than 4" of the wetland nearest to estimated zone of influence (in affected HUC-11 watershed)

Intra-basin transfer
Diversion greater than 50,000 GPD

Step 4



APPLICATION FEE AMENDMENTS

- CURRENT RULE
 - % CONSTRUCTION COSTS
- REVISED RULE
 - \$6,000 FOR K-C WELLS >50,000 GPD
 - \$1,000 FOR ALL OTHER WELLS (GEOTHERMAL, NON-KC, ETC.)
 - ESCROW TO FUND REVIEW OF HYDROGEOLOGIC ANALYSES & MODELING

NEXT STEPS

- MAY 2022 P&I COMMITTEE REVIEWS RULE PROPOSAL
- JUNE 2022 COMMISSION REVIEWS AND AUTHORIZES RULE PROPOSAL
- JULY 2022 RULE PROPOSAL PUBLISHED IN NEW JERSEY REGISTER
- SEPTEMBER 2022 PUBLIC HEARING
- SEPTEMBER 2022 END OF 60-DAY COMMENT PERIOD
- OCTOBER 2022 P&I COMMITTEE REVIEWS RULE ADOPTION
- NOVEMBER 2022 COMMISSION REVIEWS PUBLIC COMMENT AND ADOPTS RULES
- NOVEMBER 2022 ADOPTION NOTICE FILED WITH OFFICE OF ADMINISTRATIVE LAW
- EARLY 2023 AMENDMENTS TAKE EFFECT

QUESTIONS





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-22-_____

TITLE: Issuing an Order to Certify the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004, Amending Chapter 296 (Zoning Within Pinelands Area) of the Code of Winslow Township

Commissioner _____ moves and Commissioner _____ seconds the motion that:

WHEREAS, on April 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Winslow Township; and

WHEREAS, Resolution #PC4-83-30 of the Pinelands Commission specified that any amendment to the Township'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 #PC4-83-30 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 15, 2019, the Winslow Township Planning Board adopted Planning Board Resolution PR-2019-031, approving the 2019 Master Plan Reexamination Report Phase II, dated July 1, 2019; and

WHEREAS, the Pinelands Commission received a certified copy of Planning Board Resolution PR-2019-031 and the 2019 Master Plan Reexamination Report Phase II on August 16, 2019; and

WHEREAS, the 2019 Master Plan Reexamination Report Phase II recommends various zoning boundary amendments within the Township's Regional Growth Area requiring the adoption of one or more implementing ordinances; and

WHEREAS, pursuant to N.J.A.C. 7:50-3.32 of the Comprehensive Management Plan, the Executive Director cannot accept a master plan amendment for formal review and certification without an adopted ordinance that implements said master plan, unless no such ordinance is necessary; and

WHEREAS, by letter dated August 29, 2019, the Executive Director notified the Township of Winslow that the 2019 Master Plan Reexamination Report Phase II would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification; and

WHEREAS, on February 20, 2020, the Winslow Township Planning Board adopted Planning Board Resolution PR-2020-015, approving the First Addendum to the 2019 Master Plan Reexamination Report, dated February 4, 2020; and

WHEREAS, the Pinelands Commission received a certified copy of Planning Board Resolution PR-2020-015 and the First Addendum to the 2019 Master Plan Reexamination Report on February 24, 2020; and

WHEREAS, the First Addendum to the 2019 Master Plan Reexamination Report recommends various zoning boundary amendments within the Township's Regional Growth Area and Pinelands Village of Blue Anchor requiring the adoption of one or more implementing ordinances; and

WHEREAS, by letter dated March 27, 2020, the Executive Director notified the Township of Winslow that the First Addendum to the 2019 Master Plan Reexamination Report would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification; and

WHEREAS, on January 21, 2021, the Winslow Township Planning Board adopted Planning Board Resolution PR-2021-19, approving the Second Addendum to the 2019 Master Plan Reexamination Report, dated December 2, 2020; and

WHEREAS, the Pinelands Commission received a certified copy of Planning Board Resolution PR-PR-2021-19 and the Second Addendum to the 2019 Master Plan Reexamination Report on November 1, 2021; and

WHEREAS, the Second Addendum to the 2019 Master Plan Reexamination Report recommends additional amendments to the Township's Regional Growth Area zoning boundaries and zoning district standards requiring the adoption of one or more implementing ordinances; and

WHEREAS, on October 12, 2021, Winslow Township adopted Ordinance O-2021-023, amending Chapter 296 (Zoning Within the Pinelands Area) of the Code of Winslow Township; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-2021-023 on October 20, 2021; and

WHEREAS, Ordinance O-2021-023 implements the recommendations of the 2019 Master Plan Reexamination Report Phase II and two subsequent addenda including amendments to zoning boundaries and zoning district standards applicable to the Pinelands Area portion of the Township; and

WHEREAS, by letter dated November 4, 2021, the Acting Executive Director notified the Township that the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2021-023 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2021-023 was duly advertised, noticed and remotely held on December 8, 2021 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, by email dated January 20, 2022, Commission staff notified the Township of a substantial issue with Ordinance O-2021-023 requiring further amendments in order to be in conformance with the Pinelands Comprehensive Management Plan.

WHEREAS, on March 8, 2022, Winslow Township adopted Ordinance O-2022-004, amending Chapter 296 (Zoning Within the Pinelands Area) of the Code of Winslow Township; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-2022-004 on March 10, 2022; and

WHEREAS, Ordinance O-2022-004 supersedes Ordinance O-2021-023 and implements the recommendations of the 2019 Master Plan Reexamination Report Phase II and two subsequent addenda including amendments to zoning boundaries and zoning district standards applicable to the Pinelands Area portion of the Township; and

WHEREAS, by letter dated March 28, 2022, the Acting Executive Director notified the Township that Ordinance O-2022-004 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on the Winslow Township Ordinance O-2022-004 was duly advertised, noticed and remotely held on April 13, 2022 at 9:30 a.m. with live broadcast on the Pinelands Commission's public YouTube channel and opportunity for the public to call-in during the live broadcast; and

WHEREAS, the Acting Executive Director has found that the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Acting Executive Director has submitted a report to the Commission recommending issuance of an order to certify that the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission’s CMP Policy and Implementation Committee has reviewed the Acting Executive Director’s report and has recommended that the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning the Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 and has reviewed the Acting Executive Director’s report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Acting 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 Winslow Township 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004, Amending Chapter 296 (Zoning Within Pinelands Area) of the Code of Winslow Township are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Winslow Township’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	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Avery					Lettman					Pikolycky				
Christy					Lloyd					Quinn				
Holroyd					Lohbauer					Matos				
Irick					McCurry									
Jannarone					Meade									

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

 Susan R. Grogan
 Acting Executive Director

 Laura E. Matos
 Chair



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



PHILIP D. MURPHY
 Governor
 SHEILA Y. OLIVER
 Lt. Governor

General Information: Info@pinelands.nj.gov
 Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
 Chair
 SUSAN R. GROGAN
 Acting Executive Director

**REPORT ON THE WINSLOW TOWNSHIP 2019 MASTER PLAN REEXAMINATION
 REPORT PHASE II, THE FIRST ADDENDUM TO THE MASTER PLAN REEXAMINATION
 REPORT, THE SECOND ADDENDUM TO THE MASTER PLAN REEXAMINATION
 REPORT, AND ORDINANCE O-2022-004, AMENDING CHAPTER 296 (ZONING WITHIN
 PINELANDS AREA) OF THE CODE OF WINSLOW TOWNSHIP**

April 29, 2022

Winslow Township
 125 South Route 73
 Winslow Township, NJ 08037

FINDINGS OF FACT

I. Background

The Township of Winslow is located on the western fringe of the Pinelands Area in Camden County. Pinelands municipalities adjacent to Winslow Township's Pinelands Area include the Boroughs of Berlin and Chesilhurst and the Township of Waterford in Camden County, the Township of Monroe in Gloucester County, and the Town of Hammonton and the Borough of Folsom in Atlantic County.

On April 8, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Winslow Township.

At the April 27, 2018 meeting of the Commission's CMP Policy and Implementation Committee, Winslow Township representatives presented a proposal for comprehensive amendments to its Regional Growth Area (RGA) zoning plan. The objective of the Township's rezoning proposal was to increase residential density within the Township's RGA to support increased commercial development along the Route 73 highway corridor.

On August 15, 2019, the Winslow Township Planning Board adopted Planning Board Resolution PR-2019-031, approving the 2019 Master Plan Reexamination Report Phase II, dated July 1, 2019. The report recommends various amendments to the Township's RGA zoning plan requiring the adoption of one or more implementing ordinances. The Pinelands Commission received a certified copy of Planning Board Resolution PR-2019-031 and the 2019 Master Plan Reexamination Report Phase II on August 16, 2019.

By letter dated August 29, 2019, the Executive Director notified the Township that, in accordance with N.J.A.C. 7:50-3.32, the 2019 Master Plan Reexamination Report Phase II would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification.

On February 20, 2020, the Winslow Township Planning Board adopted Planning Board Resolution PR-2020-015, approving the First Addendum to the 2019 Master Plan Reexamination Report, dated February 4, 2020. The First Addendum recommends additional amendments to the Township's RGA zoning plan and to the Pinelands Village of Blue Anchor requiring the adoption of one or more implementing ordinances. The Pinelands Commission received a certified copy of Planning Board Resolution PR-2020-015 and First Addendum on February 24, 2020.

By letter dated March 27, 2020, the Executive Director notified the Township of Winslow that, in accordance with N.J.A.C. 7:50-3.32, the First Addendum to the 2019 Master Plan Reexamination Report would be deemed incomplete until such time that the necessary implementing ordinances were adopted and submitted to the Commission for certification.

On January 21, 2021, the Winslow Township Planning Board adopted Planning Board Resolution PR-2021-19, approving the Second Addendum to the 2019 Master Plan Reexamination Report, dated December 2, 2020. The Second Addendum recommends additional amendments to the Township's RGA zoning plan as well as amendments to various RGA zoning district regulations related to standards for maximum density, minimum lot size, maximum floor area ratio, and Pinelands Development Credit use. The Pinelands Commission received a certified copy of Planning Board Resolution PR-2021-19 and the Second Addendum on November 1, 2021.

On October 12, 2021, Winslow Township adopted Ordinance O-2021-023, amending Chapter 296 (Zoning Within the Pinelands Area) of the Code of Winslow Township. The Ordinance implements the recommendations of the 2019 Master Plan Reexamination Report Phase II and two subsequent addenda. The Pinelands Commission received a certified copy of Ordinance O-2021-023 on October 20, 2021.

By letter dated November 4, 2021, the Acting Executive Director notified the Township that the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2021-023 would require formal review and approval by the Pinelands Commission.

By email dated January 20, 2022, Pinelands Commission staff notified the Township of a substantial issue with Ordinance O-2021-023 requiring further amendments in order to be in conformance with the Pinelands Comprehensive Management Plan.

On March 8, 2022, Winslow Township adopted Ordinance O-2022-004, amending Chapter 296 (Zoning Within the Pinelands Area) of the Code of Winslow Township. The ordinance supersedes Ordinance O-2021-023 and implements the recommendations of the 2019 Master Plan Reexamination Report Phase II and two subsequent addenda. The Pinelands Commission received a certified copy of Ordinance O-2022-004 on March 10, 2022.

