

Adopted November 11, 2019

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

**Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
September 27, 2019 - 9:30 a.m.**

MINUTES

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

MEMBERS ABSENT: Candace Ashmun and Jordan Howell

STAFF PRESENT: Nancy Wittenberg, Stacey P. Roth, Susan R. Grogan, Paul Leakan and Betsy Piner. Also participating, by phone, was Craig Ambrose with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the meeting of the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee to order at 9:35 a.m.

2. Pledge Allegiance to the Flag

All present pledged allegiance to the Flag.

3. Adoption of minutes from the August 23, 2019 CMP Policy & Implementation Committee Meeting

Commissioner Lohbauer moved the adoption of the August 23, 2019 meeting minutes with a correction to the spelling of Mr. Fred Akers' surname on page 5. Commissioner Irick seconded the motion. The minutes were adopted, with all Committee members voting in the affirmative, with the exception of Commissioner Earlen who arrived at 9:40 a.m., after the vote was taken.

4. Pinelands Acquisition Program

Chairman Prickett said that he noted in the Commission's resolution pertaining to this matter that some \$8 million in federal funds remained to be appropriated for land acquisition and he hoped the Commission could get that money.

Ms. Grogan made a presentation (*Attachment A to these minutes and posted on the website at: <https://www.nj.gov/pinelands/home/presentations/9-27-2019%20pi%20502%20presentation.pdf>*)

on the Pinelands acquisition program, describing specifically the history and activity under Section 502 of the National Parks and Recreation Act (the Act) of 1978. She noted that the first slide is a picture of the Oswego River in Bass River, one of the original eleven target areas designated for acquisition. Those original target areas comprised some 103,000 acres in the Preservation Area District of the Forest Area. She said under the Act, the United States Secretary of the Interior provided financial assistance to New Jersey for two primary purposes: planning grants and land acquisition. The planning grants provided \$3 million in funding for the Pinelands municipalities to come into conformance with the then-new CMP. The original funding authorized \$23 million for land acquisition which was then later increased to \$40 million. She said, through a 1980 Memorandum of Agreement, the role of the Commission is to identify appropriate acquisitions while the New Jersey Department of Environmental Protection (NJDEP) is charged with administering the program, including submission of the funding applications, grant management and monitoring. The Secretary of the Interior approves the expenditure of the 502 funds.

Ms. Grogan said the target acquisition areas are those with critical ecological value in danger of being destroyed as well as sites that further the preservation, conservation, recreation and cultural objectives of the CMP. To date, \$32 million, including \$1 million for the Limited Practical Use (LPU) land acquisition program, have been appropriated and 73,000 acres have been acquired. She said until relatively recently, the Commission has requested on a yearly basis, the release of the remaining \$8 million. She reminded the Committee that the 502 program is only one of several acquisition programs, noting that some lands preserved through the Pinelands Development Credit Program and the Pinelands Conservation Fund (PCF) are within the 502 target areas and that the 103,000 acres also contained some developed lands.

In response to questions from Commissioner Lloyd, Ms. Grogan said that the Green Acres program has preserved land without 502 funds, including some in Bass River in the last fiscal year. She said in 2002, the Permanent Land Protection Committee identified 20 new target areas of some 120,000 acres for acquisition, including the Toms River Corridor and Southern Evesham/Medford, both of which were then the focus of sub-regional plans.

Ms. Grogan said the 502 program has been remarkably successful in preserving sensitive and important areas of the Pinelands and has been a collaborative effort with the Counties, NJDEP and the non-profits. She said the Commission hopes it can secure the additional funding to fill in the last of the gaps in the target areas.

Ms. Grogan said this background is necessary to understand the agenda item today, as the 1980 agreement included conditions for a change of ownership, for which the Commission has a role.

In response to Commissioner Lohbauer's question regarding success in contacting legislators for additional funding, Ms. Grogan said the most recent success was about 2005 or 2006 for the

purchase of an important property in Atlantic County although it was not in a 502 Area. She said very specific requests have resulted in some success.

