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REPORT OF THE  
SENATE FORESTRY AND ENVIROMENT COMMITTEE

ON THE  
IMPLEMENTATION OF THE FORESTRY PRESERVATION ACT  
OF 1979 (CHAPTER 100)

Printed  
February 10, 1980  
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MEMBERS OF COMMITTEE PRESENT

Senator Frank J. Roth (Chairman)  
Senator Barry T. Parks

ALSO

Michael J. Sweeney, Pennsylvania Association  
of Forestry Organizations  
Milton Schmidt, Forestry and Environment Committee

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SENATOR FRANK J. DODD (Chairman): I will now call the meeting to order. This is the Senate Energy and Environment Committee. I am Senator Pat Dodd, the Chairman. Senator Barry Parker is to my left. Michael Catania is the senior staff aide for the Senate Committee, and Kathleen Crotty, the Director of the Senate.

The purpose for our being here today is legislative oversight, something that we often talk about and rarely do, or get a chance to do, and that is to follow up on legislation that we enact. The reason we are here today is to find out how even during this short period of time the pinelands legislation that was enacted in June is taking effect. Is it working? Is it too stringent? Is it too lenient? Is it achieving the mission that the Legislature set out? I know we will have various and sundry opinions. What we will do first is call on Franklin Parker, the Chairman of the Pinelands Commission, and with him is Terrence Moore the Executive Director. We are then going to bounce around and call on several of the Mayors of the affected municipalities, members of the public and members of special interest groups. As a courtesy, we would ask that you limit your presentation to five minutes or less. Any written statements you have, we will be glad to take and make part of the record.

We will also have a follow-up hearing in the Senate within the next month, depending upon how we do here today and what comes out of this. I would like to recognize Assemblywoman Hazel Gluck from Ocean County. Hazel is a former member of the Commission and now a member of the Legislature.

With that, Mr. Parker, from the Pinelands Commission.

F R A N K L I N P A R K E R: Thank you, Mr. Chairman, and members of the Committee; my name is Franklin Parker, and I am the Chairman of the Pinelands Commission. On June 28, 1979, Governor Byrne signed into law the Pinelands Protection Act, a legislative landmark in the history of the State of New Jersey.

The Committee before which I appear today played a major role in the shaping and passage of that particular legislation. Today you have journeyed to the pinelands to determine the progress that has been made in response to the important land use initiative that the Pinelands Protection Act represents. On behalf of the Pinelands Commission, let me express our appreciation for your continuing interest in the fruits of your deliberations of last year.

I am pleased to report to you that the Commission has made substantial and indeed demonstrable progress in accomplishing the difficult but necessary goals contained in the Pinelands Protection Act. That progress enables me today to stand before this Committee with confidence that the challenging schedule set forth in the Act will be met. On August 8th of 1980 this Commission will be in a position to adopt a comprehensive management plan for the Pinelands National Reserve. Please allow me to review our progress to date.

In response to the National Parks and Recreation Act of 1978 enacted by Congress, Governor Byrne signed Executive Order 71 in February, 1979. This action created the Pinelands Commission as the planning entity required by the federal act and placed a moratorium on certain forms of development in the Pinelands. The Commission became organized during the months of March and April. An intensive search for an Executive Director was undertaken during the period before the New Jersey Pinelands Protection Act was enacted. Initial

policies and work programs were also developed.

On June 28, 1979, with the signing of the Pinelands Protection Act, the Commission received its charge on the State of New Jersey to undertake and to complete the Comprehensive Management Plan by August, 1980, and to administer the review of development applications during the planning period. The Commission's actions in meeting the challenge of the Pinelands Protection Act are well documented and a record in which I take pride.

The Legislature gave the Pinelands Commission 90 days to adopt interim standards for the review of development applications. After extensive public hearings, this Commission adopted procedures and standards in 60 days. The backlog of applications was quickly processed and our review process has become manageable in a short period of time. Today, most applications before the Commission are processed in a 60-day period.

A comprehensive work program for undertaking the plan was generated with active public input in record time. This work program has been viewed with admiration in many quarters and has passed the test of federal review leading to the commitment of federal funds so necessary for its completion. Between October and November the Commission awarded 24 contracts and inter-agency agreements to provide the information required in both the federal and state legislation. These studies which will provide the most comprehensive view of the pinelands ever assembled are already producing issues and recommendations to be included in the Pinelands Plan.

On January 15th of this year, draft reports for many of the study areas were received at the Commission's offices. All consultant contracts are proceeding on schedule. The Commission's link to the public is also well established with numerous public meetings and workshops already undertaken and many planned for the future. Last Saturday, the public was given the opportunity to review the initial findings of our consultant studies. The session was well attended and productive in promoting an understanding of the difficult issues before all of us.

An Advisory Task Force on Agriculture has been formed to assist the Commission in the necessary task of preserving and enhancing agricultural activities in the Pinelands. A Federal Advisory Task Force is assisting in delineating inter-governmental strategies for implementation of the plan. On a county and local level, links have been forged with county planners, and staff discussions are currently underway with every local planning board and governmental unit in the Pinelands. Information gathered during the study period is being made available for county and local review.

Through various consultant contracts, interviews with the people of the Pinelands have been conducted to determine how those who will be affected most by our activities view the future of this valuable landscape. We find that they predominantly desire preservation and a protected pinelands and that they value highest the quality of water that contributes so much to their well being.

These are a few of the accomplishments of the Pinelands Commission since July of 1979. There are others which reinforce the fact that this new agency which required a freshly recruited staff and which performs under continuous pressure of your challenging schedule is progressing beyond the expectations of many. Today you will hear from those who support the Pinelands Protection Act and the efforts of this Commission and from those who may oppose the role

of this Commission as outlined by the Legislature. The Pinelands Commission welcomes your presence and is prepared to answer your inquiries in an open manner and to the best of our abilities. Executive Director Moore, who is seated next to me here, Assistant Director of Development Review William Harrison, seated at the end of the table, and I stand ready to assist this Committee in any manner during your deliberations. We believe that your findings will indicate clearly that the work of the Legislature in 1979 leading to the passage of the Pinelands Protection Act was valuable and productive. We also believe that you will conclude that the Pinelands Commission is implementing that act in the manner that you intended us to and in the best interest of the people of the State of New Jersey. Thank you very much.

SENATOR DODD: Mr. Parker, the recent report that Congress deleted \$14 million in this year's planning budget for the pinelands, what, if any, effect will that have? What monies do you have left over from last year's \$12 million federal appropriation, and how will that affect the long term?

MR. PARKER: I believe that we have total funds to use for the planning process itself of roughly \$2 million and I would have to ask Mr. Moore how long he feels that will carry us. It will certainly carry us through this year, I believe, to the completion of the plan and maybe you would like to respond further to that, Mr. Moore.

MR. MOORE: One, of course, never has enough funding to do his job, but the current funding for the Pinelands Commission represents capability of approximately \$2 million for planning purposes. The sources of those funds are a \$500,000 grant from the State of New Jersey under the Green Acres bond issue legislation, and that is matched with a \$500,000 grant from the Land and Water Conservation Fund of the Department of Interior. We have a capability which was announced at a meeting between the Governor and Secretary Andress of the Department of Interior of an additional \$800,000 of Federal money which has been committed to the Pinelands Plan, which will be matched to an additional \$259,000 of State money which gives us basically the \$2 million plus dollars for planning.

The other financial resource for the Commission is a \$200,000 grant from the Geraldine Dodge Foundation which is utilized almost entirely for the development review process and is not used for the planning purposes of the Commission.

The deletion or the proposed deletion of the \$14 million from President Carter's budget represents primarily acquisition funds that will be available to the State of New Jersey after the adoption of the Pinelands Comprehensive Management Plan. Within that \$14 million, however, there are monies available, or were monies available, for what I would have to define as continuing planning studies after the adoption of the plan in August of 1980.

SENATOR DODD: Are there any monies for actual acquisition?

MR. MOORE: There is currently out of the appropriation of, I believe, November or early December, \$11.2 million available to the State of New Jersey for acquisition during the interim planning period. That \$11.2 million, if it is not totally expended during the planning period, is available to carry over after the plan is adopted.

SENATOR DODD: Senator Parker.

SENATOR PARKER: I am sorry, I missed the part about \$11.2 million available for acquisition. Where was that coming from?

MR. MOORE: That comes from the Congressional appropriation under Section 502 of the National Parks and Recreation Act. That was a total appropriation of \$12 million. \$800,000 of that particular appropriation is available for planning in the Comprehensive Management Plan, and \$11.2 million is available for acquisition, primarily during the interim period while the plan is being undertaken. So, that is under a special provision of Section 502 of the Federal Act. That money, if it is not totally expended during the planning period does carry over into the acquisition schedule which is provided in the State legislation.

SENATOR PARKER: So, at this point as we start to proceed, when you get your plan approved, you can then physically start to acquire up to \$11.2 million worth of land in this area set aside for preservation purposes.

MR. MOORE: We can acquire, under certain conditions, land prior to the adoption of the plan, if it is in imminent danger of development and also if it can be defined as environmentally critical under the provisions of the guidelines that have just been submitted to the Commission and concurred with by the Department of Interior.

SENATOR PARKER: So, I take it, that money is outside the money that would be in the normal appropriation process that was required before it was expected to be put in by the President in his budget; is that correct?

MR. MOORE: That money is before the budget cut, and is available to the State of New Jersey for acquisition, yes.

SENATOR PARKER: Now, aren't there also additional funds that are available from bond issues in the State of New Jersey as well as in Burlington County? I know that the County itself approved a bond issue of \$1 million. Aren't Green Acres funds available for acquisition?

MR. MOORE: That is right. The Federal monies that are available to the State are on a 75-25 match basis. The 25% would come out of the Green Acres bond issue. There is also additional money available in Green Acres for acquisition which could be matched on a 50-50 basis with the Land and Water Conservation Fund.

The Burlington County program which is the bond issue that you are referring to is one that certainly is of interest to us, particularly on the Pinelands Commission and is available to supplement and match those federal dollars as they are also made available.

SENATOR PARKER: And that is all for acquisition in the core area, or the central area?

MR. MOORE: That is right. The Green Acres bond issue could be available for acquisition outside of the preservation area.

SENATOR PARKER: The federal money would not be, or would it?

MR. MOORE: That would be on a 50-50 matching basis with the Land and Water Conservation Fund of the Department of Interior.

SENATOR PARKER: Instead of the 75-25.

MR. MOORE: That is correct.

SENATOR DODD: The number of requests you have had, and

let's deal with individual requests for construction, I understand there have been virtually none in the core area. Can you give us an idea of the volume of requests that you have had for exemptions.

SENATOR PARKER: Not just an idea, but one of our concerns is the effect on private interests, private property, whether or not you are going to condemn or how you are going to handle it, and it makes a difference to us and to everyone here. We want to know exactly how many applications you have had for hardship, where they are, which municipalities they are in, and what the effect of each application was.

SENATOR DODD: We know builders and developers have problems and individuals don't have the councils and corporations to back them up and the wherewithal, and that is essentially what we take as our role being in the legislature. So, if you can give us an idea, again---

SENATOR PARKER: And, specifically, we are worried about reverse condemnation and the availability to protect the small people and that is why we want to look at all the applications for hardship and we were hoping--- Frankly, I had understood from our staff that you had a report on that and it would be available to us and would be presented to us today.

MR. MOORE: You do have in your packets a copy of the Commission's last newsletter which goes through the development and review application numbers.

SENATOR PARKER: Is that the Pinelander's?

MR. MOORE: Correct. We do have available a breakdown by county the particular applications, and the Commission's actions upon those applications and also those of our predecessor. I think it might be helpful, Senator Dodd and Senator Parker, if we approached this particular subject from some understanding of the review process itself and then what came from that into the numbers that are available. As you know so very clearly the development review process of the Commission is provided for in the Pinelands Protection Act. It is a process which does not utilize federal dollars at all. It utilizes first State and private foundation money and is not one which interferes with the dollars available for planning to the Commission.

The Commission has on staff a separate development review staff which reviews each and every application which comes before the Commission. The Act itself provides that no State, county or local agency may issue a permit or approval for development activities until such time as that application has been reviewed by the Pinelands Commission. What normally occurs, of course, is that an applicant brings to the Commission an application for development of some type of construction activity. That is sent through a process within the staff of the Commission, which includes a rather detailed analysis of the application as it relates to the twelve standards which have been adopted by the Commission in accordance with the 90-day provision of the Pinelands Protection Act.