By letter dated March 28, 2022, the Acting Executive Director notified the Township that Ordinance O-2022-004 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following Master Plans and ordinance have been submitted to the Pinelands Commission for certification:

- * Planning Board Resolution PR-2019-031, adopting the Township's 2019 Master Plan Reexamination Report Phase II, adopted on August 15, 2019.
- * Planning Board Resolution PR-2020-015, adopting the First Addendum to the 2019 Master Plan Reexamination Report, adopted on February 20, 2020.
- * Planning Board Resolution PR-2021-19, adopting the Second Addendum to the 2019 Master Plan Reexamination Report, adopted on January 21, 2021.
- * Ordinance O-2022-004, amending Chapter 296 (Zoning within the Pinelands Area), introduced on February 8, 2022 and adopted on March 8, 2022.

These master plans and ordinance have 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 (CMP). 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 Master Plans and Land Use Ordinances Relating to Development Standards**

2019 Master Plan Reexamination Report and addenda

Winslow Township's 2019 Master Plan Reexamination Report Phase II specifically addresses the Pinelands Area portion of the Township. It reviews the problems and objectives identified in the Township's most recent Master Plan (2000) and Master Plan Reexamination Report (2007) covering the Pinelands Area portion of the Township, discusses the extent to which they have been addressed or remain valid, and identifies changes in conditions, policies, and objectives at the local, county and state level relevant to the Township.

A primary finding of the report is that the Township's 2002 amendments to its Regional Growth Area (RGA) zoning plan have not generated the commercial or mixed-use development that the Township's master plan has envisioned for the Route 73 highway corridor. The report suggests that this is due in part to the zoning standards of the Pinelands Town Center (PTC) District, a mixed-use zone, as well as to a lack of households in the area to support the level of commercial development envisioned. Therefore, the report recommends eliminating the PTC District and greatly reducing the Pinelands Industrial (PI-1) District in favor of existing residential and commercial RGA districts. The amended RGA zoning plan would be configured to concentrate

commercial uses along Route 73 and residential uses along other county and local roads. The report includes maps and corresponding lists of blocks and lots to be rezoned. The report also recommends modifying residential density in all existing RGA residential zones and eliminating Pinelands Development Credit (PDC) requirements for non-residential uses in non-residential RGA zones.

The First Addendum to the 2019 Master Plan Reexamination Report additionally recommends that 12 lots within the Pinelands Village of Blue Anchor be rezoned to enable the development of medical use marijuana cultivation, manufacturing, and testing facilities. The Pinelands Village of Blue Anchor is situated south of the Township's RGA and adjacent to the Route 73 highway corridor. The addendum states that the rezoning will support the Township's ongoing effort to spur economic growth along the corridor. The addendum also provides for various revisions to the list of lots to be rezoned in the Township's RGA.

The Second Addendum to the 2019 Master Plan Reexamination Report recommends amendments to the district regulations of various residential and non-residential RGA zones. These detailed recommendations specify changes to residential and non-residential PDC requirements, permitted housing types, maximum residential density, minimum lot sizes, and maximum floor area ratios. The addendum also provides for various revisions to the list of lots to be rezoned in the Township's RGA.

Ordinance O-2022-004

Ordinance O-2022-004 amends Chapter 296 (Zoning Within Pinelands) of the Code of Winslow Township. The ordinance implements the recommendations of the 2019 Master Plan Reexamination Report and supplemental addenda.

Zoning Plan Amendments

The ordinance adopts an updated zoning map, dated September 14, 2021, implementing the recommended amendments to the Township's zoning plan for its RGA and the Pinelands Village of Blue Anchor (see Exhibits A, B, C, D.; Tables 1 and 2). None of the proposed amendments to the Township's zoning plan necessitate changes to underlying Pinelands management areas.

In the Township's RGA, the PTC District is eliminated, and the PI-1 District is vastly reduced. Both zones were established as part of the Township's 2002 amendments to its RGA zoning plan. The PTC District permits single family dwellings and townhouses as well as professional offices and regional shopping centers. The district was intended to facilitate mixed used development. The PI-1 District permitted agricultural processing facilities, Pinelands resource-related industries and other light industries, including research and development operations, wholesaling and distribution operations, light manufacturing and public utility and service activities. These areas both exhibit large deep lots that the Township has deemed appropriate to split zone PC-2/PR-4. While the Commission typically discourages the practice of split zoning lots, Commission staff recognize the Township's intention to target commercial uses near Route 73 and residential uses in areas not fronting Route 73. In both areas, land fronting Route 73 is rezoned Major Commercial (PC-2) with the remaining land rezoned to High Density Residential (PR-4). Appropriate standards have been included in the ordinance for calculating residential density and floor area ratios where lots are split by zone.

The amended RGA zoning plan also rezones all land within the Minor Commercial (PC-1) District to PC-2, effectively eliminating the PC-1 District. The PC-2 District permits all the same commercial uses as the PC-1 in addition to hotels, motels, hospitals, medical offices, and research facilities. As discussed below, the PC-2 District has also permitted a greater intensity of commercial development than the PC-1 District based on higher permitted maximum floor area ratios (FAR).

The amended RGA zoning plan rezones approximately 69 acres of Low Density Residential (PR-2) and Medium Density Residential (PR-3) land fronting Route 73 to PC-2. Many of these lots contain existing residential uses. While the Township maintains that these lands are more appropriately zoned commercial given the Township's long-term vision for the Route 73 corridor, Ordinance O-2022-004 grandfathers existing residential uses zoned PC-2 to avoid burdening residential property owners with a non-conforming use status.

Lastly, approximately 334 acres within the existing PR-2 and PR-3 districts were identified by the Township as appropriate for upzoning to the PR-4 District. These lands are located east of Route 73 between Tomwells Road and Pump Branch Road consisting of uplands containing a mix of residential, agricultural, and vacant wooded areas.

It is noted that the previously certified Randevco Redevelopment Plan and Maressa Redevelopment Plan remain in effect as overlay zones overlapping with approximately 155 of the 227 acres of the existing PTC District.

Table 1. Summary of RGA Zoning Changes in Acres

Certified Zoning District	Proposed Zoning District		Total
	Major Commercial (PC-2)	High Density Residential (PR-4)	
Pinelands Town Center (PTC)	104	123	227
Industrial (PI-1)	124	150	274
Minor Commercial (PC-1)	280	0	280
Low-Density Residential (PR-2)	55	78	133
Medium Density Residential (PR-3)	14	256	270
Total	577	607	1,184

In the Pinelands Village of Blue Anchor, 12 lots approximating 58 acres are rezoned to the Pinelands Village Industrial (PI-2) District. Lots to be rezoned contain a mix of vacant, commercial, and agricultural land with frontage along Route 73. The PI-2 District permits agricultural processing facilities, Pinelands resource-related industries, various light industrial uses as well as uses related to medical marijuana cultivation, manufacturing, testing and treatment centers.

Table 2. Summary of Pinelands Village of Blue Anchor Zoning Changes in Acres

Certified Zoning District	Proposed Zoning District
	Pinelands Village Industrial (PI-2)
Pinelands Village Minor Commercial (PC-3)	38
Pinelands Village Low-Density Residential (PR-6)	20
Total	58

Regional Growth Area Development Intensity and PDC Use

During the Township's major RGA rezoning effort in 2002, the Commission deemed it necessary to place controls on the increased non-residential development potential enabled by the 2002 amendments due to concerns over potential water supply impacts. Those controls came in the form of maximum floor area ratios (FAR) established for the PC-1, PC-2, PTC and PI-1 districts. The Township further elected to create a base FAR/bonus FAR scheme where bonus FAR would be achieved using PDCs. Each 0.25 PDC equated to an additional 3,000 square feet of permitted floor area.

Ordinance O-2022-004 eliminates the base FAR/bonus FAR scheme and establishes a single maximum FAR without any required PDC use. Table 3 summarizes the certified FARs as well as the proposed FAR. It is noted that the Township elected to incorporate this novel approach to permitting FAR bonuses through PDC use, and therefore, it is at their option to eliminate. Furthermore, as detailed below, the water supply concerns that led to the establishment of FAR standards have been more comprehensively addressed by the amended Memorandum of Understanding (MOU) between the Commission, Winslow Township and the Camden County Municipal Utilities Authority. The continued use of a maximum FAR is appropriate, and the small increase in FAR in the PC-2 District is acceptable given the additional protections to the Kirkwood-Cohansey water supply ensured by the 2017 Amended MOU.

Table 3. Summary of RGA Non-Residential FAR Standards

Zoning District	Maximum Floor Area Ratio		
	Certified		Proposed
	Base	PDC	
Major Commercial (PC-2)	0.15	0.225	0.30
Industrial (PI-1)	0.25	0.375	0.375
Minor Commercial (PC-1)	0.10	0.15	N/A
Pinelands Town Center (PTC)	0.22	0.33	N/A

The Township has also opted to replace the traditional base density/bonus density scheme in its RGA residential zones in favor of a single maximum density with a mandatory 25% PDC

requirement. No PDCs are required for the development of a single dwelling unit on a lot existing as of the adoption date of Ordinance O-2022-004 that conforms to the lot size requirements of the zone it is located within. The newly established densities for the Township's three residential zones are summarized in the Table 4 below. The ordinance also adopts a revised Schedule of Area, Yard and Bulk Requirements for Residential Uses. This schedule provides minimum lot area requirements for existing lots, minor subdivisions, cluster development, and major subdivisions. All lot area requirements have been carefully structured to ensure that it will be feasible to achieve the permitted densities in the three residential zones in most cases, as is required by N.J.A.C. 7:50-3.39(a)2vii.

Table 4. Summary of RGA Residential Density Standards

Zoning District	Max Density (du/acre)		
	Certified		Proposed
	Base	PDC	
Low-Density Residential (PR-2)	0.7	1.45	1.5
Medium-Density Residential (PR-3)	1.4	2.55	2.5
High-Density Residential (PR-4)	2.25	5.25	4.25
Pinelands Town Center (PTC)	2.0	5.25	N/A

Residential Zoning Capacity

The amendments made to the Township's RGA zoning plan and maximum residential density increase the theoretical residential zoning capacity of the Township's Regional Growth Area by 1,203 units (see table 5). Given the vacant acres identified using 2012 data, the overall density for developable lands within the Township's Regional Growth Area has increased from 1.9 to 2.6 units per acre.

Table 5. Summary of Changes to RGA Residential Zoning Capacity

Zoning District	Certified Zoning Plan		Proposed Zoning Plan	
	Vacant Acres	Zone Capacity (units)	Vacant Acres	Zone Capacity (units)
Low-Density Residential (PR-2)	1,102	1,598	1,022	1,575
Medium-Density Residential (PR-3)	239	610	15	38
High-Density Residential (PR-4)	118	620	642	2,731
Pinelands Town Center (PTC)	193	314	N/A	N/A
Total	1,652	3,142	1,679	4,345

The 2.6 units per acre density for the developable lands within the Township's RGA is higher than the 1.125 units per acre prescribed by the CMP. However, the CMP does provide municipalities with the ability to zone portions of their Regional Growth Areas for higher

densities, provided that the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits are provided (N.J.A.C. 7:50-5.28(a)7). As detailed below, the amended zoning adopted by this ordinance meets these standards for increased density.

With respect to the appropriateness for the intensity of development permitted, the amended zoning plan aligns with the Township's long-term goals of planning for increased residential densities in proximity to NJ Route 73 in order to support commercial development along NJ Route 73.