In response to Chairman Prickett's questions, Ms. Grogan said the identification of new areas could be done through the PCF, particularly now that the Commission has lots of data and mapping. She said all federal LPU funds have been spent.

Ms. Grogan said there are good descriptions of the Section 502 program in each of the Plan Review reports and they provide much detail.

Chairman Prickett said he would like to have a yearly discussion on this matter to see if the Commission could get anyone's attention to appropriate more funding for Pinelands land acquisition.

Consideration of the Department of Environmental Protection's request to convey State-owned lands acquired with 502 funds to Ocean County

Ms. Judeth Yeaney, Bureau Chief, Green Acres Legal Services and Stewardship, said her role is to provide support to the land management program, post-acquisition and she deals with issues such as land disposition and land exchange. She said some ten years ago her office was approached by Ocean County to discuss the potential land exchange before the Committee today. She said early in the process everyone recognized that some 502 funds had been used to acquire this land in April 1980 at price of \$84,000.00. She said NJDEP's process requires an analysis, a report and at least two public hearings. She said the County has a similar process. Because the change in ownership needs the concurrence of the Commission, she said she had reached out to Ms. Grogan and Ms. Roth. She said if the Commission concurs, NJDEP will go to the National Park Service to secure its approval. She said conceivably this land swap could take place by the end of the calendar year.

Mr. Mark Villinger, Supervising Planner, Ocean County, described the proposed land swap of 269-acres of County-owned lands in Barnegat and Stafford townships with 192 acres of NJDEP-owned lands in Barnegat Township. The County's purpose is to expand around the site at the historic Cedar Bridge Tavern. The State will benefit in that it will be able to fill in some of the gaps and create more contiguous space to administer as part of the State park system.

In response to Commissioner Lohbauer's question as to how the relevant State lands are used now, Ms. Yeaney said they are part of Bass River State Park but are not actively managed.

Mr. Villinger said the Cedar Bridge Tavern is on a five-acre site and, each year the County enters into an agreement with Bass River State Park to receive a permit to allow temporary parking on the side of the road as there is no paved parking. He said under this agreement, the State will get more land but the County will be able to do more programming at Cedar Bridge, e.g. annual December 27 re-enactment of the Revolutionary War skirmish, improved interpretive program,

etc.. He said there would be only passive recreation permitted and some expansion of an archaeology project, currently undertaken by students from Stockton University.

In response to a question from the Committee, as to the length of the road to access the site, Mr. Villinger said the unpaved access road was roughly a mile long. He said benches and trash cans might be placed near the tavern and possibly a small gravel parking lot, but that would be the extent of development. He said no motorized vehicles are allowed on any County park properties.

Commissioner Lloyd moved the recommendation to the Commission to allow Green Acres to convey 502-funded lands to Ocean County. Commissioner Lloyd seconded the motion and all voted in favor.

Commissioner Irick said this was an interesting and valuable property and he commended Ocean County and the NJDEP for the cooperative effort.

Chairman Prickett added that it is important to energize the public about historic times and he too commended Ocean County for rescuing and protecting the Cedar Bridge Tavern.

5. Update on efforts to protect the Pinelands Area from off-road motorized vehicle damage

Ms. Wittenberg said, in response to the Committee's request for further discussion about protecting resources from off-road vehicle (ORV) damage, NJDEP representatives Ray Bukowski, Assistant Commissioner, Natural and Historic Resources, and Olivia Glenn, Director, Division of Parks and Forestry, were here today.

Chairman Prickett noted that it is not just State-owned lands, but all preserved lands, that are threatened by ORVs. He said that although only a few individuals may cause the damage, the issue must be managed so that everyone can enjoy the outdoors.