Our staff reviews the application in relationship to those standards, and much of that information is provided to the Commission by the applicant, the soil borings, percolation tests, distance from wetlands, and what have you. There also is a site visit on every application that is performed by a member of the staff, and there is an inter-agency agreement with the Department of Environmental Protection on the analysis of on-site sewage treatment systems that may accompany the application. We transfer that information to the Division

of Water Resources. They do that review and then their findings are made available to the Commission staff.

Once an application has been through our process, three things may happen to that application. Under the Act, as you recall, I make recommendations to the Commission on their actions regarding development applications. If I recommend to the Commission an application for approval, the Commission at its next meeting votes upon that application, and if it is approved, then the applicant is free to proceed to the local jurisdiction with the rest of his normal planning process. Should I, however, recommend a denial, the application is immediately forwarded - if the applicant desires within fifteen days - to an appeal through a public hearing before the Administrative Law Division, which is a hearing process, and then the Administrative Law Judge makes a recommendation back to the Commission on either denial or approval. Now, the third alternative is when I recommend to the Commission an application for approval with certain conditions attached to it. If the applicant, prior to the Commission meeting, agrees to those conditions, then the Commission acts upon that application, or if he does not agree to those conditions, then he is free again to request an appeal before the Administrative Law Judge. That is the normal process that we work under in terms of the review process.

Every applicant has an opportunity for a public hearing on his application and every applicant has an opportunity for appeal of a recommendation or a decision of the Commission.

In terms of numbers of applications, I think it is also important to realize that prior to June 28, 1979, the Pinelands Commission had no authority to review development applications. They were done by the Development Review Board, which consisted of a three-member panel of the Department of Environmental Protection, the Department of Agriculture, and the Department of Community Affairs. In total, of the applications submitted for review since February, 1979, there have been 1220 applications filed under the Pinelands Executive Order 71.

SENATOR PARKER: That was the first question I was going to ask you, the breakdown for each county. Starting at the top it says, Review Board, sixty-three approved. Do you have a breakdown for each county?

MR. MOORE: Yes, we do. The Development Review Board is the predecessor agency of the Commission on Development Review on single-family dwellings, approved, 240 units during the period of time they were active. By county those break down to, Atlantic-63, Burlington-69, Camden-32, Cape May-12, and there were no applications approved in Cumberland by that entity, Gloucester-14, and Ocean-50. They denied ---

The Commission has approved, in terms of single-family units, 137 units during the time that it has been active. That breaks down to Atlantic-70, Burlington-21, Camden-12, Cape May-8, Cumberland-1, Gloucester-10, and Ocean-15. The recommended denials by the Pinelands Commission on single family dwellings is 61 units which have been recommended for denial. Twenty-six of those are currently under appeal. We have pending applications of single family units of approximately eight. On subdivision approval, the Development Review Board had in our records to date, 70 applications that they approved for 1752 units, and they denied 10 applications for 92 units, and we have approved 55 applications for approximately 1,693 units and we have formally denied 3 applications for 98 units. We have

49 recommended denials for a total of 6,184 units and we have currently on appeal 23 applications for 3,032 of those. We have pending approximately 47 applications for 8,615 units. Miscellaneous applications which include those of a public nature or commercial and industrial, the Review Board approved 40 of those applications, denied 2, and we have approved 51 and denied 1, and we have 6 recommendations for denials and in turn we have 6 on appeal of those recommended denials. We have 43 applications in the miscellaneous category pending.

I think there is an interest certainly on this Committee, and generally, to the issue of hardship as it particularly pertains to single family dwellings and single-family applicants. The Commission does have a hardship procedure. It is one that we are continuing to pay very close attention to, and we have had a number of hardship applications approved by this Commission over the last three or four meetings, which run the range of insect infestation in the existing dwelling unit to questions of health related issues of either the applicant or the applicant's nearest relative. What we have run into with difficulty is matching the question of hardship with the other aspects of the act that we are dealing with. There are many applications where we received information on hardship or where that hardship is often defined for us as the fact that the applicant has purchased the land---

SENATOR PARKER: Excuse me, so I can be clear in my mind as we are going, when you say hardship applications, is that something different now from the development review process?

MR. MOORE: No, it would be included in those figures. We have a procedure for hardship where the applicant is entitled to give to us information either on an economic hardship or a health related hardship or some other form of hardship which we evaluate in terms of our action.

SENATOR PARKER: Or some kind of approval prior to the time the Act went into effect?

MR. MOORE: There is an exemption procedure provided for within the Act on those approvals for certain classes of single family developments where the property was owned prior to the date of the Executive Order, and where the applicant signs an affidavit that he is going to reside in that particular dwelling. Those we have delegated, to a large extent, to the local jurisdiction to determine and we request periodically from the local jurisdiction reports of the exemptions that they have issued.

SENATOR PARKER: That is where all the planning process was approved before the Act, and the only thing that had to be issued was the building permit itself?

MR. MOORE: No, not on the single family. Maybe Mr. Hluchan can clarify that.

SENATOR DODD: We built into the original legislation the exemption for a single family or more with septic or prior approvals. So, that was placed in the original legislation.

SENATOR PARKER: Well, give us your facts, and then I will get into the problem there.

MR. MOORE: Okay, my facts really I have given in terms of the numbers, and by county we can provide this information to you.

SENATOR PARKER: All right, I have a question. Taking the figures

you gave us, it appeared that there are only 373 applications, or listings on here of approvals, and the total number of applications or requests that came in were 1220.

MR. MOORE: Some of those were pending, of course. Those are applications that have been received by the Commission. On some of those no decision has yet been made.

SENATOR PARKER: Well, this has been over a year---

SENATOR DODD: No, since June.

SENATOR PARKER: What is the status of those 1220 applications? You know, you have approved or worked on 373 according to the figures here, or approved 373.

MR. MOORE: I think that what you are not counting, Senator, are those applications that were before the Development Review Board which were also acted upon and constitute a portion of the 1223. I think the figures you are dealing with are those by the Commission itself.

SENATOR DODD: The Review Board was prior to the Commission.

SENATOR PARKER: Yes, you said there were 240 approved by the Development Review Board before you started. I just want to get it straight in my mind. I am not clear as to how many applications have been made to you as opposed to the State, and how many you have acted on, and how many have been approved or denied.

MR. MOORE: Let me have Mr. Harrison go through his figures which might make that more clear for you.

MR. HARRISON: Okay, under the Review Board the reason the figures really cannot be made clear to give a precise breakdown, denials by the Review Board which were appealed, which was virtually all their denials---

SENATOR PARKER: That was the State.

MR. MOORE: That was the Development Review Board, our predecessor.

SENATOR PARKER: Did you take over their work in midstream?

MR. HARRISON: Okay, those appeals that were pending we took over and they became our cases, and in order to avoid double counting, they are not listed as their actions, and they show up variously in this.

Applications that are presently pending before the Pinelands Commission come to a total of 165 applications that are presently pending.

SENATOR PARKER: Now, you say that is before the Commission, as opposed to your review board. You have your review process, right?

MR. HARRISON: No, under Executive Order Number 71, a Development Review Board was established by the Governor, a three member body, one member from the Department of Agriculture, and one member from the Department of Community Affairs, and one member from the Department of Environmental Protection. As of the effective date of the Pinelands Protection Act, June 28, 1979, that body ceased to exist. There were a variety of cases that were then pending or that had been denied by that body with appeals pending that passed over to the Pinelands Commission. Since that time, in addition to those cases which numbered about 100, a little over 600 applications were received by the Pinelands Commission. Many of those applications were received and proved to qualify for the single family exemption. They were sending notice of how to apply either to us or the town for that.

SENATOR PARKER: There are 251 of those.

MR. MOORE: No, the exemption number are those that require no action of the Commission. The applicant is merely referred either to the local jurisdiction to determine his exemption status, or re-issued the exemption in our office. They do not go through our review process, but they are included in the number of applications.

There is another thing that should be pointed out, and I don't want to confuse this issue---

SENATOR PARKER: I am already confused.

MR. MOORE: ---when the Development Review Board issues their denials and those appeals were pending when this Commission took over the process, we allowed those applicants to either continue their appeal or to re-submit their applications to us under the new standards that have been adopted by the Commission. Many applicants chose to do that---

MR. HARRISON: All but four chose to do that. There are ten that we have never heard from despite repeated requests, roughly ten.

SENATOR DODD: I would like to ask a question of Chairman Parker. The date will run to August 8th, or the finalization of the master plan. What is your schedule as far as coming up with a plan for the pinelands? Are you on target, is what I am saying?

MR. PARKER: I believe we are on target. By the end of May, we will have, pretty near, the completed plan so that it may be submitted to the Mayor's Council. There is a Council of Mayors provided for in the legislation. This is to include all the mayors within the pinelands area, and they are required to have that plan sixty days before its adoption so that they may review it and comment back to the Commission on it with their suggestions. So, I think it is fair to say that by the end of May we will have pretty near the final product in being.

SENATOR DODD: Thank you very much, Mr. Parker and Mr. Moore.

SENATOR PARKER: I have to get back into it, because I will be quite frank with you, I don't understand what you have done and how many you have handled, because I am just going over this here with Cathy, and it still looks as though you have 700 applications that have either been filed--- Well, let me ask you the procedure. Forget the transition of approximately 90 cases that have come to you from the State Review Board. When you took over, you logged in, did you not, each application as it came to you? In other words, somebody has to fill out a form - and I saw those forms that you had to fill out and file with you. I assume at that point you logged it in when it was received; is that correct?

MR. MOORE: Yes.

SENATOR PARKER: And it was given some kind of a number?

MR. MOORE: Yes.

SENATOR PARKER: And then the category was broken down into basically two steps - one, that it met all the requirements and didn't need any review by you and they were referred to their local building inspectors or their local people to finish their process.

MR. MOORE: That it met the exemption requirements under the State Act.

SENATOR PARKER: Correct, and no further review was made by you.

MR. MOORE: Correct.

SENATOR PARKER: Okay, I would like to know how many of those you received from the date you started and how many of them were sent back and issued, and if we could, I would like to have a breakdown of the counties and if possible the municipalities.

Now, after you have gotten that figure, the balance of them in some manner were processed by the Commission, and I assume they were reviewed by staff or any of the other agencies that go out and do the spade and the work in order to review the application to see if it met with your criteria, and there would be "x" number of those. As I understand it, they were broken down into basically three categories, application by single families, other residential development, which you have listed as subdivisions, and miscellaneous, commercial, industrial, municipal.

Now, when you tell me you had 1220 applications, does that include only applications before the Commission that did not qualify for the exemption?

MR. MOORE: No, it does not.

SENATOR PARKER: It includes everything.

MR. MOORE: Yes, that is correct. Each application as it is filed with us has a number attached to it. If we determine that it qualifies for exemption, it just does not go through the process.

MR. HARRISON: I think the point that is not clear is that the 1220 is starting from day one, including the 500 the Review Board acted on. We have received since June 28th, 545 applications. I think that is where the numbers are confused.

SENATOR PARKER: Okay. And, of those 545 that you have received, then, from my figures here I get 373 have been approved; is that correct? You gave us 61 for received denial by Pinelands, and we have 67 on ours.

MR. MOORE: Those are recommended for denial.

SENATOR PARKER: I just took the 251--- Oh, I am sorry, it should be 69 plus 40. And, 69 on the residential subdivision. I am looking at the column which says, "Approved by Review Board," at the top. I don't know what that means.

MR. MOORE: Okay, yes, those are unit numbers, subdivisions over units.

SENATOR PARKER: So, in other words, you approved 69 units as opposed to subdivisions.

MR. MOORE: No, no, those approved by the Review Board which you said, the 69 figure, those are 70 applications or 70 subdivision applications representing 1,752 units of housing.

SENATOR PARKER: So that would be a total of 350 out of roughly 545 that you started with plus the 90 that you inherited, or close to 600 or a little over that you have approved.

MR. MOORE: We have currently 161 applications pending recommendations before the Commission. The single family approvals by the Commission - 137 units.

SENATOR PARKER: You have only approved 137 units?

MR. MOORE: Single family applications. We have also approved 55 subdivision applications, meaning more than one year.

SENATOR PARKER: Well, then these figures are wrong. The very first one is wrong when you tell us that it is approved by a review board - 251; is that right?