With respect to the availability of infrastructure to serve the Township's RGA, both water and sewer are available. It is important to note that the Township's RGA is served by public sewers that discharge to the Camden County Municipal Utilities Authority wastewater treatment plant on the Delaware River. The public water supply is supported, in part, by wells developed in the Kirkwood-Cohansey aquifer. To protect the Kirkwood-Cohansey aquifer and address the export of water from the Pinelands contrary to the CMP, a 2017 amended Memorandum of Understanding (MOU) between the Commission, Winslow Township and the Camden County Municipal Utilities Authority limits withdrawals from the Township's Kirkwood-Cohansey wells and requires the Township to acquire water from alternative sources once the limit on withdrawals has been reached. Based on the MOU, the Township submits annual reports to the Commission detailing water use. The most recent report submitted for the period March 2021 through February 2022 shows that the Township has not yet reached the Kirkwood-Cohansey withdrawal limit.

The third condition for approval of increased densities and zoning capacity relates to the accommodation of Pinelands Development Credit opportunities. As discussed in more detail in Section 8 of this report, all residential zoning districts in the Township's Regional Growth Area will require the acquisition and redemption of Pinelands Development Credits (PDCs) for 25% of all residential units. Thus, Pinelands Development Credit use has not only been accommodated, but also guaranteed if any residential units are developed in these residential zoning districts.

Other Amendments

Ordinance O-2022-004 repeals portions of Sections 296-84.1, Groundwater withdrawal and zoning density. The repealed provisions permitted the Pinelands Commission to restrict the use of PDCs to achieve bonus FAR in the PC-1, PC-2, PTC, and PI-1 zones if certain findings were made based on annual reports provided by the Township to the Commission. These provisions are no longer relevant as the Township has eliminated its bonus FAR provisions. Additionally, since the time these regulations were adopted, greater protection of the Kirkwood-Cohansey aquifer has been achieved through the terms of the 2017 Amended MOU discussed above.

The 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 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

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficient residentially zoned property in the Regional Growth Area (RGA) to be eligible for an increase in density to accommodate Pinelands Development Credits (PDCs) as provided for in N.J.A.C. 7:50-5.28(a)3.

Based on the densities assigned to Winslow Township's Regional Growth Area by the CMP (N.J.A.C. 7:50-5.28), the Township is required to provide an opportunity for the development of residential units at a base-density of 1.125 units per acre, with a bonus-density of up to 1.69 units per acre achievable through the use of PDCs. Given the developable acres within RGA residential zones, Winslow Township is required to permit up to 1,189 residential units and the opportunity for an additional 949 units through the use of PDCs. In other words, the municipality would have to allow for the opportunity to use 949 rights (237.25 PDCs). This traditional approach requires that municipalities provide the *opportunity* for use of PDCs for 33% of the total number of residential units permitted in their Regional Growth Areas.

Ordinance O-2022-004 replaces the traditional base density/bonus density scheme in its three RGA residential zones in favor of a single maximum density for each zone and a mandatory 25% PDC requirement. No provisions are included in the ordinance to exempt affordable housing units. The PDC requirements adopted by the ordinance will result in an opportunity for the use of up to 1,087 rights (271.75 Pinelands Development Credits). As described in Section 2 above, the Township has elected to zone at a higher density than required by the CMP in order to support

future commercial development along Route 73. As a result, far greater opportunities for the use of PDCs are provided than what is required.

While the 25% PDC requirement is not as high a number as would be provided through the more traditional approach described above requiring 33%, it is important to remember that the traditional base-density/bonus-density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance O-2022-004 *guarantees* a PDC redemption rate of 25% for the residential component of any project within the Township's Regional Growth Area. Given the greater certainty provided by this approach, the Acting Executive Director finds that the amended PDC requirements for RGA zoning districts adopted by Ordinance O-2022-004 are consistent with CMP standards.

Ordinance O-2022-004 also eliminates the opportunity for the use of PDCs in association with non-residential development in Winslow's non-residential RGA zones. The use of PDCs to achieve bonus FAR was adopted, at the option of the Township, in 2002 as a means for providing development flexibility while limiting water supply impacts from non-residential development via FAR standards. The Township has opted to no longer provide this bonus FAR opportunity, which is the prerogative of the Township to decide.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

The 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

The 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act. Therefore, this standard for certification is met.

13. Procedure to Resolve Intermunicipal Conflicts

Winslow Township's Regional Growth Area (RGA) borders the Borough of Chesilhurst and the Township of Waterford. Chesilhurst Borough is designated entirely RGA, and the vicinity of Waterford Township bordering Winslow Township's RGA is also designated RGA. Given the compatible management area designations, intermunicipal conflicts are not anticipated. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Winslow Township's application for certification of the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2021-023 was duly advertised, noticed and held on December 8, 2021, at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2021-023 were accepted through December 13, 2021. However, no written comments were received.

A public hearing to receive testimony concerning Winslow Township's application for certification of Ordinance O-2022-004 was duly advertised, noticed and held on April 13, 2022, at 9:30 a.m. Mr. Lanute conducted the hearing, which was held remotely and broadcasted live on the Pinelands Commission's public YouTube channel. The public was provided the opportunity to call-in during the public hearing to provide testimony. No testimony was received.

Written comments on Ordinance O-2022-004 were accepted through April 15, 2022. However, no written comments were received.




CONCLUSION

Based on the Findings of Fact provided above, the Acting Executive Director has concluded that the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 comply with the Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Acting Executive Director recommends that the Commission issue an order to certify the 2019 Master Plan Reexamination Report Phase II, the First Addendum to the Master Plan Reexamination Report, the Second Addendum to the Master Plan Reexamination Report, and Ordinance O-2022-004 of Winslow Township.