Mr. Bukowski said he certainly agrees with Chairman Prickett. He said he has 27 years of experience as a resource manager and noted that there needs to be a balance between protecting the assets and allowing public access on public lands. He said in order to deter bad behavior, law enforcement must be increased. He said as he oversees both the Divisions of Parks and Forestry and Fish and Wildlife, he is in a position to do that. He noted that since May of this year, 150 summonses have been issued and some vehicles had been seized. He said his officers have been engaged with users and advocacy groups, noting the Enduro groups have similar concerns that bad behavior of others might limit their ability to use State lands. He said responding to complaints is not efficient or cost effective but if his officers can be in the woods, they serve as a deterrent to damage. He added that, like other agencies, he is struggling because there are other demands on his officers, particularly on the Parks and Forestry police in summer when they are

dealing with health and safety issues, and for Fish and Wildlife officers in the fall during hunting season.

Ms. Glenn said in order to be aware of organized activities, Parks and Forestry enforcement staff monitors social media to determine any activities of concern. She referenced an advertisement by Shore Toyota, apparently encouraging inappropriate vehicular use in Wharton State Forest.

In response to Chairman Prickett's statement that much has to do with education and knowing the law, Mr. Bukowski said, from a law enforcement view, it is "compliance assistance", telling the organizers what is expected in order for them to remain compliant.

Commissioner Lohbauer said the presence of NJDEP here today underscores the seriousness of the situation. He said he believed this activity was one of the biggest problems in the Pinelands and runs completely afoul of the Commission's mission to protect habitat and plants and animals. He said since enforcement is not the bailiwick of the Commission, it is dependent upon NJDEP completely. He said he had no idea what "150" summonses means and that he'd like to know how many convictions. Also he added that he would like to connect NJDEP with the regular volunteers who have been erecting barriers in sensitive areas as that is one way the two agencies can work together to address this very serious problem. He said he would like to see more collaboration, noting that some members of the public have claimed they have been unsuccessful in submitting reports of violations to NJDEP.

Mr. Bukowski said he agreed and, with his background in land use, he was mindful of the changes coming related to sea level rise, salt water intrusion and the like. He said this is a cascading problem, not unlike damage to sand dunes. He said ORV use is a statewide issue but it has a particularly strong culture in the Pinelands. He said it takes time to shift resources and that he welcomed follow up. He said one cannot rely just on citations to stop the problem as there needs to be an on-site presence of law enforcement, particularly in the recognized "hot spots." He said as the Department gets better compliance, due to a better presence of officers, the situation will improve. He said his Division was developing a concerted enforcement plan but needs to remain fluid as conditions change, e.g. a wet year vs. a dry year. He said permit applications require a thorough review, are dependent upon conditions, and can be pulled at the last minute if necessary.

In response to Commissioner Irick's question if there were any possibility that the State could establish designated areas for ORV activity, Mr. Bukowski said that the Division of Parks and Forestry had tried and discussed it as a priority for acquisition. He said there are few opportunities to find appropriate areas as those are the same sites with high economic value. Besides, the Enduro participants want to be in the woods, not in the open sandy areas.

Commissioner Lloyd said these people are criminals who tear down video cameras and signs. He added that summonses are important but seizure of vehicles may be more effective.

Ms. Glenn said of the 452,000 acres of State-owned lands, more than 200,000 are in the Pinelands. She said the State Park police have various functions to fulfill and if the staff were not available to monitor an ORV event, a permit would not be issued. She said her staff needs to determine the cost of processing an application to approve these events and that part of the approval includes a follow-up review post-event. She said they are currently considering fee increases to secure more revenue.

The Committee members thanked the NJDEP representatives for attending. Commissioner Earlen noted that this discussion had started last year and he was encouraged by the progress.

6. Public Comment

Mr. Jason Howell, with the Pinelands Preservation Alliance (PPA), said the volunteers are amazing and for him, it is heartening because he identified with the Pinelands, having grown up here. He said over his lifetime he's seen the steady decline of public lands and he hoped that the new NJDEP will help reverse that trend. He scoffed at the notion that 150 summonses had any meaning as the \$74 fine is not an incentive to cease the activity. He said NJDEP can issue a maximum fine of \$1,000.00 and that needs to change. He said there is a communication problem. He said he sees no signs in the parks indicating that ORVs are not permitted on public lands. He said the Commission attempted to designate enforceable routes in Wharton but there has been no follow-up by NJDEP. He said there are areas of the Pinelands where he will not travel after 3 p.m., noting that he has had his vehicle rammed by an unlicensed vehicle. He asked how one can call these public lands if it is too dangerous for the public to go there.