MR. MOORE: We keep mixing up the Review Board and the Commission. That is our problem. The Commission has a certain set of applications that we have approved under the Act. Prior to us taking over that particular activity, the Review Board had certain powers.

SENATOR PARKER: Where are the figures you have for what you have done?

MR. MOORE: That is what I am giving you. We have approved single family dwellings, 137 units. I am dealing with statistics that are more up to date than that newsletter, by the way. I will provide you with these particular statistics today.

We have approved 137 single family dwelling units, single family applications from Mr. and Mrs. Smith who have applied for a single family dwelling application. We have approved 55 subdivision applications. And we have approved 51 commercial and industrial or public applications.

SENATOR PARKER: So that comes to 243, that you have approved out of the roughly 600.

MR. MOORE: That is not including those that are pending at this point in time where we have made no recommendation as yet, and that is approximately 161 applications.

SENATOR PARKER: And you will open that up in the sixty or ninety day period.

MR. MOORE: That's correct.

MR. CATANIA: Mr. Moore, this can probably be addressed to you. The way the act is drafted, once you prepare the comprehensive management plan, it is supposed to contain minimum guidelines to municipalities so they can translate the management plan into their local land use ordinances and master plans. Would you give us a very brief explanation of what you see the process being, and what kind of guidance you intend to give municipalities to do that, are you reviewing their master plans, making specific recommendations or thinking more in terms of minimum lot sizes for certain soil types, or exactly what do you foresee?

MR. MOORE: Being in the middle of the plan, I hope you don't take my suggestions as the final analysis, because they are subject to change. We are currently reviewing master plans and zoning ordinances of municipalities and the counties within the pinelands area, and in fact the pinelands national reserve area. Many of our consultant studies go to the question of performance standards, how development should occur within the pinelands and certain areas of the pinelands as delineated by the studies which you have charged us to undertake. What I see occurring in the future is, first of all, one has to analyze the act and say what are we supposed to be doing with this plan? We are supposed to be delineating lands for acquisition and we are supposed to be delineating areas that have environmental sensitivity, and we are supposed to be delineating those areas that support development within the pinelands. In those areas that are defined as being capable of supporting development, I think you can anticipate that we will have performance standards as to how that development should occur. Those will primarily be implemented, I believe, in the changes in the local master plans and zoning ordinances as provided for in the process of the act.

The question of whether the Commission may make recommendations

as retaining certain review powers is one that is open to question at this point in time, because I think we have to see what those standards are, and what the sophistication of those standards happens to be, and who best can provide that kind of oversight because of how development occurs and what the implementation process is going to be.

MR. CATANIA: Are you saying that you foresee site specific recommendations in the master plan as to areas in particular townships that should be set aside for acquisition or development?

MR. MOORE: The act provides that we must come up with a five-year acquisition schedule from the date of the enactment of the act. That certainly will be site specific in terms of acquisition. The other thing is how one defines acquisition, whether it is full acquisition or a less than fee simple. That is another question that can be determined. We will have, I believe, areas of the pinelands that will be defined as growth areas, and we will have certain standards that municipalities should comply with in terms of redoing their own zoning ordinances to reflect those standards. Whether we will say on the Black Horse Pike at this location we should have this, that or the other thing, I don't think we will go to that level of detail. What we are trying to do is provide general parameters of development standards which municipalities then would have the flexibility to implement under their traditional home rule activities.

MR. CATANIA: Do municipalities know about these types of parameters before the plan is adopted, so they can sort of get a head start on their work?

MR. MOORE: We are doing a number of things right now which I think are often not spoken about. We do have some ties with various of the county planning boards. We have some liaisons appointed by county planning boards to work with us. One or two of the counties are in the process of looking at their own master plans right now and we are trying to work very closely with them to try to tie together what our standards may be and how they are going on their own planning process. Every municipality will know what their standards will be sixty days prior to the adoption of this plan, because it is required that they know as part of the Mayors Council to analyze that particular document. We are also providing information and now getting into a process of meeting with every planning board and municipal council within the municipalities to begin a process of communication and we hope at the time that the standards become evolving, we will be able to go to them and have discussions regarding them prior to even the publishing of the document.

SENATOR PARKER: When you are talking about development standards, it is my understanding, and I am trying to verify this, or my staff is, that the Casino Control Commission directed Rescrts to provide housing allocations as part of their plan for approval by casino development. Are you familiar with that order or those requirements?

MR. MOORE: Yes, I am a member of the Governor's Cabinet Committee on Atlantic City, which is a joint grouping, including the Casino Control Commission, the Pinelands Commission and CAFRA and various of the State departments who meet periodically to discuss the issues of Atlantic City and Atlantic County, which is a very major issue affecting the pinelands.

We have underway a study, the draft of which was completed under the contract, a growth factors analysis study of the pinelands area, which

looks at where the pressures for development are coming from over the next few years within the area of land that we have some administrative responsibility for. Certainly Atlantic County has been identified, as we knew it would be, as a major pressure point that we should be concerned with. We are looking at the figures of the population projections that Atlantic County represents, and the Commission has had a good deal of discussion with the Atlantic County Planning Board, and representatives of the Atlantic County Planning Board have even appeared at Commission meetings for presentations on the issues posed by casino gambling.

I think our communication on that particular issue is a very good one with all parties concerned, and I know that this Commission has had a lot of discussion about the Atlantic County issues, and particularly as it relates to the provisions of growth opportunities within that area, within the pinelands plan itself. And, I think that you will see that this plan will pay very close attention to the kind of growth factors that are indicated in various areas of the pinelands, not just Atlantic City.

SENATOR PARKER: Now, can you tell me, are you familiar with the order of the Casino Commission concerning those housing allocations, number one? And, number two, that there is such an order in there for Resorts, and, if so, where is it?

MR. MOORE: I believe that the order, as you describe it, of the 2% credit on casinos when they build housing within the area, but the Casino Control Commission I think the State policy has been to encourage casinos and derive that revenue, but also to provide the housing for people who live within that. There is no location indicated to my knowledge of where that housing will occur, but there is a provision that that housing should be provided by the casinos and financed by the casinos.

SENATOR DODD: We did invite the Casino Control Commission members to attend, but they are very busy these days. We have word that they will be at our next meeting in the State House.

SENATOR PARKER: Well, my immediate concern is that housing allocations, and housing determinations, are being made for Atlantic County only and affecting Atlantic County only as far as the development is concerned. Atlantic County has a large amount of wetlands from Atlantic City over to Northfield, and it has a lot of pinelands that are included in this. And, any plan for the casinos being utilized to develop, or may be utilized to develop, should not be centered only in Atlantic County. It should include Ocean, Burlington, and Cape May counties.

MR. MOORE: I think that is an area of study that we are going into great detail on. We have had, as I said, presentations by the Atlantic County Planning Board, and if you would have been present at that time, you would have seen that they had assumed all that growth would go within the boundaries of Atlantic County.

SENATOR PARKER: That is what concerns me, what they assume.

MR. MOORE: I understand that. I think the final word on that, however, comes with the adoption of the Comprehensive Management Plan for the pinelands, in terms of directing growth into areas that are suitable for growth to occur in. Whether that comes out in agreement with their proposal or whether it comes out different than their proposal, we will have to see, because I

think an analysis of the land itself, the information is beginning to come in. We are not yet at a point where we are determining where growth should occur.

SENATOR PARKER: One of my major concerns when the bill was drafted, and the way things were going, was the way Smithville and some of those things were left out of the Federal and they are right next to probably the most sensitive areas, as I see it, along the coast. And, if development is going to be, it should be in not only one municipality or one county but in all the counties so that it is properly spread, and that one county doesn't "capture" the total growth or total economic impact - beneficial or unbeneficial - to the exclusion of all the others.

MR. MOORE: I think, Senator, one little tidbit of information I might reveal to you is that some of our studies, particularly, growth factors are indicated.

SENATOR PARKER: I hope you didn't get that from where everyone else was getting it from lately.

MR. MOORE: No, not at all. Our growth factor studies are showing pressures on Burlington and other counties are quite equal to those in Atlantic County.

SENATOR PARKER: Just one thing, could you have your staff take maybe five files, pick them at random, so we can review them?

MR. MOORE: Surely.

SENATOR DODD: I would ask the members of the Commission if you would stay. We would like to call on some others, so if you could, please stay.

We would now like to call on Mayor John Garnett, Mayor of Evesham Township.

J O H N G A R N E T T: Gentlemen, I am John Garnett; I am Mayor of Evesham Township. I am also currently involved in a sort of volunteer activist situation in serving as Chairman of a Steering Committee to attempt the organization of the Pinelands Municipal Council mandated by the Pinelands Protection Act. This, gentlemen, is a problem.

The Act mandates that the plan shall be reviewed by the Pinelands Municipal Council before the Commission acts on it. It has sixty days to do so. It also mandates that the Pinelands Municipal Council can take no action unless it has a majority of the members. While the municipalities identified as members, and they are mandated as members, are all of those who are wholly or in part in the pinelands as defined in the Pinelands Protection Act, there is a total of 52. Now, we have had two meetings and we scheduled another one for Sunday in this room. We need to have, in order to elect officers, or take any action, 27 municipalities represented, either by their Mayor or by a designee of the Mayor. At the first meeting we had 10 municipalities represented. It was held in Vineland in October. At the second meeting held in this room in December, we had 12 municipalities represented. We have been able to take no action. We have, again, with the help of the Commission staff, addressed another letter to the Mayors and tried to shake their collective consciences, so that they will feel obliged to come out, so we can get organized.

Now, I personally feel - and I don't know where it came from; it kind of came from out in left field - that it is there, and I think it is a

good thing, but I think that the Senate Committee should consider some kind of a modification. There are probably several alternatives to be considered. One, of course, you could eliminate the Municipal Council and I don't think that would be a good thing to do if the Municipal Council can function and operate. I think it would do well for the Mayors, if we can get them to do it, to participate in this plan. I think it would help the Commission for them to review it in advance, rather than cry like hell that it is not going to work after it is passed. I think there is extreme value in that.

SENATOR DODD: The mayors can send a designee.

MR. GARNETT: Yes, the mayors can send a designee.

SENATOR DODD: And that would count towards the quorum.

MR. GARNETT: Yes, that would count towards the quorum.

SENATOR DODD: I am kind of shocked at this, and I have to take that as a complete lack of interest or---

SENATOR PARKER: Sure, they must not have any concern.

MR. GARNETT: Well, I think you are probably right. Understand small town mayors. Small town mayors are part-time. Small town mayors support their families with full-time jobs. Small town mayors are interested local citizens who work on local issues.

SENATOR DODD: But they can still appoint a representative to attend the meeting. It could be the town manager or town clerk that does make their living in that municipality.

SENATOR PARKER: The clerk is usually paid, and the small town mayor can direct his clerk to appear at the meeting. I don't understand.

MR. GARNETT: I have no argument, gentlemen. I don't believe that I have tuberculosis or anything that frightens them away. Perhaps I suffer from a non-partisan situation, and then the fact that the---

SENATOR PARKER: I thought we corrected that for you in the last election.

MR. GARNETT: I would be happy to correct it if I knew a condition that would achieve that.

However, you are right. You are right, but this is a problem. I don't intend, and I don't think you intend, to try to establish some mold that you can pour out mayors.

SENATOR PARKER: That is a bad scene. There is no question about that. Maybe we can help him with that.

MR. GARNETT: Gentlemen, really, I am not sure if the act was not intended to create a situation in which the Pinelands Council couldn't act.

SENATOR PARKER: It was intended to mandate municipal participation. The biggest cry that we hear in Trenton all the time is that we are ramming everything down the local officials throats. But, if the local officials are not going to take any responsibility to act, and don't show enough interest, then, you know, something will have to be done. I don't think we are going to tie the hands of the Pinelands Commission.

MR. GARNETT: No, and that is exactly the point. Number one, you shouldn't tie the hands of the Pinelands Commission, and either you face up to this Council with the fact that it probably will not get a majority of these places.

At the first meeting, I called as many mayors as I could get a hold of. You know, that is rather shocking. You should try it some time. You

call municipal buildings and you don't get answers. Some of our municipalities are open in the evening only, apparently. But, you can't get the Mayor anyway, because he is on his job. And, he is not going to call back because it is a long distance call and that is on his home phone. There are many, many issues.

Let us not determine that municipal government is as sophisticated as Trenton. It is not.

SENATOR PARKER: That is assuming a lot, too.