Winslow Township Ordinance O-2022-004

Route 73 Rezoning Segment 1

Pinelands Management Areas

-  Rural Development Area
-  Regional Growth Area
-  Pinelands Village

RGA Zoning Changes

-  Rezoned PC-2
-  Rezoned PR-4

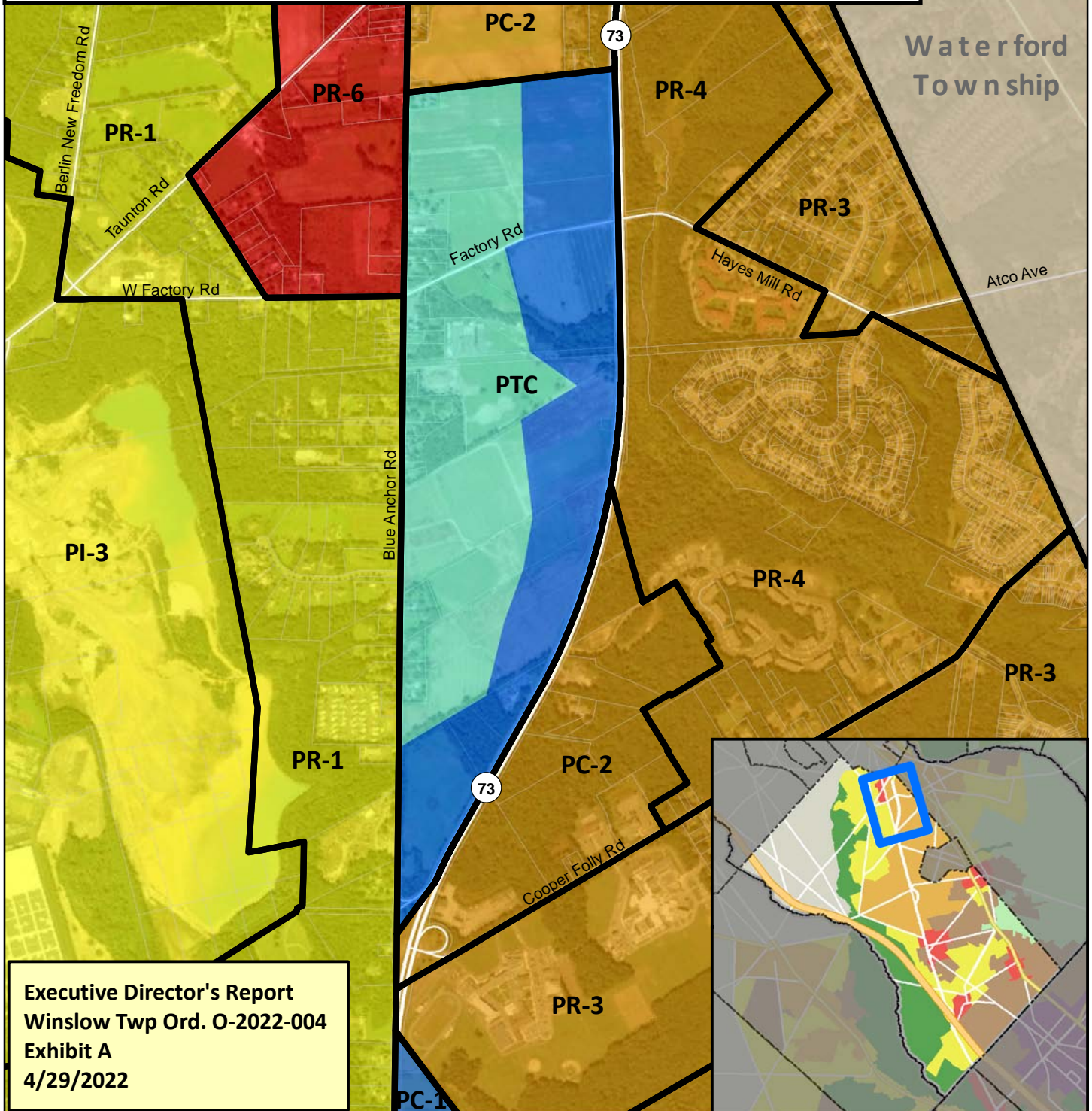
 Certified Zoning

 Lots

N



0 0.25 0.5 1 Miles




Executive Director's Report
Winslow Twp Ord. O-2022-004
Exhibit A
4/29/2022

Winslow Township Ordinance O-2022-004


Route 73 Rezoning Segment 2


Pinelands Management Areas

 Rural Development Area

 Regional Growth Area

RGA Zoning Changes

 Rezoned PC-2

 Rezoned PR-4

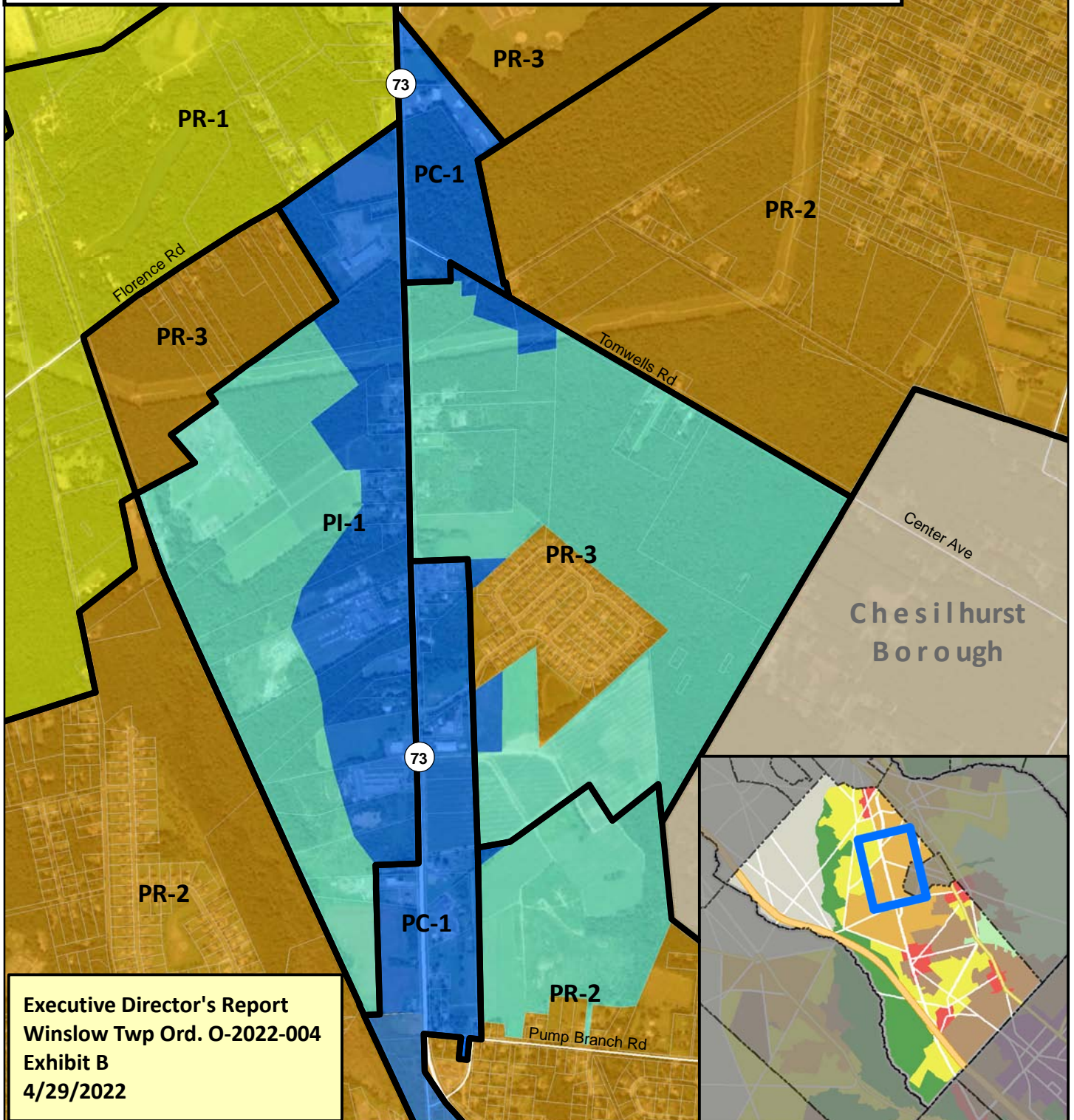
 Certified Zoning

 Lots

N



0 0.25 0.5 1 Miles



Executive Director's Report
 Winslow Twp Ord. O-2022-004
 Exhibit B
 4/29/2022

Winslow Township Ordinance O-2022-004

Route 73 Rezoning Segment 3

Pinelands Management Areas

- Forest Area
- Agricultural Production Area
- Rural Development Area
- Pinelands Village
- Regional Growth Area

RGA Zoning Changes

- Rezoned PC-2

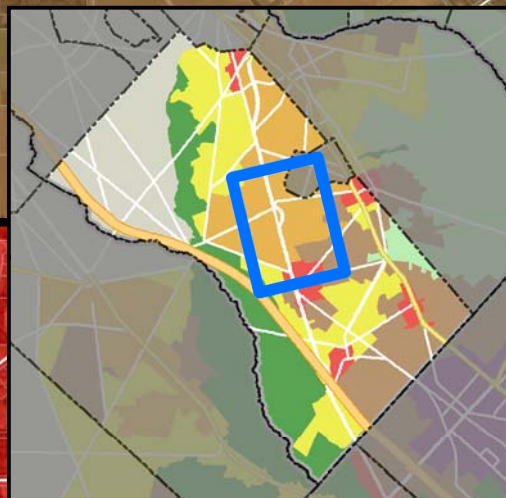
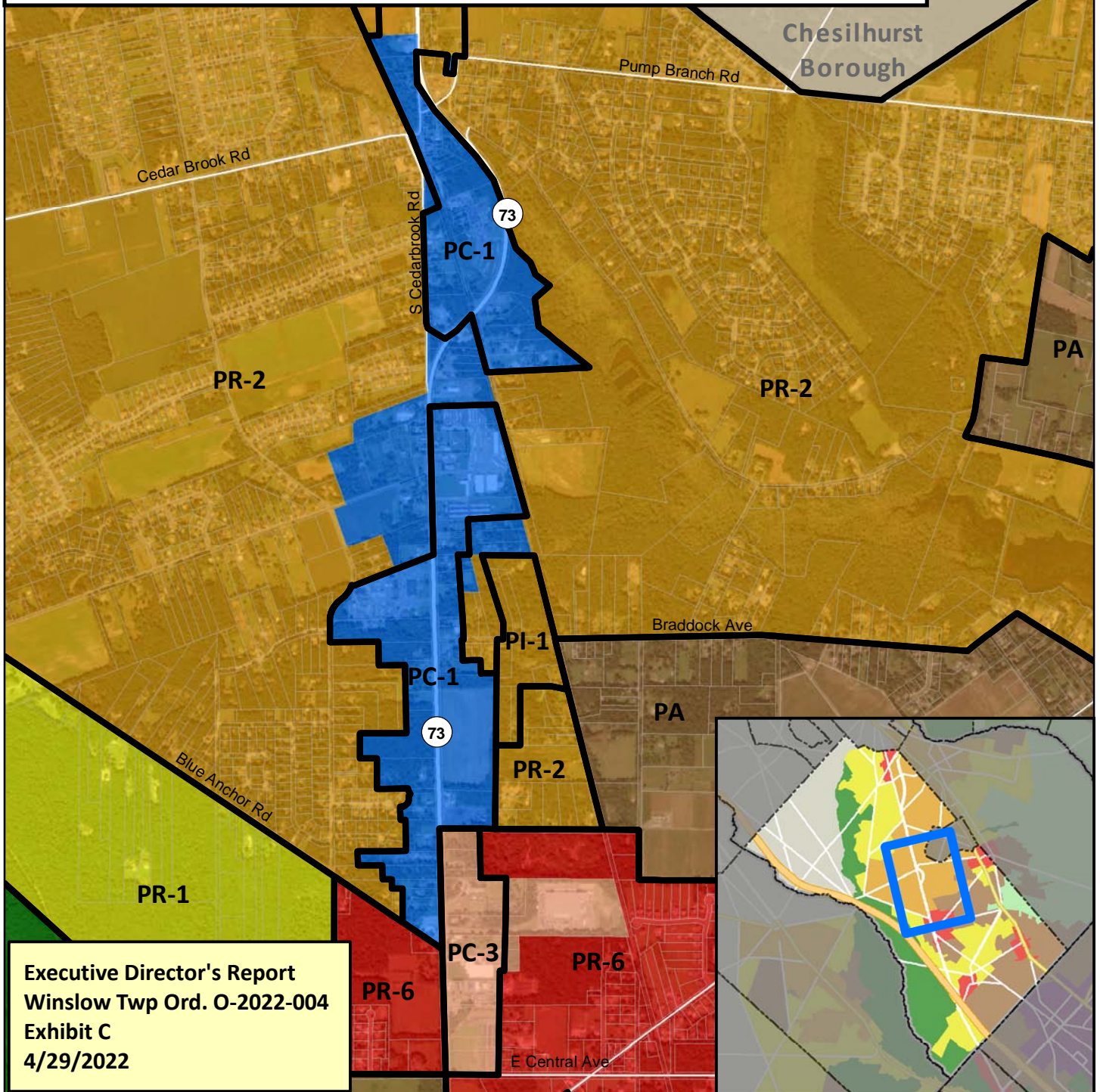
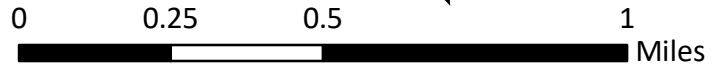
PV Zoning Changes

- Rezoned PI-2

Certified Zoning

Lots

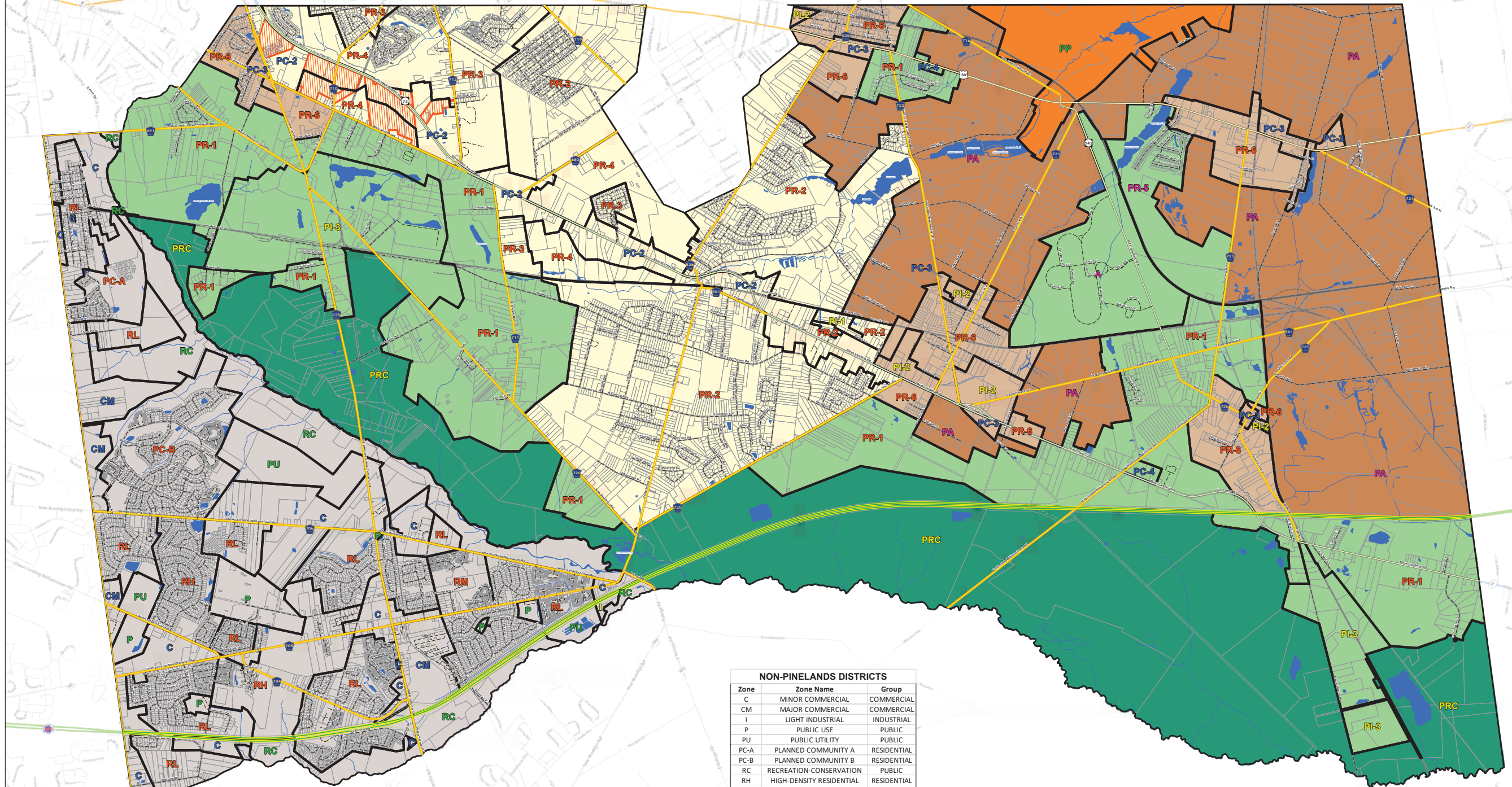
N



Executive Director's Report
 Winslow Twp Ord. O-2022-004
 Exhibit C
 4/29/2022



Map Notes and Data Sources:
 The geographic information system (GIS) data used in this map was prepared by the Township of Winslow. The data was prepared by the Township of Winslow and is not intended to be used for any other purpose. The Township of Winslow is not responsible for any errors or omissions in this map. The Township of Winslow is not responsible for any damages or liabilities arising from the use of this map. The Township of Winslow is not responsible for any claims or lawsuits arising from the use of this map. The Township of Winslow is not responsible for any claims or lawsuits arising from the use of this map.