Mr. Fred Akers, with the Great Egg Harbor Watershed Association (GEHWA), reviewed the history of the attempts to search for a suitable ORV site. He said in 2000, a group of advocates began working on a bill for licensing and registration of ORVs that would become effective once a permanent designated park was established. Also, the New Jersey Conservation Foundation previously established a temporary (10-year lease) 300-acre ORV site in Chatsworth. Mr. Akers said, during that ten years, illegal riding in the vicinity of that area increased. He said no permanent site was found and the experiment demonstrated that creating a legal park does not solve the problem. He said he believed area closures are the only way to protect natural resources and recalled that during the administration of (NJDEP Commissioner) Bradley Campbell, there was a "no tolerance" policy on State lands. He concluded by saying he was pleased that there are efforts going forward.

Ms. Rhyon Grech, with PPA, concurred with Mr. Howell's and Mr. Akers' concerns, noting that even emergency vehicles cannot access some of the areas of the Pinelands because of the ORV damage.

In response to Commissioner Irick's question about increasing fees for permitted ORV events Ms. Wittenberg said it would be feasible through rulemaking.

Ms. Grogan added that there is still a draft rule to increase fees and define application requirements that was brought to, and deferred by, the Commission some time ago when the Enduro community objected. Staff shifted focus to the Wharton maps instead.

Commissioner Earlen said he well remembered those meetings.

Commissioner Lloyd left the meeting at 11:30 a.m.

Chairman Prickett said those doing the right thing are part of the solution. He said the Pinelands Municipal Council is one means of communicating in the Pinelands and getting out the word. He said here in Pemberton Township, the problem is not just in the woods, but along the roads.

Commissioner Lohbauer brought to the Committee's attention a proposed NJ Constitutional amendment related to the right to a clean and healthy environment (*Attachment B to these minutes*). He noted that the goal is to have this on the ballot in the fall of 2020. He said he hoped the Commission can provide a resolution of support.

Ms. Wittenberg said she would need to confer with counsel before proceeding with the request.

There being no further business, Commissioner Lohbauer moved the adjournment of the meeting at 11:40 a.m. Commissioner Earlen seconded the motion and all voted unanimously to adjourn.

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: October 2, 2019

Pinelands Acquisition Program Section 502



September 27, 2019

The Federal Act - 1978

To support the Pinelands protection effort, Section 502 of the National Parks and Recreation Act authorizes the US Secretary of the Interior to provide financial assistance to NJ for two primary purposes:

- Planning grants
- Land acquisition

Section 502 Funding

- Original 502 authorization:
 - \$3 million for planning grants
 - \$23 million for land acquisition
- Increased 502 authorization:
 - \$40 million for land acquisition

Section 502 Administration

1980 Memorandum of Agreement

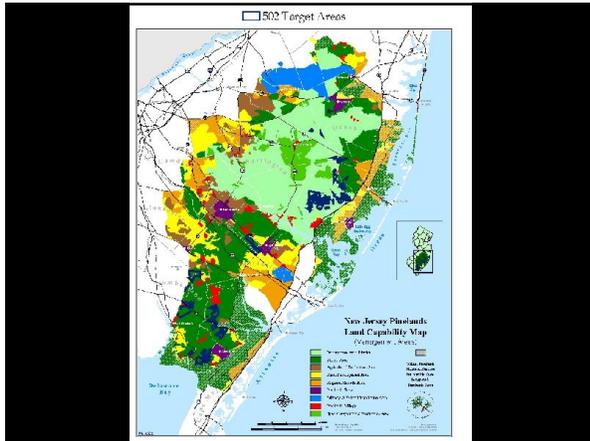
- NJDEP: overall administration, including submission of applications for funding, grant management and monitoring
- Pinelands Commission: evaluation of all proposed acquisitions for conformance with Section 502 and the CMP
- US Secretary of the Interior: approve expenditure of 502 funds