MR. GARNETT: But, it would appear that perhaps the quorum requirements could be changed. There are municipalities who have no interest in the pinelands. I believe there was one township that is totally involved in Fort Dix.

SENATOR PARKER: Let me ask you this, John: Who is in charge of getting the notice out? How does it get out? Is there any process?

MR. GARNETT: The first letter I wrote, with the help of my staff, my wife, and my postage, and we got a letter out.

SENATOR PARKER: Why doesn't Mr. Moore of the Commission do that?

MR. GARNETT: All right, the second set of letters ---

SENATOR PARKER: Why isn't it their responsibility with their appropriation to get the notice out?

MR. GARNETT: That is being done, Senator.

SENATOR PARKER: And, then, if they are not going to do it, maybe we can make the appropriate change.

MR. GARNETT: They are going to do it. I will know this Sunday if we get a quorum. I sometimes have hope that we will get a quorum this Sunday, and I rather doubt it. I hate to say that, because I don't want to discourage anyone. Each time we have done this, we have sent out a form and asked for its return indicating whether the mayor is going to be the member or giving him a form by which he can provide a designee. We have received, probably, eighteen to nineteen indications of designees plus the mayor on the last mail. On this mailing I have only received to date four. Now, I know that the twelve to fourteen or so who were committed prior are still going to be committed, so I can't tell. Sunday I will know.

I urge you to give consideration to possibly changing that requirement. I think it of value. Terry Moore gives me a little argument. He indicates that while it is not necessary, he can always just mail the plan to each mayor, but, while I am sure that could work out, that doesn't necessarily mean it gets reviewed. But, the legislation does not provide for it, gentlemen, so I think possibly something has to be done. We will know on Sunday.

SENATOR PARKER: Just in Burlington and Ocean Counties you have enough to get a quorum, don't you?

MR. CATANIA: There are fourteen in Burlington.

SENATOR PARKER: And ten in Ocean. That is twenty-four, even if nobody else showed up.

SENATOR DODD: Mayor, we will give you all the tools you need, but we have to see a little interest from somebody---

SENATOR PARKER: Or we will take that provision out.

MR. GARNETT: Well, that is very good for you to say that we have to see a little interest. What would you like me to do about it? I would like to see a little interest, too, Senator.

SENATOR DODD: Mayor, that is why we are here today.

MR. GARNETT: That is why I have been working on this.

SENATOR DODD: Let me ask you this: In your capacity as Mayor of Evesham Township, have you received any direct complaints from your constituents in your municipality about treatment with the Pinelands Commission?

MR. GARNETT: I have received no direct complaints, except we have had turn-downs of two very significant developments, Barclay Run and Kings Grant. Those are significant developments. I would assume that as things go down the road that those turndowns will get corrected and there will be approvals coming.

Now, that raises the other point that I wanted to make with you. I hope you will seriously consider making a change, now that the pinelands Commission has established standards called the protection zone, why in the devil don't we just take those applications back to the municipalities and let them process to the Pinelands standards. I am speaking only of those in the protection zone. I wouldn't push for the core. The core is rather significant, but in the protection area, all I see that the act has done is to create another level of problem for the developer to go to New Lisbon or Pemberton, as long as the standards are established, and you will remember that this was a topic of discussion---

SENATOR PARKER: How would they enforce them, John? Supposing we did that, and I can agree that if we can do away with a level of government, fine, and still maintain the status quo, but how would we insure the municipality does in fact approve them subject to those standards?

SENATOR DODD: That is, indeed, what the master plan is for, the master plan that will be coming out on August 8th.

MR. GARNETT: Yes, but I am talking prior to the master plan now. Where you have the master plan, obviously, the job goes back to the municipalities. You have now established standards for building in the protection zone. Give that back to the municipalities and let the pinelands protection people get on with the job they have to do.

There seems to be some kind of idea around that municipalities can't do the job, and in fact there probably are one or two municipalities who did not do the job, and I heard rumors that there have been some who may verge on fraud as far as their approvals, but, my God, let's not change all the laws of the State of New Jersey just to avoid pinpointing those people who cheat? Let's name them; let's stop them; let's put DEP or Community Affairs out policing the activities of the planning boards, and make sure they do their job. If we keep on, we will have all of Trenton's activities in the Pinelands Commission and I don't think that is where it belongs. I am not fighting the Pinelands Commission. They have a hell of a job to do. And, I think they should be allowed to get on with it, and minimize all this other business they have to do.

Are there any questions?

SENATOR DODD: Very good. We do hope you can give us some specifics on how we can change the makeup or what else we can do to encourage mayors to participate in this. Whether the Pinelands Commission itself can help with the mailing and notification, any specific suggestion, John, that you can give us, we will be glad to implement.

MR. GARNETT: I will leave them with Mike.

MR. CATANIA: There are two things I can think of immediately you

might implement, one is that the law authorizes the Chairman of the Commission to call the council to meet, so it could be the Commission's responsibility to try to arrange the organizational meetings. The other thing we might do as a Committee is send a letter to the mayors affected and ask them to either attend or designate someone to attend the organizational meeting.

MR. GARNETT: Well, the Chairman of the Commission did call the first meeting. I feel rather talented, because he only got ten municipalities represented and I called the second one, and I got twelve. Perhaps there is a pyramiding effect.

SENATOR PARKER: Is there any concerted effort by the mayors, or is there any reason why they are not coming?

MR. GARNETT: Some people have indicated to me that there are absolute boycotts. They have indicated that there are certain political people who have said, "Don't cooperate." I have no reason to believe that is true. Somebody put it that "God doesn't want them to attend." But---

SENATOR DODD: Whatever turns you on.

MR. GARNETT: Well, what can I say? Thank you very much, gentlemen.

SENATOR DODD: Thank you very much. We are going to take a short break for our stenographers.

(Whereupon a short recess was taken.)

(After Recess)

SENATOR DODD: We are going to call on Jack Hendrickson, Mayor of Eagleswood Township. After his testimony, we will hear from the Environmental Protection Agency representatives.

J O H N T. H E N D R I C K S O N: First, Senators, I thank you very much for the invitation and the opportunity to testify again before this Committee. As before, my concern again is with the reimbursement, a reserve for uncollected taxes, with the Pinelands' heavy environmental laws where people do not consistently pay their taxes. I would not like to read my statement.

Consideration by this Committee must be addressed immediately to the increasing rate of the reserve for uncollected taxes. I submit with this report the Municipal Appropriation for 1976, 1977 and 1978, to show the ever escalating reserve for uncollected taxes. The reserve will continue to escalate as long as property owners are left in a status quo situation wherein they do not know now or in the foreseeable future what they can do with their land.

There must be as soon as possible a Budget Committee formed to give relief to proven reserve for uncollected tax escalation in municipalities affected by strict environmental controls.

I very well know the budget problems of the State of New Jersey. But, gentlemen, the Legislature can no longer pass laws that affect a large portion of the State of New Jersey without an economic impact study and a plan to finance same.

I submit to you the financial effect of the Wetlands Act as a guide to formulate tax relief for municipalities affected by environmental control. The Pineland legislation will have the same, if not more, effect on the reserve for uncollected taxes of each municipality in the Pineland Region.

The Eagleswood Township Committee contracted with our municipal attorney for in-rem foreclosure of property now restricted by the Governor's moratorium. The total cost to the taxpayer is about \$18,000. The township now has about 170 plus acres of land worth about \$1,000 per acre. And, gentlemen, Eagleswood desperately needs this acreage put on the tax roll.

This acreage is now part of the area being sought by the New Jersey Air National Guard as a noise buffer area for the Warren Grove Bombing Range. If this range is needed for the training of Air National Units from North Carolina to Massachusetts, then each one of these states should contribute tax dollars to a central fund so that each of the municipalities that are being directly affected by this training could be reimbursed. The continued loss of land and ratables and delinquent taxes cannot be sustained by Pineland communities.

The thought of consolidating municipalities is constantly being referred to. Gentlemen, I ask you: Who would want this burden on their tax roll?

This report should not in any way be construed or interpreted that I or any of the Pineland's elected municipal officials do not want the Pineland conserved and the environment protected. We merely say it should not be at the expense of a few.

The first item I am submitting is '76-'77. I have local budget notices. You will see in 1974, my reserve was \$57,000. You will see in 1975, with the rate of 81 percent of collections, it went to \$60,000. You will see in 1976, we dropped to 73 percent of collections with a \$131,952 reserve for uncollected taxes. You will see in 1977, my tax percentage of collections went to 68 percent, with a tax reimbursement or unused portion of \$164,030. In 1978, 71 percent of collections with \$156,000. And, in 1979, we are back to 74 percent with a lot of work, of

\$143,000.

From the communications that I have had, I believe the Senate Committee has asked for the problems that the municipalities see in the Pineland's legislation. The reimbursement - the reserve for uncollected taxes - is going to be an astronomical figure with all of the municipalities when land will lie from one to five years without the plan, or even when the plan is there, with those people paying one year and not the next or engaging in a floating way of paying their taxes.

I would also suggest at this time - and I know this committee might not be the proper one - that the one thousand level of delinquent taxes should be moved from 12 percent interest to the prime rate. There is a law that if delinquent taxes are over a thousand dollars, the municipality can charge 12 percent interest. I would suggest that that law be reviewed and that the interest rate be increased and tied to the prime interest rate so that will float. That will help us.

If there are any questions, I would be happy to try to answer them.

(Exhibits submitted by Mayor Hendrickson can be found beginning on page 1X.)

SENATOR DODD: It went to 12.

MAYOR HENDRICKSON: You just changed it. I know that.

SENATOR DODD: Mayor, I am still concerned about the lack of participation in the Council that has been formed. Do you have any suggestions?

SENATOR PARKER: First, why, if you know?

MAYOR HENDRICKSON: We had two big meetings, one at Stockton State College, at which some of the environmental people were there and a majority of our elected officials. We held another mass meeting of small communities at Carol's Tavern. We had 28 officials there. The Senator was there as was Assemblyman Gewertz. The Ocean County legislative representatives were there. We had Betty Wilson from the Department of Environmental Protection. We laid out an agenda of the problems as we saw them. The Pineland's mayors, the small community mayors, feel - at least the ones that I have talked to - that their input was completely ignored. Right or wrong, I agree that feeling has to be overcome; but it is going to be very difficult.

Again we are reading in the newspapers that the majority of officials aren't competent and that we want to see it blacktopped. We have gone through this era of what we are conjured to be as elected officials in the Pinelands and an awful lot of us don't want to be subjected to that again because it is not the truth. It is so far from the truth that it is unbelievable. They are in their communities trying to deal with the problems they have. I have with me our Superintendent of Education and he can show you the direct impact of the reserve against uncollected taxes on our school system. But I know this is not the time for that. The mayors know the budgetary problems of the State of New Jersey are tremendous. But we need that legislation and we need reimbursement. The attack on this problem has to be made almost immediately so the municipalities will know in their budgetary processes that there is money from the State of New Jersey coming to sustain them economically.

SENATOR PARKER: Jack, have you talked to some of the other mayors and do they feel that strongly that no matter what they say, or what recommendations they make, or what input they make to the Legislature or the Pineland's Commission or any other body, that they are not given any consideration? Is that their feeling?

MAYOR HENDRICKSON: Senator, what I would like to say - and I will have to speak for myself because I don't want to speak for the group - is that certainly

the attitude is that it is an exercise in futility. The environmental movement, if that is the proper term, has completely usurped the municipal governing processes. And it should be a "give and take" and it should be laid on the table with all of our problems. There hasn't been a mayor that I have been in contact with or an elected official in the Pinelands that does not want to see his life savings preserved in the environment. People forget that our lives' savings are invested in the communities. Everything we own is in our communities. We would be the last to want to see a detrimental effect by the building of bedroom communities, if that is the correct term. We can't afford bedroom communities, with a 2½ child ratio to a family. In our town alone we are talking \$2,000 to \$2,200 a head in educational cost in our intermediate schools, and an unbelievable \$3,000 a head in K-to-6. We can't stand the influx. So we have, over a period, used 701 funds to plan and zone our town from the Department of Community Affairs years ago. We have used those funds.

The mayors whom I have talked to understand that there has to be an overall master plan to be adhered to. We went along with the Municipal Land Use Law because that gave us the opportunity to testify or come to our other towns if there was something coming in that might have a detrimental effect to our neighbors.

SENATOR DODD: Mayor, in your municipality, have you received any complaint directly or indirectly of unfair treatment from the Pinelands Commission?