NON-PINELANDS DISTRICTS

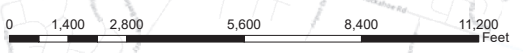
Zone	Zone Name	Group
C	MINOR COMMERCIAL	COMMERCIAL
CM	MAJOR COMMERCIAL	COMMERCIAL
I	LIGHT INDUSTRIAL	INDUSTRIAL
P	PUBLIC USE	PUBLIC
PU	PUBLIC UTILITY	PUBLIC
PC-A	PLANNED COMMUNITY A	RESIDENTIAL
PC-B	PLANNED COMMUNITY B	RESIDENTIAL
RC	RECREATION-CONSERVATION	PUBLIC
RH	HIGH-DENSITY RESIDENTIAL	RESIDENTIAL
RL	LOW-DENSITY RESIDENTIAL	RESIDENTIAL
RM	MEDIUM-DENSITY RESIDENTIAL	RESIDENTIAL

PINELANDS DISTRICTS

Zone	Zone Name	Group	Pineland Management Area	Zone	Zone Name	Group	Pineland Management Area
PA	PINELANDS AGRICULTURAL	BUSINESS	Agricultural Production Area	PI-1	INDUSTRIAL	INDUSTRIAL	Regional Growth Area
PRC	RECREATION AND CONSERVATION	INDUSTRIAL	Forest Area	PR-2	LOW-DENSITY RESIDENTIAL	RESIDENTIAL	Regional Growth Area
PC-3	PINELANDS VILLAGE COMMERCIAL	COMMERCIAL	Pinelands Village	PR-3	MEDIUM-DENSITY RESIDENTIAL	RESIDENTIAL	Regional Growth Area
PI-2	PINELANDS VILLAGE INDUSTRIAL	INDUSTRIAL	Pinelands Village	PR-4	HIGH DENSITY RESIDENTIAL	RESIDENTIAL	Regional Growth Area
PR-6	PINELANDS VILLAGE LOW-DENSITY RESIDENTIAL	RESIDENTIAL	Pinelands Village	A	ANCORA	BUSINESS	Rural Development Area
PP	PRESERVATION AREA	PUBLIC	Preservation Area	PR-1	RURAL RESIDENTIAL	RESIDENTIAL	Rural Development Area
PTC	PINELANDS TOWN CENTER	BUSINESS	Regional Growth Area	PR-5	PINELANDS RURAL DEVELOPMENT	BUSINESS	Rural Development Area
PC-2	MAJOR COMMERCIAL	COMMERCIAL	Regional Growth Area	PI-3	PINELANDS RURAL DEVELOPMENT INDUSTRIAL	INDUSTRIAL	Rural Development Area
				PC-4	PINELANDS RURAL DEVELOPMENT MINOR COMMERCIAL	COMMERCIAL	Rural Development Area

Legend

	Municipal Boundary		Zoning
	Parcels		Agricultural Production Area
	Water		Forest Area
	US Highway		Non-Pinelands
	AC Expressway		Pinelands Village
	State Highway		Preservation Area
	County Route		Regional Growth Area
	Local Road		Rural Development Area
	Ramp		Redevelopment Area
	Atlantic City Rail line		
	Railroad		



DRAFT

REVISIONS	DATE
O-2021-XXX	09/14/2021
O-2021-005	02/23/2021
O-2020-019	07/21/2020
O-2020-015	05/26/2020

ZONING DISTRICT MAP
 TOWNSHIP OF WINSLOW
 CAMDEN COUNTY NEW JERSEY
 SEPTEMBER 14, 2021 SCALE: 1" = 1,400'

REMINGTON & VERNICK ENGINEERS
 2302 ARCADE HIGHWAY EAST, HADDONFIELD, NJ 08033
 (856) 385-4500 FAX (856) 385-1882 WWW.RVE.COM
 ENGINEERING EXCELLENCE



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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




LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Acting Executive Director

Date: April 20, 2022

Subject: Comprehensive Management Plan amendment priorities

At the end of 2021, the Commission staff developed a list of potential amendments to the Comprehensive Management Plan (CMP) for the Policy & Implementation Committee's review. The Committee discussed the list of amendments at its October 29, 2021 meeting, after which all Commissioners and Commission staff were asked to identify their top priorities. The results of that "voting" exercise were then discussed by the Committee at its November 19, 2021 meeting. There was general agreement that the three rules already in progress – stormwater management; the Electric Transmission Right-of-Way Maintenance Pilot Program; and Kirkwood/Cohansey water supply – needed to proceed as quickly as possible. However, there was little consensus on other amendments and few Commissioners participated in the process. For these reasons, the Committee decided to postpone further discussion and take up the matter again in the spring of 2022, when the identification of priorities could best inform the Commission's larger FY2023 work plan and budgeting process.

The following documents are attached to assist in your preparation for the discussion on April 29th:

- List of potential CMP amendments, dated October 2022 and updated April 2022; and
- Excerpts from the October 29, 2021 and November 19, 2021 Committee meeting minutes and the associated PowerPoint presentations

For the upcoming fiscal year (July 1, 2022-June 2023), I recommend that the Commission and staff focus on the following CMP amendments and related activities:

- Implementation of the recently adopted stormwater management amendments through preparation and distribution of model ordinances for Pinelands municipalities. The deadline for ordinance adoption is January 18, 2023.

- Completion of the rulemaking process for the Kirkwood-Cohansey water management and Electric Transmission ROW amendments. If the Commission authorizes the proposal of these amendments in June 2022, they could be adopted and take effect as early as January 2023.
- Preparation of a rule proposal that includes the following amendments from the list, many of which have already been drafted and discussed with the Committee over the past several years:
 - Clarifications and revisions to codify existing policies and practices related to the Pinelands Development Credit program (see #4)
 - Management area changes for the Black Run Watershed (see #5)
 - “Gap rule” permitting process (see #21)
 - Cluster development clarifications and revisions (see #11)
 - Expiration dates for old waivers and Certificates of Filing (see #25 and #26)
 - Increased fees for applications involving violations of the CMP (see #24)
- Preparation of a detailed work plan for the Pinelands Climate Committee that identifies specific CMP amendments to be researched and prepared during FY23 (see #8)
- Continued monitoring of the rulemaking activities of other state agencies (NJ Department of Environmental Protection, NJ Board of Public Utilities, NJ Department of Agriculture) and preparation of any necessary CMP amendments
- Identification and prioritization of additional CMP amendments to research and draft over the next three fiscal years

The next step will be for staff to prepare a work plan and budget to support the priorities identified by the Committee and the CMP amendment-related projects scheduled for FY2023. The work plan and budget will be shared with the full Commission in July or August of this year.



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

Potential Amendments to the Comprehensive Management Plan

October 2021, *updated April 2022*

CMP Amendments or in Progress

- Stormwater management:** The New Jersey Department of Environmental Protection (NJDEP) adopted revised stormwater management rules in 2019. In response, the Commission staff developed the amendments necessary to harmonize the CMP's stormwater management provisions with the new NJDEP rules in a manner that recognized the special resources of the Pinelands.
 - Status: The Commission adopted its new stormwater management rules on December 10, 2021. The amendments took effect upon publication in the New Jersey Register on January 18, 2022. Staff is developing an implementation plan and preparing model ordinances for Pinelands municipalities.
- Electric Transmission Right-of-Way Maintenance Pilot Program:** This pilot program was enacted in 2009 and concluded at the end of 2021. The Commission must determine whether and how to institute the ROW Plan on a permanent basis.
 - Status: The staff's inspection and monitoring efforts have concluded and a series of reports have been presented to the Commission. A full evaluation of the Pilot Program was completed in accordance with the CMP. The staff's findings and recommendations were presented to the P&I Committee in September 2021. Draft CMP amendments were shared and discussed by the P&I Committee on October 29, 2021. A full rule proposal has been drafted and is scheduled for discussion at the April 29, 2022 P&I Committee meeting.
- Water supply (Kirkwood/Cohansey):** Using the results of the Kirkwood/Cohansey aquifer study, the Commission is seeking to establish a regional threshold and concrete definitions for what constitutes minimal impact to wetlands and surface waters. These new standards would be applied to applications for new and expanded non-agricultural wells and diversions as a means of protecting water quantity and supply. These amendments were identified as a priority in the 2014 Plan Review Report.
 - Status: Staff made numerous presentations to the P&I Committee and held several meetings with stakeholders to discuss proposed standards and application procedures. Draft CMP amendments were prepared; however, rulemaking was delayed so that staff

could identify available implementation mechanisms. An agreement with USGS has now been secured. The P&I Committee reviewed draft CMP amendments at its March 25, 2022 meeting and will be provided with a full rule proposal at the May 27, 2022 meeting.

2014 Plan Review Priorities

4. ***Pinelands Development Credit (PDC) program:*** The need for PDC enhancements (largely to increase demand and stabilize the market) was identified many years ago and led to a formal rule proposal that was endorsed by the P&I Committee in 2009. The full Commission did not take action on that proposal, which involved: the designation of Pinelands Towns as receiving areas; mandatory use of PDCs for all residential development in Regional Growth Areas and Pinelands Towns based on a sliding scale tied to project density; the use of PDCs for some nonresidential development; exemption of affordable housing units from PDC requirements; and expansion of PDC sending areas to certain portions of the Forest Area. These amendments were identified as a priority in the 2014 Plan Review Report.
 - Status: After 2009, Commission staff met with groups of stakeholders (e.g., the New Jersey Builders Association and the New Jersey Farm Bureau) to discuss the amendments and possible revisions to address a variety of concerns. Multiple presentations were made to the P&I Committee but little progress was made on a comprehensive set of amendments. Since that time, staff has been able to work successfully with Pinelands municipalities to accommodate municipal objectives for higher density and affordable housing while at the same time ensuring the required use of PDCs. PDC demand has increased significantly and the market is once again quite active. Staff now advocate consideration of simplified amendments to codify current policies and correct or clarify various PDC allocation and variance provisions. More significant changes to PDC allocation and use requirements should be considered only after a comprehensive analysis of supply and demand has been completed.

5. ***Black Run management area changes:*** A Sub-regional National Resource Protection Plan for Southern Medford/Evesham Townships was completed and endorsed by the Commission in 2006. The Plan identified a number of innovative zoning, land preservation and resource management recommendations designed to provide enhanced protection to the Black Run watershed. These included the redesignation of 3,700 acres from the Rural Development Area to the Forest Area and a residential density transfer program. Additional management area changes were recommended (from Rural Development to Regional Growth Area) to recognize large existing sewered developments in Evesham Township. These amendments were identified as a priority in the 2014 Plan Review Report.
 - Status: Staff drafted CMP amendments and a full rule proposal to implement the management area changes and enable a density transfer pilot program. The P&I Committee reviewed the amendments and recommended them to the full Commission for formal proposal in November 2009. The Commission elected not to proceed with the rulemaking process. Over the next ten years, staff held periodic meetings with Evesham Township representatives and the primary affected landowner to explain the amendments and discuss possible refinements. In 2021, Evesham Township adopted a master plan amendment that recommends rezonings to implement some of the management area changes identified in the Southern Medford/Evesham Plan. The Township then

introduced an implementing ordinance and may proceed with adoption in Spring 2022. Staff met with Evesham Township representatives in March 2022 to review the recommendations of the Southern Medford/Evesham Plan and discuss the Township's role in their implementation.