Section 502 Acquisition Areas

- Identified by the Commission to:
 - Save areas with critical ecological values in danger of being destroyed
 - Further the preservation, conservation, recreation and cultural objectives of the Pinelands Act and the CMP
- 11 target areas delineated:
 - 103,000 acres
 - Preservation Area District or Forest Area

Section 502 Acquisition Areas

- Cedar Creek Watershed
- West Plains/Greenwood Forest
- Oswego River
- Bass River
- Upper Wading River Watershed
- Goose Ponds at Tabernacle
- Friendship Bogs
- Makepeace Lake
- East Plains/Stafford Forge
- Wading River Ecosystem
- Southern Forest Region

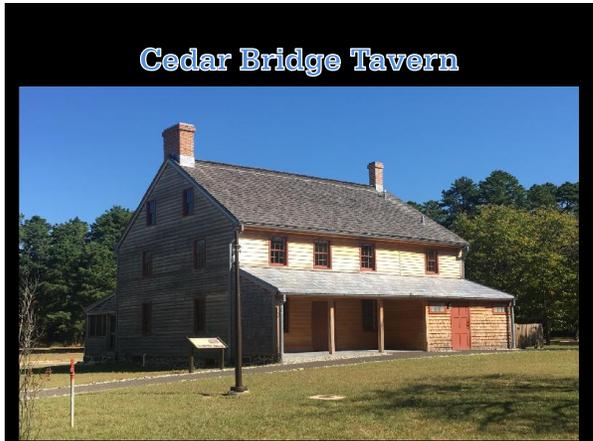
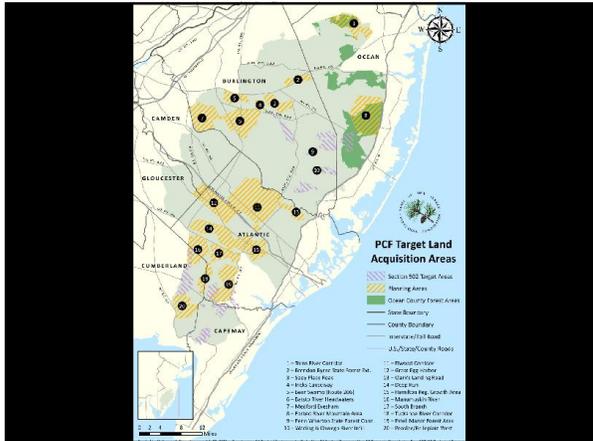


Section 502 Acquisition Activity

- Federal appropriations to date:
 - \$ 32 million, including \$1 million for the Limited Practical Use acquisition program
 - \$ 8 million remaining
- Land acquisition to date with 502 funds:
 - 73,000 acres
 - +/- 12,000 acres remaining in 502 target areas

20 Planning Areas

- In 2002, the Commission identified 20 new Planning Areas within which to target acquisition and protection efforts
- 120,000 acres
- Toms River Corridor
- Southern Medford/Evesham
- Elwood Corridor
- Forked River Mountains
- Bear Swamp
- Ocean County Forest Areas



Cedar Bridge Tavern



Proposed Green Amendment to the NJ Constitution

Amend Article I of the New Jersey State Constitution by adding a new paragraph 24 to read as follows:

- (a) Every person has a right to a clean and healthy environment, including pure water, clean air, and ecologically healthy habitats, and to the preservation of the natural, scenic, historic, and esthetic qualities of the environment. The State shall not infringe upon these rights, by action or inaction.
 - (b) The State's public natural resources, among them its waters, air, flora, fauna, climate, and public lands, are the common property of all the people, including both present and future generations. The State shall serve as trustee of these resources, and shall conserve and maintain them for the benefit of all people.
 - (c) This paragraph and the rights stated herein are (1) self-executing, and (2) shall be in addition to any rights conferred by the public trust doctrine or common law.
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For more info, or to sign the petition of support to the NJ legislature, go to:

<https://www.delawareriverkeeper.org/node/5189>