MAYOR HENDRICKSON: No, but neither do we have any applications at all in. Again, Eagleswood Township is directly suffering from the wetlands - that is why I have testified to it - and then west of the Parkway with some of the problems of the Pinelands legislation.

SENATOR DODD: Do you have any large developments?

MAYOR HENDRICKSON: Absolutely none.

SENATOR DODD: All right, Mr. Mayor, thank you very much.

MAYOR HENDRICKSON: Thank you very much for the opportunity.

I would submit one other suggestion. I support the idea of Mayor Garnett and the Senators that we try harder to get the mayors out and lay this problem on the table. Hopefully, it can be done in a cooperative manner.

SENATOR DODD: That is why we are here.

I would like to call Arnold Schiffman, Division Director of Water Resources of the Department of Environmental Protection.

A R N O L D S C H I F F M A N: Members of the Committee, my division, I think, to say the least, in making its decisions in this area as a regulatory agency, has a major impact on water quality - ground and surface - and development.

What I would like to do is give you a perspective that you may not have seen before on what we do and why. I have a few illustrations for you. (The witness projects pictures on a screen.)

I have a simple illustration of what we call a hydrocycle. The only point I want to make here is that it rains; the water infiltrates into the ground; and when it gets into the ground, it comes out into the streams. It is a cycle. It goes around. Then it evaporates back out into the air again. So the source of the ground-water is the rainfall. The source of the water for the streams when it doesn't rain is the groundwater. It just goes right out again.

I would also like to emphasize that anything we put on the land, any contaminants we put on the land, enters the groundwater and eventually gets into the stream. I think most people in this area know that when it rains everything infiltrates

rapidly.

I would like to put a little different meaning into this by the next illustration. This is a graph of a study that was done in the New England States. What it does is: it relates housing density, the number of houses per square mile, to what happens in the stream and groundwater flow. I have just told you that the groundwater and the streams are connected. So they are both kind of the same. What happens in one, happens in the other. Not too much study has been done in the United States on this. This is one of the few. What it shows is, as your housing density increases, using septic systems, the amount of dissolved substances in the streams increases from almost pure water in the streams, but as you increase to so many houses per square mile, it increases substantially. Not all of these dissolved substances are harmful - some of them are just salts - but some of them are. That is a key point I want to make. As you increase the density of housing, using on-lot disposal, the amount of dissolved solids and pollutants in the groundwater and streams increases almost in direct proportion.

Let me have the next illustration. I have a few interesting aerial photographs to show you. This is an abandoned landfill in Pleasantville City in Atlantic County. You can see there is a whole bunch of denuded areas. Those were landfills. They just look like sand dunes, and that is what they are now.

SENATOR PARKER: Excuse me. All that white stuff is ---

MR. SCHIFFMAN: Look at a lot of this white stuff - a tremendous area.

SENATOR PARKER: It looks like the whole town is landfill.

MR. SCHIFFMAN: It is abandoned now. There is very sandy soil which everyone knows about here. At one time, that place received up to 100,000 gallons a month of chemical waste in some of those areas. Because of the sandy soil, you get little or no purification when this stuff enters the groundwater supplies. So we have threats to water supplies from wells and also threats to streams.

Let me show you another slide. By the way, the State has full coverage of these photographs. They are colored. They are excellent. This is an operating landfill in Southern Ocean County. This receives large quantities of sewage, sludge and septage - in other words, the clean-out of septic tanks and the sludge generated by treatment plants. Again, we have sandy soil, rapid infiltration of pollutants into the groundwater. The pollutant of concern here is not chemical waste, but it is nitrate, present in large quantities in human waste.

Why do I show you these two pictures? I showed you a hazardous waste area and I now show you a sewage, sludge and septage area. There are drinking water standards in the United States established by the federal government. Those standards don't include every substance. It is a fairly small list. That list is based on known health effects. Some of the substances on the list - arsenic is on the list - cyanide is on the list - nitrate is on the list. What I am saying to you is that nitrate is analogous to the toxic substances. Nitrate is very common. Fertilizers contain nitrate. Human waste contains nitrate. Yet, as for the known health effect, it is in the same category as arsenic and cyanide. In the wrong place, it is very hazardous. In the right place, it is very beneficial. This is the problem.

Now, septic systems deliver large quantities of nitrate to groundwaters and to streams, along with other pollutants such as phosphorus. Not only is the nitrate bad for drinking water, but the nitrate and phosphorus also pollute streams.

Now, we have a map over here that we posted. The green area is the Pinelands area and the orange is the PP area. I will get to that in a minute. In order to protect ground or surface water quality for existing uses, for cranberries, drinking water, or whatever, the Division of Water Resources within DEP began in January, 1978, to control installations of on-lot disposals, septic systems, in the most sensitive area of the Pinelands - strict control. It was essentially about 760 square miles. It was designated as a critical area. It coincided approximately with the Pinelands Preservation Area. I want to underline the word "approximately." Eventually, we are going to have to make it the same. I know it is causing problems.

In the critical area, which coincides with the Preservation Area, the method we used to evaluate the discharge of pollutants to the groundwater is basically the same as what we do for discharge to a stream. For a stream, we look at the treatment plant. We evaluate how adequately it works. Does it work or not? We take the flow of the stream. We look at how much water is in the stream. We mix it with what comes out from the sewage treatment plant. Then we see if standards are met at some point downstream. We do actually the same for groundwater. For a septic system, the soil, the land, itself, is the treatment system. The infiltration of rainfall into the ground is analogous to the stream flow.

In the property boundary, we use a point downstream to measure compliance with standards. We measure discharges of nitrates from septic systems against water quality standards. We measure it against both the groundwater and the surface water because they are both connected. For the groundwater, we use the drinking water level - same limits. You have limits for arsenic and cyanide and you have limits for nitrate. The limit is ten parts per million, the known health effect limit. For the streams, we use a different number because the streams have their problems too. We have eutrophication problems, problems that affect the uses of the streams. We use 2 milligrams per liter to measure against that. That is within that critical area, the most sensitive area for surface water in addition to groundwater.

In the total Pinelands area, we don't really look at the surface water from the nitrogen standpoint. We just look at drinking water standards for the groundwater alone. So in what we call the critical area, which is an area that roughly coincides with the preservation area, we are looking at surface and groundwater in setting up standards because they are both connected. We don't look so much at the surface water in the rest of the area.

Now, I want to say something about these limits. They do not represent natural water quality. They are greater than that. These limits represent values necessary to protect the uses of the water. There are two problems with using water quality standards and regulating construction of septic systems to protect the ecology of the Pinelands.

The first problem: A limit of nitrate of 10 milligrams per liter or the drinking water standards - this is what it is - implies that using on-lot disposal systems can't proceed until all groundwaters in a particular area are brought up to the drinking water standards or brought up to the stream limits, depending on what area you are in. This implies a bald minimum of water quality. It is an inherent problem with water quality standards, whether they be ground or surface water.

The other problem is that in doing the evaluations we do, we don't take into account a good buzz word that people use called secondary impacts. What I mean by that is that there are constraints on septic systems, for example, so much

for the water table, so much percolation rate, concentration of nitrate. We allow people to come up with engineering solutions to these problems. Some of these solutions could involve substantial land-clearing, designs that involve substantial cut and fill. Those are not considered. Our evaluation is, in essence, a single input, the decision-making process of the Pinelands Commission. From my perspective, my job really is pretty easy compared to theirs. I think that is the point I want to make and I think I have done it in a prompt period of time. Thank you.

SENATOR DODD: Thank you very much, Mr. Schiffman.

In your analysis, in a broader scale, knowing the aquifer, the system of the underwater streams and what not, and the ground surface waters, will you be able to project the extent of development that can be allowed without permanently affecting the aquifer?

MR. SCHIFFMAN: It depends what you mean by effect. Remember with the standards we are using you can have a substantial amount of development before things are brought up to that standard, a substantial amount. I just want to point out that this is indeed a problem because, in essence, the environmental constraint is perhaps not as severe as people might have thought it was. This is a problem and, I think, it's a problem the Pinelands Commission faces every day. Obviously, we are not going to be having substantial massive development of the kind that would bring up this world of minimum water quality that I just talked about.

SENATOR PARKER: Is that what you are telling us, that you can put in reasonable development and not affect the water quality?

MR. SCHIFFMAN: No, no, I didn't say that. I say you can affect the water quality house for house. Every house increases the dissolved pollutants that are in the water. For every unit, that graph I showed you goes up.

SENATOR PARKER: But that depends on the area, the watershed and which way it drains.

MR. SCHIFFMAN: It is fairly uniformly applicable.

SENATOR PARKER: What is the ratio, one house per what? Is there a percentage ratio, the number of houses?

MR. SCHIFFMAN: You can estimate it. It will vary a little bit with soil type and particular area.

SENATOR PARKER: Well, it is all sandy, or most of it. There are three or four different kinds of sand.

MR. SCHIFFMAN: There are some differences and those differences are important, such as the loadings to the groundwater system. But, in general, the constraints are not unlike the Pinelands Law, itself, when it talks about an acre. But keep in mind that will bring up water quality. It will bring up dissolved solids. The concentration of the substances will start approaching this limit of 10. That is a real problem that we face, in general, in using this type of standards. I don't think that is good. I want to emphasize that.

SENATOR PARKER: Frankly, I don't understand what you are trying to tell us here today. Are you telling us that you don't want us to build anything?

MR. SCHIFFMAN: I am not saying that. All I am saying is that if you were to put a house on every acre, using the calculations that we do in terms of standards, you would bring water quality up to the standard of 10.

SENATOR PARKER: And that is still okay for drinking water?

MR. SCHIFFMAN: You bring the water quality down; you bring the numerical

value up. That might be okay for drinking water. What I am trying to say is that I don't care to live in a world of minimum water quality.

SENATOR PARKER: Well, suppose we only put one-half of --- I don't know what the plan is or how many units they have approved. I guess they have approved 243 units in the whole core area. What impact does that have on the water quality in that area?

MR. SCHIFFMAN: Locally, it has a substantial impact. Over the whole picture, obviously we are talking about something that is relatively small. But that is not the point at all because this is going to continue and, in making their plans, this is what they have to consider. The only point I am making is that the environmental constraints in the water quality area are only one part of the problem and we are only a single input into the Commission.

SENATOR PARKER: But it happens to be probably one of the most important because the major emphasis, other than the special types of floral and fauna down in the pines and the fact we want to keep certain areas natural anyway, of the legislation that evolved was water quality and preserving it.

MR. SCHIFFMAN: All I am saying is that water quality alone is not sufficient. If it were, I would raise the obvious question as to the enactment of the law. The law is absolutely necessary to protect the environment of this area. If you just look at some numerical value, you have problems. I want to emphasize that.

SENATOR PARKER: Let me ask you a question, Mr. Schiffman. You showed us landfills and indicated the problem with them. We have one at Big Hill right now, which is in the middle of the pines, and it continues to operate against the town's will and in spite of all of the fighting that has taken place in court. We are still in court week after week trying to shut it down. How can you condone turning down a single family dwelling and permit that operation to continue? (Applause)

SENATOR DODD: Hold on, folks. You can't express your rahs and boos here. I don't know who would win.

MR. SCHIFFMAN: You are looking at a situation on the land disposal right now.

SENATOR PARKER: I am just talking about the groundwater problem.

MR. SCHIFFMAN: There is no question those things pollute groundwater substantially. All I can tell you is that constraints are being put on now to get the problem under control.

SENATOR PARKER: By whom? Certainly not the State because we are fighting them every inch of the way.

SENATOR DODD: Senator Parker has brought this up before our Committee because we take projects on from time to time, as we did with the Pinelands and as we will do with the hazardous waste issue that is coming up now. Senator Parker rightly brought before the Committee the question: How indeed can you have an enormous sanitary landfill, a dump, leaching into the aquifer system, that we are here, on the other hand, trying to protect? I think it is dramatically illustrated in what they are doing with Kin-Buc, requiring the huge canvas top on it to stop the leaching into the water system - into the cycle that you graphically showed us. How can we permit this landfill just to sit out there leaching into the purest water probably in the country?

MR. SCHIFFMAN: I think the answer is that we can't, obviously. And it was legislation you recently passed that will help deal with the hazardous waste

problem. But, yes, there were not adequate controls.