6. **(Organized) recreational vehicle events:** Commission approval of route maps for Enduro events has been required since adoption of the original CMP. However, the CMP does not contain specific standards or application requirements for such events. The need to codify existing application practices and address documented instances of rider or entire event course deviations was identified as a priority in the 2014 Plan Review Report.
 - Status: Staff conducted a series of meetings with stakeholders in 2015-2016 and drafted CMP amendments primarily intended to codify application practices. Consensus on other aspects of the rules, such as deviations from approved event courses and obtaining permission from landowners for applications and site inspections, was not achieved.
7. **Native Pinelands vegetation:** The 2014 Plan Review Report identified several options to improve the CMP's protection of native, rare, threatened and endangered plant species. These included converting current guidelines into requirements for the use of native Pinelands species in post-development stabilization, landscaping and restoration, as well as expansion of the CMP's list of protected plant species to include NJDEP's Plant Species of Concern.
 - Status: Drafting of CMP amendments commenced shortly after the 2014 Plan Review Report was issued but was not completed due to unresolved issues with the supply and available sources of native plants and grass seed mixes.

New State Initiatives

8. **Climate change:** The Commission adopted a resolution in November of 2020, calling for the Climate Committee to identify existing CMP standards that could be strengthened and new CMP standards that could be adopted to mitigate the effects of climate change in the Pinelands Area. These standards may include the addition of overarching language to the CMP to emphasize the importance of mitigating the effects of climate change on Pinelands resources. This topic was identified as a priority in the 2014 Plan Review Report.
 - Status: The Climate Committee discussed a series of topics and received a number of presentations throughout 2020-2021 but has not yet developed specific recommendations or CMP amendment language.
9. **Environmental Justice:** New Jersey's Environmental Justice Law was enacted by the State Legislature and signed by the Governor in September of 2020. It requires NJDEP to evaluate the contribution of eight types of facilities (e.g., incinerators, landfills and major sources of air pollution) to existing environmental and public health stressors in "overburdened communities". It further requires NJDEP to adopt implementing regulations that will govern the Department's review of permits involving development, expansion or renewal of these facilities in overburdened communities.

- Status: NJDEP has identified all “overburdened communities” in the State based on the criteria set forth in the Environmental Justice Law. These criteria focus on household income, minority population and English proficiency by census block. A number of the identified communities are located in the Pinelands Area. NJDEP has also conducted six rulemaking stakeholder meetings. Commission staff are reviewing the summaries of these meetings and the maps posted by NJDEP to determine what role or authority the Commission might have to incorporate environmental justice considerations into the CMP.

10. ***Cannabis facilities:*** The State’s Cannabis Regulatory Commission adopted new rules in August 2021. Pinelands municipalities have been adopting various ordinances that either prohibit all cannabis facilities or permit certain types of facilities in certain zoning districts.

- Status: Staff reviewed the new state rules and made a presentation on their relationship to the CMP at the September 2021 P&I Committee meeting. The need for CMP amendments to address application requirements and development standards for large indoor cultivation facilities was identified. In March and April 2022, the Cannabis Regulatory Commission approved licenses for a number of cannabis cultivation and manufacturing facilities. Staff are currently attempting to identify the proposed locations of these facilities to determine whether any are in the Pinelands Area and, if so, what issues may arise with their development.

Land Use and Development Standards

11. ***Cluster development:*** The CMP’s requirements for cluster development in the Forest and Rural Development Areas took effect in 2009. Since that time, a number of issues and recommended revisions were identified through the staff’s review of development applications, particularly those involving minor development (less than 5 units).

- Status: Staff completed a comprehensive evaluation of the current CMP standards and recent development applications and made a presentation to the P&I Committee in May 2019. Drafting of CMP amendments commenced shortly thereafter but has not been completed.

12. ***Solar energy facilities:*** The CMP’s current solar energy facility standards have been in effect since 2014. A number of possible clarifications and revisions have been identified, including standards to address floating facilities, the siting of community solar facilities on closed landfills, clearing limits, tree replacement requirements and mandatory solar installation for new construction.

- Status: Solar facility rules and applications were discussed on multiple occasions with the Climate Committee during 2020-2021. Staff generated a list of potential CMP amendments but the Committee has yet to make specific recommendations. The State’s Solar Act of 2021, which focuses on the siting and construction of grid-scale (large) solar projects, is the subject of a March 2022 straw proposal developed by the BPU in consultation with NJDEP and Department of Agriculture staff. CMP amendments may be necessary to clarify the standards and siting limitations that apply to grid-scale facilities in the Pinelands Area.

13. ***Horizontal Directional Drilling (HDD)***: The CMP does not currently contain specific application requirements or standards governing the use of HDD. Commission members have proposed a number of approaches, including prohibiting the use of HDD, limiting the use of HDD to certain management areas and requiring applications for the development of utility distribution lines that propose the use of HDD.
- Status: The need to amend the CMP to address HDD has been a topic of ongoing discussion at P&I and Commission meetings throughout 2020-2021. Most recently, NJDEP made a presentation on its draft HDD rules at the P&I Committee's July 2021 meeting.
14. ***Forestry***: A comprehensive review of CMP forestry standards last occurred in 2004-2006, resulting in the CMP's current standards and application procedures. A number of issues have arisen with definitions, application exemptions, standards for fuel breaks, fire breaks and plow lines, herbicide use, threatened and endangered species accounts and other standards.
- Status: Amendments to clarify the current application exemption for prescribed burning and the clearing and maintaining of fire breaks were formally proposed in 2017 but not adopted after significant concerns were raised during the public comment period. A more comprehensive reexamination of CMP forestry standards has not been scheduled or discussed.
15. ***Herbicides***: The CMP permits the use of herbicides for forestry activities but does not permit application of herbicides to any road or public utility right-of-way, unless necessary to protect an adjacent agricultural activity. A comprehensive analysis of whether and where herbicide use is appropriate should be undertaken.
- Status: Issues have been identified through the Commission's review of forestry applications and the Electric Transmission Right of Way Maintenance Pilot Program; however, specific amendments have not been discussed or drafted.
16. ***Fish and wildlife management and mitigation***: In recent years, lands in the Pinelands Area are being targeted for habitat enhancement and other fish and wildlife management activities to satisfy mitigation obligations imposed by the NJDEP through its review and approval of CAFRA permits. These CAFRA permits generally involve development in the Pinelands National Reserve, outside the Pinelands Area. Mitigation banks have been established, some involving mitigation activities in the Pinelands Preservation Area District, occasionally on properties that have already been preserved through the PDC program.
- Status: Applications for fish and wildlife management have been submitted to the Commission for review, as have CAFRA permits for development in the Pinelands National Reserve. Commission staff have expressed concerns with the continued use of land in the Pinelands Area for mitigation purposes.
17. ***Local communications facilities***: The CMP's current standards for local communications facilities (cell towers) have been in effect since 1994, with periodic minor revisions. These standards need to be simplified and updated to address changes in technology and siting requirements.

18. ***Historic, Archaeological and Cultural Resources:*** The CMP’s current standards for cultural resource management have been in effect since 1987, with periodic minor revisions. These standards could be clarified and updated.
19. ***Threatened and Endangered Species:*** Over the years, staff have developed survey and deed restriction practices to address the protection of threatened and endangered species for applications that propose development of one single family dwelling. These practices could be codified in the CMP.
20. ***Miscellaneous:*** permitted uses; temporary uses; septic maintenance and inspection requirements; septic wastewater flow values; Cape May Landfill timeframes and limitations; updated wetlands buffer model; total nitrogen vs nitrate/nitrogen; wastewater treatment systems for nonresidential development; non-degradation and background water quality standards for PL (Pinelands) Waters.

Application and Review Procedures

21. ***Coordinated permitting (“Gap Rule”) process:*** CMP amendments are needed to set forth a process for the Commission’s review and approval of private development applications that do not receive local (municipal or county) approvals. Typically, these are linear infrastructure projects located in multiple municipalities, for which the Board of Public Utilities has granted pre-emption from municipal review pursuant to N.J.S.A. 40:55D-19 of the Municipal Land Use Law.
 - Status: Staff drafted CMP amendments that were discussed by the P&I Committee at its April 2020 and May 2020 meetings. After concerns arose with various hearing procedures and the ability of interested persons to participate, the amendments were put on hold pending the outcome of third party appeals in the New Jersey Natural Gas matter. Now that all litigation surrounding that matter has been exhausted, amendments to codify the “gap rule” process previously developed and implemented by the Commission need to be finalized.
22. ***Utility distribution lines:*** The CMP currently provides two application exemptions related to the repair and installation of utility distribution lines. Commissioners have expressed interest in revising, curtailing or repealing one or both of these exemptions so that applications will be required and any HDD activities associated with them can be reviewed.
 - Status: The utility distribution line exemptions have been discussed at several P&I Committee and Commission meetings during 2021 but no decisions have been made.
23. ***Application exemptions:*** The CMP contains a list of activities that do not require application to the Commission, ranging from additions to single-family homes to prescribed burning to the repaving of roads.
 - Status: Staff made a comprehensive presentation on application exemptions and procedures at the January 29, 2021 P&I Committee meeting. Staff has identified a number of potential amendments to clarify existing exemptions.

24. ***Violations:*** Without enforcement authority in the form of fines or penalties, the Commission’s ability to address violations of the CMP is limited. Increased fees for applications submitted to resolve violations would help to offset the significant amount of staff time often required to address these situations. The CMP could also be clarified to address instances where a development application is submitted but a violation has been identified on contiguous lands in common ownership.
- Status: Amendments to increase fees for applications involving violations were drafted and included in a larger rule proposal endorsed by the Commission in 2017. The proposed amendments were deleted from the rule proposal at the request of the Governor’s office.
25. ***Expiration of approvals:*** With the exception of some categories of Waivers of Strict Compliance, approvals issued by the Commission and documents issued by the staff do not expire. The need to establish expiration dates for Certificates of Filing, letters of no further review, all waivers and public development approvals should be considered.
- Status: CMP amendments to establish an expiration date for waivers of strict compliance issued between 1985 and 1992 were drafted and endorsed by the Commission in 2017. These amendments were deleted from the rule proposal at the request of the Governor’s office.
26. ***Expiration of protection from zoning changes:*** The Municipal Land Use Law provides applicants with protection from municipal zoning changes for specified periods of time once preliminary or final subdivision or site plan approval has been granted. Coupled with the Permit Extension Act and the fact that Certificates of Filing and letters of no further review do not expire, complicated situations have arisen over the years when “old” unbuilt or partially built projects resurface. In the Regional Growth Area, the issue typically involves the application of new or increased PDC requirements. In the Forest and Rural Development Areas, the CMP’s mandatory clustering rules come into play.
27. ***Private development application and hearing procedures:*** The CMP sets forth a process for private development applications that often results in review of multiple approvals (subdivision, site plan, septic permits, building permits) for the same project. This process could be streamlined to avoid duplicative reviews. The Commission could also consider revising or merely clarifying the hearing procedures that apply when staff determine that an approval raises a substantial issue with respect to the CMP.
28. ***Public development and waiver procedures:*** Over the years, the Commission has instituted certain public comment practices for public development and waiver applications. These practices should be codified in the CMP, with regulatory timeframes adjusted as necessary. The Commission might also consider revising requirements for the automatic referral of applications to the Office of Administrative Law when the Commission fails to act or disagrees with the recommendation of the Executive Director.

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666.

October 29, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Jerome H. Irick, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: None

STAFF PRESENT: Susan R. Grogan, Stacey P. Roth, Marci Green, Charles Horner, Jessica Lynch, Ed Wengrowski, Brad Lanute, John Bunnell, Ernest Deman, Brian Szura, Paul Leakan, and Dawn Holgersen. Also present was Jeff Nielsen, with the Governor's Authorities Unit.

6. Discussion of priorities and schedules for CMP Amendments

Ms. Grogan gave a presentation on the priorities and schedules for CMP amendments (*attached to these minutes and on the Commission website at:*

<https://nj.gov/pinelands/home/presentations/Rulemaking%20Priorities%20October%202021.pdf>).

She said the amendments that are currently in progress are for stormwater maintenance, the Electric Transmission ROW Maintenance Pilot Program, and water supply, specifically the Kirkwood-Cohansey aquifer.

Ms. Grogan said the stormwater management rules are near completion and the ROW rules are outlined and need to have language drafted. She said the water supply rules have been discussed over many years and have rules drafted. She said that Commission staff members are working to develop an appropriate implementation mechanism. She said that the draft amendments rely on several different models when an application for a new well is submitted.

She said staff is working on an agreement with the United States Geological Survey (USGS) whereby USGS would review the models prepared by applicants and provide reports and information for the Commission staff to use in its review.

She said that work on the rule language had to be paused so that Commission staff could focus on how the new rules would be administered. She said that the rules are now being reviewed and

the Commission staff is making edits and clarifications. She said that the rules should be ready to present in the new year.

In response to a question from Chairman Prickett, Ms. Grogan said that when an applicant submits an application for a new well, the rules would specify a series of standards, testing, and modeling. The applicant and their consultant would be responsible for running the model and providing it to the Commission. She said that information would be forwarded to USGS for review. She said the payment for that review would come from an escrow funded by the applicant. She said that USGS would then report back to the Commission with their findings.

Ms. Grogan said that she used the plan review priorities from 2014 to create the current list of priorities. She said that a couple of the priority items were implemented but most were not.

She said that the Planning Office made many presentations over the years for rules pertaining to Pinelands Development Credit (PDC) enhancements. She said that there have been numerous rule proposals and amendments drafted. She said that they are primarily amendments to increase demand for PDCs in Regional Growth Areas and to expand them to other areas of the Pinelands.

Ms. Grogan said that while there currently high demand for PDCs, there should still be focus on amending the CMP for the use of PDCs on both the supply and demand side, as well as allocation.

She said that the Black Run management area in Evesham Township is in need of changes to create a significantly expanded Forest Area as well as other adjustments to management area boundaries. A rule proposal was drafted but the Commission did not move forward. She said that Evesham Township has recently adopted a master plan amendment that recommends a number of those changes.

Ms. Grogan mentioned that the CMP does not contain specific application requirements for organized recreational vehicle events. She said that draft amendments were prepared, and stakeholder meetings were held, but the Commission did not proceed.

Ms. Grogan said that the next amendments on the list relate to new State initiatives.

She mentioned that climate change was also identified in the 2014 plan review as a priority. She said that the Pinelands Climate Committee has been charged with the task of considering CMP amendments and standards. She said the amendments could address things such as solar energy and tree replacement.

Commissioner Lohbauer proposed that the Climate Committee commit time at its December meeting to focus on CMP amendment language.

Ms. Grogan said that the topic of cannabis facilities had been discussed with the Committee recently. She said there are new state regulations in place. She said that the Commission staff is

currently reviewing those regulations, municipal ordinances, and applications. She said there is a need to address large scale indoor cultivation facilities in the Agricultural Production Area.

She said that the topic of environmental justice had not been discussed previously. She said that the Governor issued an Executive Order and the Legislature has adopted new legislation applicable to NJDEP in its review of permits for certain types of facilities such as incinerators, recycling facilities, and any kind of use that would potentially contribute to air pollution.

Ms. Grogan said NJDEP has identified and mapped what are being considered as overburdened communities. She said there are a number of factors that classify a community as overburdened. The concern is with the development or expansion of facilities in these communities.

She said that NJDEP has been tasked with developing rules for its review of permits for the list of facilities of concern. The rules may involve requirements for additional hearings, notices, and mitigation. The Commission has not been involved in the NJDEP stakeholder or rulemaking process to date.

In response to Commissioner Lloyd's concerns about overburdened communities, Ms. Grogan mentioned that there is an online map that identifies those communities. She said that it was created using census block data and that if a block met the criteria, the entire municipality was marked. She also said that most of the facilities of concern are already not permitted anywhere in the Pinelands.

Commissioner Irick expressed concern with the number of Pinelands municipalities that had been identified as overburdened communities. Ms. Grogan mentioned that there are curious features to the NJDEP map, in that some of the identified census blocks are in areas of very low population, where most of the land is permanently preserved. Commissioner Irick also expressed concern with the possibility of undesirable facilities being pushed into these low-density Pinelands communities.

Commissioner Lohbauer left the meeting at about 11:36 a.m.

Ms. Roth said NJDEP must conduct an analysis to see if there are environmental or health impacts from these existing types of facilities.

In response to Commissioner Avery's concerns, Ms. Grogan said that there is very little likelihood of any new facilities being approved in the Pinelands Area. She said there are existing facilities that may need to be addressed in the renewal of their permits.

Ms. Grogan outlined the list of CMP amendments described as land use and development standards. She said that former Commission staff member Robyn Jeney made a comprehensive study of cluster development standards with suggestions for revisions and clarifications.

She said that solar energy facilities have been discussed by the Climate Committee. She said there are amendments that could be made to encourage solar energy facilities.

She also said that horizontal directional drilling has been a recent topic of discussion by the Committees.

Ms. Grogan mentioned that the forestry rules were last studied in 2004-2006. She said they may be due for further review. She said that rules for herbicide use should be looked at separately even though they also apply to forestry. She said there are broader implications that need to be studied.

Ms. Grogan indicated that there are several rules and standards in the CMP that have been there for a long time. She said that local communications facilities rules were very innovative when they were enacted in the 1990s. She said technologies have changed and that now causes issues with some of the standards.

She said that the CMP contains significant standards and procedures to protect historic and archaeological resources. She said they have not been looked at or amended in many years.

Ms. Grogan said that there is very little language in the CMP on how to meet threatened and endangered species standards. She said that staff has developed ways to do this and that they should be codified.

She said there have been issues with the application review procedures. She said that there are issues with the permitting process for gap projects for things such as infrastructure where municipal approval is not required.

She said that there has been discussion on utility distribution lines and application exemptions. She said that Commission staff has identified some clarifications that would be of benefit.

Ms. Grogan said that violations are often discussed. She mentioned that the Commission has little enforcement authority. She said that one way to handle violations would be in the fee required for applications to address a violation. She said those application require a more extensive review. She said that rules were drafted years ago and were endorsed by the Commission but were subsequently removed from the rule proposal at the request of the Governor's office.

She said most approvals from the Commission do not expire. She said there were rules written to address one category of waivers that do not expire, but these rules were not advanced. She mentioned that Certificates of Filing do not have an expiration date and that causes issues when long periods of time go by. She said there is an issue when there is an older site or subdivision plan approval where time had passed, and zoning or rule changes have occurred. She said that it becomes difficult for Commission staff, municipalities, and applicants to resolve these issues.

She mentioned a need for rules to codify public comment procedures for public development applications.

Chairman Prickett mentioned the idea of discussing CMP amendments during Committee meetings on a quarterly basis. Ms. Grogan agreed that it would be beneficial to have regular progress reports and an opportunity for the Committee to discuss and reprioritize.

Commissioner Irick expressed his appreciation to Ms. Grogan and Commission staff for compiling the information for the amendments. He proposed that the Commissioners reply to Ms. Grogan with a list of priorities. Commissioner Lloyd concurred.

Commissioner Avery recommended that the list of priorities should be forwarded to all Commissioners for response. He mentioned that some of the previously drafted amendments could be enacted quickly.

Commissioner Lloyd left the meeting at 12:00 p.m.

1. Public Comment

Rhyan Grech from the Pinelands Preservation Alliance expressed appreciation to the Commission for their list and discussion on the CMP amendments. She said they look forward to participating in the process.

She said they are glad to see environmental justice on the list. She suggested the Commission not allow people with resources, money, and influence to push objectionable projects into areas with people who do not have such resources.

She encouraged the Commission to have an evidentiary hearing, an opportunity for sworn witnesses and expert testimony, and to provide cross examination for public and private applications. She said that it would allow an opportunity to fully examine a project and form a complete record that could be reviewed to determine CMP compliance.

Fred Akers from the Great Egg Harbor Watershed Association commended the Commission on the graduation of the ROW Pilot Program. He said it was a very progressive project. He said he is glad it is a success.

Commissioner Avery also expressed his appreciation to Ms. Grogan and the Commission staff for their work on the presentations. Chairman Prickett echoed his sentiment.

Rulemaking Priorities

P&I Committee
October 29, 2021

CMP Amendments In Progress

- Stormwater Management
- Electric Transmission Right of Way
Maintenance Pilot Program
- Water supply (Kirkwood/Cohansey)

CMP Amendments

2014 Plan Review Priorities

- PDC Enhancements
- Black Run management area changes
- Organized recreational vehicle events
- Native Pinelands vegetation

CMP Amendments

New State Initiatives

- Climate change
- Environmental justice
- Cannabis facilities

CMP Amendments

Land Use & Development Standards

- FA/RDA cluster development
- Solar energy facilities
- Horizontal Directional Drilling (HDD)
- Forestry
- Herbicide use
- Fish and wildlife management (mitigation)
- Local communications facilities
- Cultural resources
- Threatened & Endangered Species

CMP Amendments

Application Review Procedures

- Permitting process for “gap” projects
- Utility distribution lines
- Application exemptions
- Violations
- Expiration of approvals
- Expiration of protection from zoning changes
- Private development procedures
- Public development procedures

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely

All participants were present via Zoom conference

The public could view/comment through Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 815 8070 9301.

November 19, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Jerome H. Irick, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: None

STAFF PRESENT: Susan R. Grogan, Stacey P. Roth, Charles Horner, Jessica Lynch, Brad Lanute, Kim Laidig, Ernest Deman, Brian Szura, Paul Leakan, and Dawn Holgersen. Also present was Rudy Rodas, with the Governor's Authorities Unit.

5. Priorities and schedules for CMP amendments

Ms. Grogan gave a presentation on the priorities and schedules for CMP amendments (*attached to these minutes and on the Commission's website at:*

<https://www.nj.gov/pinelands/home/presentations/P%20%20I%2011.19.21%20CMP%20Amendments.2.pdf>).

She said that all Commissioners and staff were asked to provide their top five priorities. She said that it gave some perspective.

Ms. Grogan mentioned that the only Commissioners to respond to the request were those on the P&I Committee.

She outlined the top five Commissioner priorities: stormwater management, right-of-way maintenance, water supply, the Pinelands Development Credit (PDC) program, and solar facilities.

Ms. Grogan said that, among the Commissioners, there were other items that were highly ranked by two Commissioners but they lacked a consensus or support.

She said that cluster development is high on the Commission staff priority list. She mentioned that the rules have not been revised in ten years. She said that a comprehensive review has been completed and necessary clarifications have been identified, along with a number of more substantive changes.

Ms. Grogan said that expiration of protection from zoning changes is another high priority for Commission staff. She said that the lack of expiration dates has become a time consuming and difficult issue when dealing with application that have old approvals.

Ms. Grogan indicated that because only five Commissioners responded to the request, it was hard to draw any definitive conclusions on the long list of potential amendments.

In response to a question from Commissioner Lloyd, Ms. Grogan said that responses were received from five to ten staff members.