SENATOR DODD: We have legal problems because a great deal of the garbage comes from Pennsylvania, which was addressed by the Supreme Court decision that we can't say no as a state to out-of-state garbage. Therefore, we have to look to your agency, in particular, and perhaps your specific division, to say, yes, it is polluting the water to the nth degree as opposed to a thousand new housing units.

MR. SCHIFFMAN: I don't know whether you will like the answer or not, but you should know exactly what the facts are. If you look at groundwater, you will find out that as a resource, it is extremely important to New Jersey. It is at least half of the water supply. It is also important in other parts of the United States. If you look at the dollars that are spent on this resource in the past and even maybe right now and compare that to the streams, you will find that it is a fraction of the amount. It is our ignored resource, although it is extremely important. A lot of the emphasis on groundwater is just coming onboard now. That is one reason I am here. I am a groundwater hydrologist and I came from another state. And the problems here are immense. We are trying to increase our program now. We have gotten assistance by tremendous dollars from EPA. We are increasing the staff dramatically. But, right now, it is still a fraction of my agency, believe it or not. These are just the facts. There is no question about it. We are working as fast as we can to increase those resources. I told the staff to take their 10 or 15 people and double them. That is still inadequate. We are moving as fast as we can. That is the answer.

I must tell you that the damage in the past may not be correctible. It is a very serious situation.

SENATOR PARKER: In the Pinelands area or other areas?

MR. SCHIFFMAN: Anywhere in the State. The nature of the groundwater system is that it moves slowly. When you put stuff in there, it doesn't come out readily.

SENATOR PARKER: You are talking about the stuff in the Raritan strata and that the salinity is increasing in the water?

MR. SCHIFFMAN: Anything that you put in that system, whether it be from a landfill or pulling in salt water, once you stop the practice, the stuff you put in doesn't go away as in a stream.

SENATOR PARKER: Doesn't it oxidize after a while?

MR. SCHIFFMAN: Not really.

SENATOR PARKER: Isn't that what the nitrogen is doing?

MR. SCHIFFMAN: The nitrogen stays as nitrate.

SENATOR PARKER: And it feeds the plants and they grow.

MR. SCHIFFMAN: That is the beneficial form. But in the groundwater, it is nitrate and it is harmful.

Let me give you a good illustration. If you were to look at a stream and measure its flow in feet per second, it moves very fast. But if you measure the flow of groundwater, it measures less than a foot per day. So if you put something in a stream, it rushes downstream and disappears. It ends up somewhere like in the ocean, but it is not in the stream anymore. But put it in the groundwater and it stays.

So our past sins, we will be paying for during our lifetime and the lifetimes

of our children and their children - beyond and beyond. But we have to start somewhere now. You have raised a good point.

SENATOR PARKER: What is the impact of the technology on septic systems and others to take the nitrates out?

MR. SCHIFFMAN: It doesn't.

SENATOR PARKER: It doesn't take any of the nitrates out?

MR. SCHIFFMAN: Not appreciably, especially in sandy soils.

SENATOR PARKER: Isn't there some chemical or some process because when we built the Ocean County system - Monmouth County and Atlantic County - we did not build in the nitrate removal or the phosphorus removal because they said the cost would be too prohibitive. Anyway, there were arguments either way on it. So we just didn't do it. What is the cost to a septic system --- and a system costs what - \$1200 or \$1500 to put in, the average system? What is the cost to take the nitrate out in the average system?

MR. SCHIFFMAN: An on-lot septic system is not the same as a treatment plant, obviously. There are things that can be done in designs that may help the problem. These are being looked at now. It is a matter of the state of the art and there are questions about them. There are ways you can use natural processes to help remove some of the nitrogen. Right now, the basic assumption is that virtually all of it goes through. There are ways of getting rid of 20 percent, 30 percent, 40 percent, 50 percent. There are ways of doing that, but they are not well established. And, as you get more complicated with these systems, the issue of managing them becomes more difficult. It becomes more than perhaps a single homeowner can do for maintenance. There are answers to that too, but they are complicated. I think this is part of coming forward with a plan to handle this problem. I think that is what it is all about.

MEMBER OF THE AUDIENCE: I don't think you have gotten an answer to your question yet.

MR. SCHIFFMAN: There are things that you can do, but they are not simple.

SENATOR DODD: Mr. Schiffman, on the one specific item that Barry Parker brought up on the Big Hill dump, if you could have your people look into that and give us some kind of comparison as to what that leaching effect has on our groundwater and perhaps inform our committee, it would be appreciated, just so we know where we are going and can use that as a gauge in balancing ---

MR. SCHIFFMAN: I can give you the answer now. It has a tremendous effect. If you want to compare it with a septic system, there is no comparison.

SENATOR DODD: Should it be closed down?

MR. SCHIFFMAN: Let me give you the other bad news. If you look at these things now, one, closing them down doesn't remove the pollution; two, they are very difficult to ---

SENATOR PARKER: You can keep it from accelerating.

MR. SCHIFFMAN: It might not make too much difference right now.

SENATOR PARKER: Why are you telling us to stop the home-builders, all the people who want to build and put a septic system there?

MR. SCHIFFMAN: What you are doing is pointing out an evil, if you want to look at the landfill as that. Then you are saying, because we have have evil, maybe we should tolerate another problem. What you have to do is control the landfill and the septic systems. The fact that there may not be adequate controls on a big problem doesn't mean that you shouldn't do anything about the small problems.

SENATOR DODD: That is not the point.

SENATOR PARKER: The guys with the big money can fight it in the courts and the little people get nothing.

SENATOR DODD: The point is that if we allow this enormous dump to continue to grow, to be rained on and leached into the water system that the very essence of the Pinelands Commission's mission is to try and protect, how can I justify this to someone calling on the phone and saying, "Hey, I got turned down because of the septic system where my one-acre lot is"? This is a real problem that we have as public representatives, and parlay that many times to the mayors that have to answer these people without the resources perhaps that we have, which comes back to you.

MR. SCHIFFMAN: The obvious answer is the constraints on these landfills.

SENATOR DODD: Can your division specifically condemn the landfill now?

SENATOR PARKER: Can you tell us that you don't want to allow it anymore? I know you have a problem with PUC. Has your department testified in that hearing, incidentally?

MR. SCHIFFMAN: Our solid waste people are working on it. Let me give you the issue. We are developing the programs from the water standpoint. We are going to look, logically, as we should, which we haven't in the past perhaps, at the discharge from the landfill the same as we look at discharge from a septic system. That is what you are asking. I am saying the answer is: yes, we are going to look at that. We are doing it now. Once we start doing that - and we are doing it now - you are going to have the issue of these facilities not being able to meet the standards. What do you do when they can't meet them? You can close them - and I am saying they are still going to discharge. But at least you are starting to solve the problem.

SENATOR DODD: If that Kin-Buc plastic cap works on the hazardous waste, it would possibly work on a sanitary landfill as well.

MR. SCHIFFMAN: You have to understand what that cap does. All it does is ---

SENATOR DODD: --- divert the rain water so it does not leach and drain.

MR. SCHIFFMAN: But the stuff is still there.

SENATOR DODD: As you said, we are never going to get it back to what we originally had. But will a partial solution help?

MR. SCHIFFMAN: The reason you have a different law in this area from the other parts of the State, the reason you have the Pineland Act, is you recognize the environmental sensitivity here. If you have sand all over and you put a cap on a little piece where you have a landfill, it rains along the edges and it gets in anyway. The situation is really getting to be desperate in this State with landfills.

SENATOR PARKER: Let me ask you one other question. You say that nitrogen doesn't go away. Doesn't it mix with other things like with oxygen?

MR. SCHIFFMAN: It is already mixed. That is what the nitrate is. It is already mixed with oxygen.

SENATOR PARKER: Doesn't it break down? Doesn't nitrogen oxidize?

MR. SCHIFFMAN: Nitrogen oxidizes to nitrate and that is the form that is harmful. Once it gets into the groundwater system, it stays there.

SENATOR PARKER: It stays there like that? It doesn't break down or doesn't combine with any other element?

MR. SCHIFFMAN: It stays there. Now, if you take that and spray it on crops, you have something that is good. That is why we have land application systems that we are looking at because it is good. You can use the nitrogen in the plants.

SENATOR DODD: Mr. Schiffman, thank you very much. We would appreciate your keeping our committee informed. It is a very specific area that we are going to watch.

SENATOR PARKER: We would like to have a report on this.

SENATOR DODD: And if you know Senator Parker as well as I do, it is not going to go away.

SENATOR PARKER: I would like to have a report from you on Big Hill Landfill and what it is doing.

MR. SCHIFFMAN: I will be happy to tell you what we are doing about the water quality issue with all of these land disposal systems.

SENATOR PARKER: Just that one really.

SENATOR DODD: I would like to recognize Sid Walker from the Division of Forestry of the State of New Jersey. Sid, do you want to testify or just say hello?

MR. WALKER: There are a few things I would like to say.

SENATOR DODD: Come on up. Sid was our host at one of the last tours of the Pinelands.

S Y D N E Y W A L K E R: I would like to thank you, first, for an opportunity to say a few words, Senator.

The Department has been involved in both the management of land and also in providing technical service in the Pinelands for many years. We have taken an active role in acquiring land in the Pinelands and we have worked with some of the individual groups and individuals, themselves, in trying to get national recognition for the Pinelands.

The Department, at the Commission's request, is assisting in four separate areas. The Bureau of Forest Management is assisting the Commission on a recommendation for the management of the region's timber resources. The Division of Fish, Game and Wildlife is reporting to the Commission on wildlife there and endangered species and fish of the Pinelands. The Bureau of Forest Management is just preparing a document for the Pinelands Commission to give them some planning ideas and development ideas that will minimize the risk to human life. As you are aware, down here we have an extremely high fire danger situation and the Bureau of Forest Fire Management is very concerned with some of the developments that are here, in that access to the developments is very limited. It is a single access. Heavy fuels are permitted very close to the buildings. Those of us who remember the fires of '63, '71, and '77 realize that there is not only a potential for loss of property, but also loss of life.

The Department administers presently a number of forests and parks in the Pinelands. They have a total visitation of approximately 1.2 million visitors per year. These visitors pursue a number of different recreational activities: picnicking, fishing, hunting and camping. They ride horses and they also operate motor vehicles of various types. We know that approximately 80,000 people utilized the canoe trails in Wharton Forest this past year.

The Department is interested - in fact, we are vitally interested - that any plan for the Pinelands will allow for the continuance of these recreational pursuits on the lands in the Pinelands.

We are also very interested in the acquisition program. We feel that the major acquisition and the priority acquisition in the Pinelands should be

centered in the core area at the present time - basically the areas of Wharton, Lebanon, Penn and Bass River, that general area of the core. We are recommending not only acquisition of the interior exceptions of some of these areas, but also lands outside of these, including the plains area. One specific problem I would like to mention is a very popular hiking trail called the Batona Trail, which connects Lebanon State Forest and Wharton State Forest, the trail totals over 30 miles. Six miles of this between Lebanon State Forest and Wharton State Forest are in private ownership. A considerable amount of development is going on along this trail. We point to it as a problem of ownership here. Some consideration, at least, should be given to acquisition of a corridor to allow this trail to continue.

We are also following with interest the Department of Defense proposal to acquire somewhere in the neighborhood of 40 thousand acres of the East Plains. The Department is not fundamentally opposed to the acquisition. However, we have two things that we are very interested in: first, that if this acquisition does occur, that it does not affect any present State-owned land ----

SENATOR PARKER: The federal government?

MR. WALKER: This is the federal government, Department of Defense.

SENATOR PARKER: I don't know whether they can condemn State property.

MR. CATANIA: Yes.

MR. WALKER: The second thing that we would be interested in is, since this is a very large piece of land being used presently for recreation - the recreation is mainly a passive type of recreation - we would like to see that, if the Department of Defense acquired this land, the people would be able to utilize the land for the present recreational activity that occurs there.

SENATOR PARKER: Where is that land, by Sim Place down below?

MR. WALKER: It includes Warren Grove, Sims Place, going down towards the Bass River.

SENATOR PARKER: What areas are utilized heavily in that area?

MR. WALKER: They are not. It is a passive type thing. They hunt there.

SENATOR PARKER: I thought it was the area from Sim Place, to Oswego and on down the other way.

MR. WALKER: There is no canoe trail there involved. But it is part of the watershed. It is part of the Wading River Watershed. People hunt in there, motorcycle, ride their horses, take photographs and things like that.

I say, gentlemen, that the Department certainly encourages the Pinelands Commission and we are trying to help them in any way that we can. Thank you very much. (See page 7X for written statement submitted by Mr. Walker.)

SENATOR DODD: Thank you very much, Sid.

I would like to call Anthony Ziccardi, President of the Home Builders League of South Jersey.

A N T H O N Y     Z I C C A R D I: Good afternoon. My name is Anthony Ziccardi and I am President of the Home Builders League of South Jersey. The League is a non-profit building trades organization, with offices located in Marlton, New Jersey.

I would like to thank you, Senator Dodd, for following up on your promise to maintain close contact with the operations of the Pinelands Commission to assure it meets the intent of the Pinelands legislation.

The Home Builders League of South Jersey has paid close attention to the affairs of the Commission with regard to both its development review process and

the preparation of the plan.

I would like to briefly express to you now our observations with regard to these two areas and how the Commission has or has not met the letter or spirit of the law as we understood it in the legislative process leading up to the enactment of the Pinelands Protection Act.

Development Review: The Commission has adopted interim development review regulations in order to conduct the development review process called for in the Act.

We understand that these are interim standards which will be translated into final standards as a part of the plan to be adopted on August 8, 1980.

I use the word "translated" with particular emphasis because it is assumed by the general public that these standards will not be adopted, as is, in the final plan. The reason for this assumption is the fact that although the standards are generally a logical outgrowth of the requirements of the legislation, there are some which seem arbitrary and stretch the interpretation of the legislation beyond the limits of reasonableness.

For example, Standard # 1 defines extraordinary hardship in such a manner as to exclude all costs leading up to preliminary and final approval obtained under Municipal Land Use Ordinances. Under the New Jersey Land Use Law, major development approval rights are protected for 3 years on a preliminary approval and for 2 years after final approval.

Since the greatest portion of development planning costs are incurred in obtaining preliminary approval under the laws then currently in effect, it would seem reasonable to conclude that changing the law in midstream creates an extraordinary hardship, since these are real dollars which have been expended.

I should note the use of the word "extraordinary" to qualify the word "hardship" has been much debated. It is our position that a person owning raw land in need of development or sale in order to pay inheritance taxes or a person who can no longer afford the real estate taxes and is prohibited from development or sale has an ordinary hardship. Conversely, the expenditure of moneys beyond land ownership to obtain valid development approvals, and having obtained these approvals, in our minds, has incurred an extraordinary hardship. We would like to know if you feel the Commission has properly interpreted the intent of the law on this point.

Any hardship applicant qualified by the Commission still must pass the "no substantial impairment" test as set forth in the standards. So it cannot be claimed that liberalizing the hardship criteria to include preliminary and final approval costs will create a substantial impact on the Pinelands resources.

SENATOR PARKER: Could I ask you a question?

MR. ZICCARDI: Surely.

SENATOR PARKER: Can you tell us whether or not any capital costs have been approved that have been put in the ground, such as starting of construction, roads, pipes?

MR. ZICCARDI: There have been a number of cases, I believe.

SENATOR PARKER: Have any of these been denied?

MR. ZICCARDI: Some have and some have not.

SENATOR PARKER: You are talking only about hardship here too ---

MR. ZICCARDI: Yes.

SENATOR PARKER: --- with all the planning approvals, that none of them has been approved when you have gone through the engineering, the environmental

impact and all the other requirements and they have all been approved. You are getting your preliminary approval in a town and all you need is your building permit. Are you saying that they are not allowing you to go ahead and build?

MR. ZICCARDI: There are a number of cases where that is the case, Senator. The Kings Grant situation in Evesham is one as well as the Bartons Run situation.

SENATOR PARKER: Well, Kings Grant has building permits.

MR. ZICCARDI: On parcels of the job, but not the entire job.

SENATOR PARKER: They have \$17 million in the ground.

SENATOR DODD: Haven't they been applying for that, per units, as they get ready to actually build them? There is no blanket nor was there prior to the Pinelands Commission - a blanket approval.

MR. ZICCARDI: I think though what we are referring to here, strictly speaking, is where a person has gone up and acquired the land and spent considerable sums on development of the land, through the engineering process and then through the municipal agency process, the State and county processes, in order to obtain the necessary permits. This is not considered one of the criteria under hardship.

SENATOR PARKER: My understanding is this: If you have your subdivision approval and your site plan approval by the municipality and the only thing that needs to be done is the issuance of a building permit, it is my understanding that they can't deny you under the Act, that you can get your building permit and go ahead.

MEMBERS OF AUDIENCE: Wrong.

SENATOR PARKER: If the town gives you the building permit, where are they denying you?

MR. ZICCARDI: You are asking me?

SENATOR PARKER: Yes. Where are they denying you?

MR. ZICCARDI: It depends on what permit ---

SENATOR PARKER: Are they denying you on the well permit or on the septic?

MR. ZICCARDI: On the septic or sewer extensions. Final approvals are being denied. You cannot go ahead and proceed with your final approval unless you have already obtained ----

SENATOR PARKER: Well, final approval is nothing more than putting a bond up for putting the utilities in that are required by the preliminary.

SENATOR DODD: The gentleman with his hand up ---

SENATOR PARKER: Pat, I think we have to understand what is going on.

MR. ZICCARDI: There is a situation where you may have obtained a preliminary approval prior to the enactment of the legislation and, going back to get the final, they are requiring that you have a Pinelands exemption prior to the enactment of that.

SENATOR PARKER: Who is, the municipality?

MR. ZICCARDI: Yes. And I think it is under the legislation.

SENATOR DODD: Tony, could you give us a specific example?

Sir, are you with the Home Builders?

J O H N A C K E R M A N: Yes, sir. My name is John Ackerman. I am involved in a partnership with Charles Pratt and as Ackeratt Associates, we have a 48-lot subdivision in Shamong Township, located on approximately 62 acres. Each one of

the 48 lots are an acre or larger. We have gone through the process of the subdivision in total. We have posted the bond with the township, along with the required engineer's escrow fees. We have filed our plat. We have gone into the job and obtained our financing through a savings and loan. We have proceeded with the community. We started in the job on March, the 3rd, of 1978, which was well before the Pinelands legislation was, in my opinion, even thought of.

SENATOR PARKER: You had homes built there?

MR. ACKERMAN: Yes, sir. Currently, we have 17 homes built and occupied, many of which were occupied prior to the Pinelands legislation. We have gone in, we have done extensive field engineering, earth work, our piping work for our storm drainage, our gravel sub-base work, our curbing, our blacktop, our underground electric, I believe Charles has the number of dollars spent. It is a phenomenal sum of money.

SENATOR PARKER: Did you have your final approval so you either posted the bond or put the improvements in?

MR. ACKERMAN: Yes, sir.

SENATOR PARKER: And they denied you the septic permits?

MR. ACKERMAN: No, sir, we have been denied a building permit by the municipality on the strength of a phone call from New Lisbon to the local building inspector, who in turn called the Township Solicitor.

SENATOR PARKER: And he ruled that as long as your plans were approved that they couldn't deny that?

MR. ACKERMAN: The Township Solicitor called Mr. Harrison at New Lisbon. Mr. Harrison informed the Township Solicitor that the Pinelands Commission did, in fact, have the right to tell a municipality not to issue us those building permits.

SENATOR PARKER: Now, you have a fight between two groups telling the Building Inspector what to do.

MR. ACKERMAN: The Building Inspector went by the Township Solicitor's opinion and the Township Solicitor felt that he was in no position to argue with Mr. Harrison since, supposedly, Mr. Harrison has a ruling from the State Attorney General's Office that that, in fact, is the interpretation of the legislation.

SENATOR PARKER: And have you challenged that?

MR. ACKERMAN: Yes, sir.

SENATOR PARKER: Because that is not what the Act says.

MR. ACKERMAN: I am very pleased to hear that and that is what I firmly believe.

SENATOR PARKER: The Act says municipal approvals for subdivision and planning. It says nothing about building permits or construction.

MR. ACKERMAN: That is the way I interpreted it. But I am not an attorney and I am in no position to argue with the State Attorney General's Office.

SENATOR PARKER: Have you sought relief from the court?

MR. PRATT: We haven't gone that far yet. We were rejected on January 2nd, of 1978, for an exemption. If you would like me to read my application here, I will read it.

SENATOR PARKER: I just wanted to get it down because the Act is very specific and mentions nothing about ---

MR. PRATT: We have all the well permits. We have all the wells on the total job installed. We have our septic permits.

SENATOR DODD: Let me call on counsel for the Commission on this point. Perhaps he could clarify it.

R I C H A R D H L U C H A N: My name is Richard Hluchan and I am with the Attorney General's Office. I have been representing the Commission.

We have taken the uniform position since ---

SENATOR PARKER: No, not the uniform position. Show us in the Act where you have that authority.

MR. HLUCHAN: It defines application for development and it tracks the words of the Municipal Land Use Law. It also says, any other permit, when it talks about for construction.

MR. CATANIA: 13B.

SENATOR PARKER: 13B?

MR. CATANIA: You have to go back to the definition section.

SENATOR PARKER: Show us in the Pinelands Act, will you?

MR. CATANIA: Look at page 3.

MR. HLUCHAN: Section 3B. Senator, do you have the same copy I am reading from?

MR. CATANIA: He has the chapter law.

SENATOR PARKER: ". . . by the Municipal Land Use Law." Is a building permit provided in the Municipal Land Use Law?

MR. HLUCHAN: It is not created by the Municipal Land Use ---

SENATOR PARKER: It is not even in there, is it, sir?

MR. HLUCHAN: There are references to building permits, I think.

SENATOR PARKER: It is under the State Uniform Building Code and it has nothing to do with municipal land use.

MR. HLUCHAN: Senator, we have taken the position that what this section means is that any municipal permit involving construction - and a building permit certainly does --- This is after extensive discussion. We have never issued a formal ruling on this because it seemed rather clear that if the Legislature had intended to exempt building permits from the coverage, it would have clearly said so. There were discussions with various people involved in preparation of the legislation and this is the position that we have simply taken from the beginning.

SENATOR DODD: Are you familiar with this particular case that we are talking about?

MR. HLUCHAN: I am not familiar with it specifically. I know the issue of building permits has come up. I have been in contact with a number of attorneys that represent municipalities. There has been no formal legal challenge to that thus far.

I think that it is a reasonable construction of the statute. The statute says it should be liberally interpreted.

SENATOR PARKER: After somebody has gone and put all the money in the ground and done what he has done, do you think it is reasonable to, number one, make him go for a hardship and then deny it?

Was yours denied?

MR. ACKERMAN: No, sir. We applied for a hardship in August of 1979. You heard testimony before about how quickly these applications are being handled. I have my letter with me which I received on January 2nd, 1980. We only had 19 lots left of the 48 to apply for exemption for. Of those 19, they have seen fit to allow us to have 13 of the 19. They would just like to eliminate 6 of those units, for which we have the improvements in, the well in the ground, the construction

financing, and what have you - right down the line.

SENATOR DODD: Were specific reasons given?

MR. ACKERMAN: If you would like it, I would be more than happy to give you the letter. (Mr. Ackerman submits letter.)

As you can see, they are rather vague on the reasoning. That is all the information we have received.

SENATOR DODD: Have you had an "in person" review with the Commission?

MR. PRATT: Yes.

SENATOR DODD: With whom did you deal?

MR. PRATT: We met with Stu Holing of the Pinelands Review Commission, along with my attorney, Thomas Norman.

SENATOR DODD: And during the discussions, ---

MR. PRATT: Originally they said they would give me a couple of lots. I refused to take anything less than what I had bought originally on this obligation. If I could read to you this letter here, it gives you all the background information. It is only two pages long.

(Reading) "Location: Millstone. Millstone subdivision is located in Burlington County, Shamong Township, Indian Mills, New Jersey. It is on block 5, lots 1 and 2.

"Present status: There are 48 approved lots on 60 plus acres of open land, which was originally a soybean field. There are 17 families living in completed homes. Six homes are in various stages of construction. The subdivision was approved June 14, 1977. In March of 1978, we purchased 48 approved building lots and started construction. Families were living in Millstone before the Governor's Executive Order."

To date, these are the expenditures we have spent on this job: roads, \$82,195; curbs and aprons, \$32,357; storm drainage, \$50,495; wells and well permits, \$22,700; well septic designs, \$3840; engineering, \$9,750; underground electric, \$12,630; township engineering escrow fees, \$19,575; the total being \$236,446. That does not include, gentlemen, the interest of over \$40,000 paid to date. That also does not include roll-back taxes which I refuse to pay, of over \$6,000 outstanding for Shamong Township at the present date.