Ms. Grogan said that there are large policy amendments drafted. She said that internal policy correction amendments were largely recommended by Commission staff.

She said that it takes a considerable effort to study and write amendments. She mentioned that it took about three years to develop, draft and propose the stormwater amendments. She said that there are also stakeholder considerations that need to be accommodated in the process.

Ms. Grogan said that when CMP amendments are passed by the Commission, Pinelands municipalities must adopt ordinances to add these amendments. She said that municipalities have one year to adopt such ordinances.

Chairman Prickett remarked that ordinances for most of the municipalities are written by Commission staff. Ms. Grogan said that it is easier now that towns have codified their ordinances. She said that it is still time consuming.

Ms. Grogan said that when the Commission sends the model ordinances, about half of the municipalities will adopt them without edits, some will have feedback, and some are reluctant.

In response to Commissioner Lloyd's question about Commission input for New Jersey Department of Environmental Protection (NJDEP) rules, Ms. Grogan said that the Commission is sometimes given the opportunity to comment prior to formal proposals. She said that Mr. Ed Wengrowski, the Commission's Environmental Technologies Coordinator, has been involved with numerous NJDEP stakeholder groups. She also said that the Commission did submit formal comment on the NJDEP's stormwater rules.

Ms. Grogan indicated that there are direct Commission actions in the chart that are needed to respond to NJDEP amendments.

She said that there are smaller amendments that are not complex and will take less time to review. She gave examples of fee amendments, waiver expirations, and clustering modifications.

Ms. Grogan said that some of the amendments on the list were part of formal proposals made in 2017. The then Governor's office removed certain amendments from the proposals so they did not proceed.

Ms. Grogan said that there are large amendments that the Commissioners are focused on and there are procedural issues that take up a considerable amount of staff time.

Commissioner Lohbauer said that having the scoring by staff would be helpful to identify issues. He said that it might influence the Commissioner's priorities. He said that he would like to save staff time.

Commissioner Lloyd echoed Commissioner Lohbauer's comment on staff scoring. He mentioned that the fee amendments and approval expirations were both presented and subsequently declined by the Governor's office.

Ms. Grogan replied that the declined proposals were from the previous administration. She said that the amendments have not been discussed with the current administration.

Chairman Prickett suggested that staff see if the Governor's office would be supportive of the amendments. He mentioned the increased fees for applications involving violations.

Commissioner Lloyd recommended that a list be made of amendments struck by the former Governor and given to Mr. Rodas for input from the current administration.

Ms. Grogan said there is a long list of important issues to be addressed. She said that with so few Commissioners actively participating, there was not much consensus. The lack of staff is also a major constraint. She said that there will be new staff starting near the end of the year to the beginning of next year. She also said that there is potential for new Commissioners and the need to hire a permanent Executive Director.

She said that there is no disagreement with the Commissioners input. She also said that she agrees with the staff ranking. She also said that staff appreciated the list of priorities from the Commissioners.

She said that staff will revisit the priorities but for now will work on the current rulemaking efforts. She said that she suggests continued discussion of the amendment priorities in the spring.

Commissioner Lloyd said that the information was very helpful. He mentioned having five- and ten-year plans and suggested creating a calendar for fiscal year 2022 with a plan for priorities.

Ms. Grogan said that, in the past, a workplan was created for the fiscal year budget. She suggested development of a realistic plan on what amendments can be done in a year, to coincide with preparation of the budget. The staff would then provide updates quarterly.

Commissioner Lohbauer agreed with Commissioner Lloyd. He said that he does not want to burden staff. He remarked that it was good to see the scope of the priorities. He said he would like to be more sensitive to what helps the staff. He also said that a timeline is reasonable and that it gives perspective.

Ms. Grogan said that the staff is excited about the amendment discussion and progress made to date. She said the staff was pleased the Commissioners wanted their input.

Chairman Prickett said that the Commission is aware of changes that are needed. He said that the P&I Committee can discuss the priorities. He said that more material is needed to present to the full Commission. He asked for more participation from the Commissioners. He also said he would like to send a memo with updates to the Commission and to ask for input.

Commissioner Lloyd said there is more work to be done. He said that a one-year plan needs to be created before presenting the information to the Commission.

Chairman Prickett replied that he would like to send a preliminary letter. He suggested to continue the subject to the next meeting.

Ms. Grogan informed Chairman Prickett that the January 2022 meeting has a full agenda. She recommended to move the subject to the March or April meeting. She said that would give time to reevaluate our abilities with the anticipated addition to the staff.

She said that staff will continue to work with the three amendments that are currently under review.

Commissioner Lohbauer suggested that priorities be set for the next fiscal year. He said the Climate Committee is working on amendments to present next month. He said that more reporting is needed to give priority to climate-related amendments.

Commissioner Irick commended the staff for their list of priorities. He said that the amendments that are ready should be moved forward. He mentioned contacting the Governor's Office to seek support for the prepared drafts.

Chairman Prickett, Commissioners Lohbauer and Lloyd expressed their agreement with Commissioner Irick's comment.

Commissioner Avery commented that the staff priorities were interesting. He said that he is not familiar with issues in the clustering rules. He asked about the status of the amendments.

Ms. Grogan replied that the amendments are not completely written. She said that analysis has been completed and stakeholder input has been collected.

Commissioner Avery remarked that it is a lot of work for municipalities to pass ordinances. He suggested to bundle some of the amendments for their ordinances. He said that clustering would need an ordinance.

He said that solar facilities on landfills needs amendments and an ordinance. He suggested to bundle those amendments with the stormwater amendments. He mentioned the increased interest in solar.

Ms. Grogan replied that bundling the ordinances is important. She said that small amendments are not worth the time and effort to do on their own. She said that for the stormwater rules, model ordinances will be drafted in early 2022. She indicated that the stormwater ordinances need to be separate as they are not typical land use ordinances.

Commissioner Avery expressed appreciation to staff for their work. He commented that getting eight votes for something is not easy with only eleven Commissioners.

Chairman Prickett said that he hopes for universal support for the stormwater amendments. He remarked that it would be great if small amendments could be put in. He also said that if that is not possible, then it will be revisited in the spring.

6. Public Comment

Andrew Gold from the Pinelands Preservation Alliance (PPA) thanked the Committee and Commission staff for prioritizing the amendments and for their diligence. He expressed disappointment in the lack of Commissioner feedback. He urged the Committee to consider the Kirkwood-Cohansey aquifer rules as a priority.

Fred Akers from the Great Egg Harbor Watershed Committee recalled that the Commission's plan review was every five years. He said that with amendment priorities now being identified every year and on an ongoing basis, that takes more time and effort.

Agnes Marsala thanked the Commission and staff for their work. She said it is not easy. She said that she agrees with the staff priority on clustering development and expiration of approvals. She also said the Commission should act before the NJDEP to enact aquifer rules. She recommends more regulation or a ban on horizontal directional drilling in the Pinelands. She mentioned the spills from the construction of the SRL. She said that an inadvertent return rate of 50% seems to be an accepted cost of doing business. She said the cost is too high for such a sensitive area.

Georgina Shanley said that she agreed with Ms. Marsala. She expressed her gratitude to the Commission for its efforts to protect the Pinelands. She said she is disappointed in the amount of Commissioner response for the rulemaking priorities. She said it shows a lack of interest and makes it more important to fill the vacant Commissioner seats. She asked that if a letter is sent to the Governor that it should request the vacancies to be filled and to have a representative from the Department of the Interior. She said that things cannot move forward until there is a full Commission. She said the amendments could take until 2025 and with the climate crisis and with the world burning, it seems like a long time before anything significant can be done. She reiterated Ms. Marsala's sentiment on the spills from the construction of the SRL. She asked if any laws could be fast-tracked to address the climate crisis either through the Governor's power or power of the Commissioner. She reiterated the need for more Commissioners and to fast-track rules. She remarked that it seems that everyone is sitting around waiting for the Pinelands to be

finished and barren. She said she would like to see the Commission take a leadership role and not wait for NJDEP.

CMP Amendments

Priorities

November 2021

P & I Committee

Prioritization Responses – Top Fives

Commissioners

- Stormwater (5)
- ROW (3)
- Water Supply (3)
- PDC program (2)
- Solar facilities (2)
- Other amendments were highly ranked by 2 Commissioners but lack consensus or support

Staff

- Cluster development (5)
- Expiration of protection from zoning changes (4)
- Stormwater (3)
- ROW (3)
- Water Supply (3)

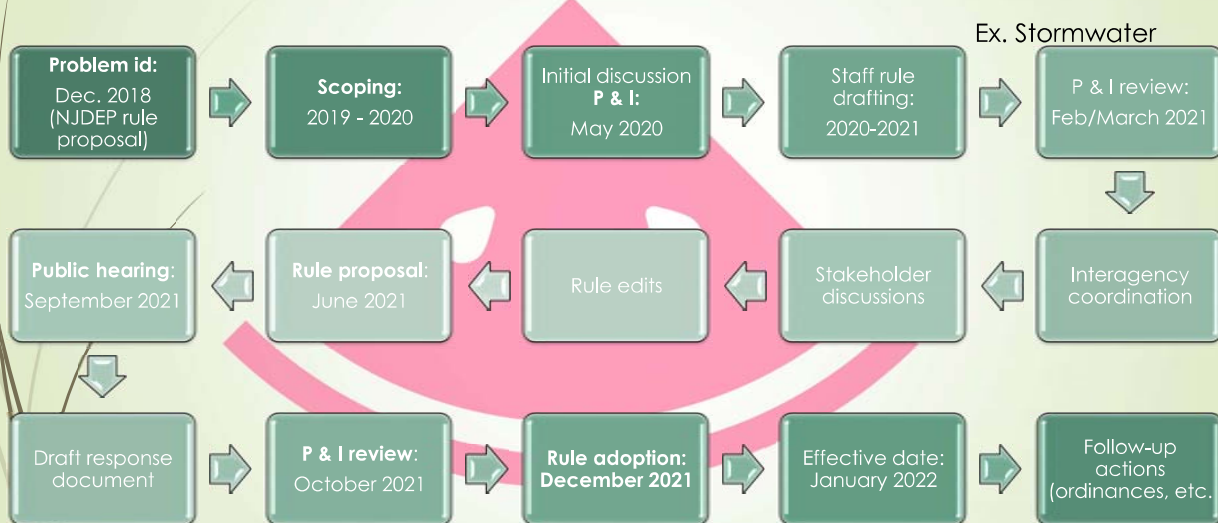


Amendments: low hanging fruit or juicy watermelon?

Larger policy amendments

Internal correction amendments

Policy Amendment – (watermelon)



Improved Efficiency and Clarification Amendments - grapes

- ▶ Timeline attenuated by prior steps completed
- ▶ Examples:
 - ▶ Fee amendments (drafted and endorsed by Commission 2017)
 - ▶ Waiver expirations (drafted and endorsed by Commission 2017)
 - ▶ Clustering modifications (comprehensive review completed; issues identified; amendments partially drafted)




Considerations & Suggested Path

Current theater of operations

- Consensus and lack of Commissioners
- New staff training and productivity
- New commissioners potentially
- ED appointment coming

Continue working on "In-Progress" amendments

- Stormwater
- Rights-of-Way Maintenance
- Water Supply (K/C)



And Beyond Current Theater of Operations

- ▀ Re-visit priorities in preparation for new FY (April – May)
 - ▀ Work planning
 - ▀ Budgeting
- ▀ Semi-annual update on prioritized amendments
- ▀ Annual review and re-set



DISCUSSION

- ▀ Staff recommendations
- ▀ Commission decisions