SENATOR DODD: When was your last expenditure?

MR. PRATT: Yesterday.

SENATOR DODD: No. I mean for a major improvement?

SENATOR PARKER: Those you listed were all prior to the Act - prior to the moratorium?

MR. PRATT: No, for example, the drainage the middle of last summer. We completed all the drains on the job as of last summer. We started construction in March of 1978. The last bill outstanding, we had a trash removal bill of some \$20,000.

SENATOR DODD: I don't know whether the Commission is prepared to comment on this.

SENATOR PARKER: Let's hear why they were turned down.

MR. MOORE: First of all, it should be stated --- and I think there was a reference by the speaker to denials of hardship involving capital improvements in the ground. This Commission has never denied, nor have I ever recommended a denial of an application where it has been indicated that there was a capital improvement in the ground. And there were not any examples of that particular action by the Commission.

This particular application was received by the Commission on October 23rd,

1979, which I think indicates also the speed with which we have the ability to process applications of this nature.

The applicant, as he mentioned, was given an approval on a number of lots within that particular subdivision. We did not feel it appropriate to approve the additional lots because there were certain environmental factors that related to this particular site. Mr. Harrison can explain those to you as we go along.

SENATOR PARKER: Let me ask a question. You made a statement that you have never recommended nor have you denied hardship where the capital has been put into the ground. Are you saying there was no capital in the ground on this project?

MR. MOORE: No. I am saying this application was not denied. This application was approved for a number of lots of the total.

SENATOR PARKER: Why wasn't it approved for all of them? Why do you have the right to tell him ---

MR. MOORE: We would like to explain to you the reasons for that particular denial.

SENATOR DODD: Are you well familiar with this particular project?

MR. HARRISON: I think two things have to be borne in mind on any application. One; any denial is only effective until the plan is adopted. Then, after the plan is adopted, they will have the right to apply under the plan if these lots meet the provision of the plan.

SENATOR PARKER: What about the cost of building and the interest?

MR. HARRISON: Under the Pinelands Protection Act, the Commission is not allowed to approve applications even if hardship circumstances exist if the development would result in substantial impairment of the natural resources of the Pinelands. Based on review of development of these six lots, under the rules as promulgated by the Pinelands Commission, it was felt that this development on these six lots during the planning period would result in a substantial impairment.

SENATOR PARKER: Six additional septic systems are going to be a substantial impairment.

MR. HARRISON: Three of these lots --- When the Division of Water Resources did its review in early 1978 immediately after the critical area regulations were adopted, they were not looking at water quality impact on surface water bodies. Subsequently, pursuant to the regulations, they have enforced the two parts per million standard which these lots did not meet. These lots also are in a wetland area, as defined by the Commission's standards, or within 300 feet of a wetland area. Under the Commission's standards, that would result in a substantial impairment of the environment.

The use of septic systems on these lots requires at least five feet of fill.

SENATOR DODD: Was that explained to the applicant?

MR. HARRISON: Yes.

SENATOR DODD: Just as a matter of form and not just because we are here this particular day, I think that as a policy for the Commission if you could explain to the fullest your problems with any application in preferably layman's terms - now you wouldn't have to do that with a builder or a developer, but for individuals - and say, "Hey, here is the reason you can't do it or why we think you can't do it," I think that would go a long way ---

MR. HARRISON: As the applicant has indicated, they met with a member of our staff following a letter being sent out. Further, when an appeal is filed, the

Office of Administrative Law sets up pre-hearing conferences before a hearing. But we are always ready to meet with any applicant after they receive a letter, before we take any action, to discuss their projects.

SENATOR DODD: Advisory meetings?

MR. HARRISON: Yes. We have them before an application is filed and at any point when an application is pending.

SENATOR PARKER: I would like to look at this file. It is one of the ones I think we should look at.

SENATOR DODD: It seems to be a good example.

SENATOR PARKER: Are you saying that six additional septic systems are going to substantially impair the resources of the Pineland because it is within 100 feet of what?

MR. HARRISON: No. It is within 300 feet of the wetlands. Several of these are actually on wetlands.

SENATOR DODD: Would you bring the map up, please.

SENATOR PARKER: What do you mean by wetlands?

MR. HARRISON: There is a stream running through the corner of that lot.

SENATOR PARKER: Were there any tests taken of that stream or wetlands to show that impairment?

MR. HARRISON: We are not saying that a septic system is going to degrade the quality of the stream. Since Water Resources reviewed this, we are not reviewing it for that issue.

SENATOR PARKER: Well, they are reviewing it for water quality, right?

MR. HARRISON: They did not.

SENATOR PARKER: And they had their standards in effect long before you did.

MR. HARRISON: They did not review it for surface water impact.

SENATOR PARKER: Does discharge from a septic system get into surface water?

MR. HARRISON: Yes, it does.

MR. MOORE: The Senator asked if there is a relationship between the septic systems and surface streams in the Pinelands. There is a very direct relationship between the groundwater in the Pinelands and the streams of the Pinelands. There is, in fact, a relationship that is rather unique to this particular area. When rain percolates into the groundwater system, it normally ends up in the streams which drain that particular area. It is very unique to this particular area and this type of soil we are dealing with.

The Senator also asked, I believe, if six septic systems constituted a substantial impairment of the Pinelands. I think you also have to look, as we do, at the combined impact of every six septic systems that we approve. When you combine all of these kinds of activities within that particular type of soil and the six become a hundred and the hundred become a thousand, then there is a very real substantial impairment of the Pinelands.

SENATOR PARKER: Are there any other developments around this one?

MR. PRATT: No.

SENATOR DODD: On this map, Barry, - I asked the builder to bring it up - the stream does go actually through the lots. Now whether the tunneling or ---

SENATOR PARKER: How does the stream get through the lots?

MR. PRATT: There is a small stream across the back waterway which would be piped. There is a pipe coming underneath the road here (indicating on map) and there is a pipe underneath the road here (indicating)

(Discussion off the record.)

SENATOR DODD: We will continue with Mr. Ziccardi's testimony and then we will break for lunch and return in about an hour after we recess for lunch.

MR. MOORE: I don't think I am going to have an opportunity to do this in the rush to lunch. There was a discussion previously about nitrate contamination of groundwater supplies. We do have available for the Committee the background papers on nitrogen contamination, particularly as it relates to the Pinelands, and I think they may answer a number of questions that you have raised.

MR. HARRISON: With regard to the water quality in the central pine barren streams, their standard is 2 parts per million. If the existing water quality is better than that, they allow 2 parts per million. A septic system on a one-acre lot will produce in normal soil conditions a nitrate level of between 8 and 9 parts per million.

SENATOR PARKER: In the soil?

MR. HARRISON: At the stream; with a one-acre lot, it will be that level at the stream. If the stream is on the property boundary, the level would be a little higher at the stream.

SENATOR PARKER: And is that above Mr. Schiffman's water quality standard?

MR. HARRISON: The water quality standard at the surface water body is 2 parts per million.

SENATOR PARKER: And, in fact, this is what would happen?

MR. HARRISON: If this project were reviewed by the Division of Water Resources now, the lots we are talking about would not have been approved by the Division of Water Resources. Since it was already approved, they don't look at it again.

MR. PRATT: They have already approved this.

MR. HARRISON: At that time, they were not looking at surface water quality.

SENATOR DODD: But it was approved by them?

MR. PRATT: Yes.

SENATOR PARKER: So you had all your approvals and the money was in the ground and you are still denied?

MR. PRATT: I can't even get a building permit on a lot that is not one of those six lots. I am denied a building permit on the whole job.

MR. HARRISON: That is not an accurate statement. We offered to the applicant an approval to go out on the remaining lots so he could build during this period. His attorney did not desire that course to be taken.

MR. CATANIA: How many lots did you approve? How many lots were approved and how many were denied?

MR. PRATT: Twenty-two lots were approved. There were some lots in the second section. Six lots of the 28 were rejected. Now the only way I could get a letter from them approving the 22 lots is if I accepted a rejection on 6 lots.

MR. HARRISON: No, not accepting - you would maintain your full appeal rights. You could continue with your appeal on those.

MR. PRATT: That was not the opinion of my attorney.

MR. HARRISON: We stand ready to do that. If you want us to do that, we are more than willing to do that. We have done that for other applicants. We are ready to issue an approval if the Commission will go along on the remaining 22 lots.

SENATOR PARKER: Why don't you just issue the building permits for the ones you have approved? Why did you hold up anything for negotiation? Why didn't you just approve it and let him take it or lump it?

MR. MOORE: The applicant did not want to accept the approval. He had been approved for 22 lots, denied for others, and he chose not to accept the approval of the 22 lots. We can't issue the approval if he doesn't accept the approval.

MR. CATANIA: It is an approval with conditions. If the applicant doesn't accept the conditions, he doesn't get the approval.

SENATOR PARKER: For the other lots?

MR. CATANIA: For the others.

SENATOR DODD: That is these conditions here.

MR. MOORE: He does have the opportunity to have the approval for the 22 and keep his appeal on the 6 pending if he wishes to take that route.

SENATOR DODD: And you chose not to do that.

MR. PRATT: My attorney advised me that if we had 28 lots total and if we were going to accept --- Here is what it was and this is what it came down to: We will give you 22 lots and we are going to take 6 lots away from the subdivision. In order to get the 22, you have to take a reduction on the 6 lots.

MR. HARRISON: We would issue a recommendation of denial, but that could be appealed as any recommendations of denial can be appealed.

SENATOR PARKER: But can he go ahead and build on the 22?

MR. HLUCHAN: Certainly. That is what he just said - no question.

MR. MOORE: I think I would recommend that your attorney discuss this with our attorney.

MR. PRATT: He already has discussed it.

SENATOR DODD: I still don't see the logic of rejecting the 22 when you can still appeal the 6.

SENATOR PARKER: Were there other conditions that you couldn't live with?

MR. HLUCHAN: There were no conditions attached to the 22 other than normal.

SENATOR PARKER: I am not your attorney.

MR. PRATT: My question to you is this: If, in fact, that is the situation, why didn't the Commission advise the building inspector to issue me permits on all except the six lots?

MR. MOORE: You refused the approval.

SENATOR PARKER: The Township Attorney told them to issue the building permits, right?

MR. PRATT: Prior to that, yes. Now, the Township Attorney has been advised by the ---

SENATOR PARKER: --- in the Attorney General's opinion, not to.

MR. ACKERMAN: Let me speak on something I think we can all relate to and understand. Let's get right down to the pocketbook. Interborough Savings and Loan who is financing this job for Charles and me have based the financing on 48 lots. I would like you to be with me when I walk into their office and

say, "Gentlemen, I now no longer have 6 lots. I am going to be allowed to appeal it in the future, but I no longer have 6 lots." "Yes, but, Mr. Ackerman and Mr. Pratt, we have issued you your financing predicated on 48 lots on which you have borrowed approximately \$10,000 per lot, let's say, as a conservative figure now that the improvements are in and you have brought the ground. Now, those 6 lots times that \$10,000 is \$60,000. We want that money back or we are not going to continue with the job." Now, tell me, gentlemen, where do I get that \$60,000? I am not a rich man. As you can see, I am a rather young man. I have been in this business now for 9 years. For 7 of those years I worked very hard to get into this subdivision 2 years ago. I would like to tell you I took cash out of my pocket and paid cash for the ground, but that is not true.

SENATOR PARKER: Could the bank call the mortgage?

MR. ACKERMAN: The bank could very well call the mortgage and cause me a financial bankruptcy. I am being forced into bankruptcy with this situation when you get down to the reality and the practicality of the situation. Let's talk reality and practicality, dollars and cents.

SENATOR PARKER: Let me just say: Number one, the bank hasn't called the mortgage.

MR. PRATT: The bank does not know the 6 lots have been taken out of here because we have not told the bank.

MR. ACKERMAN: They are sure going to know after today.

MR. PRATT: I guess I had better call them this afternoon.

SENATOR PARKER: Assuming they don't call it, you still have the ability to recoup the cost of those lots in the other 22 if you have to.

MR. PRATT: No.

SENATOR PARKER: Why?

MR. PRATT: Right now, we have \$10,000 per lot improvement cost. We have the cost of the acquisition of the land. On top of that, we have interest. Those lots right now are approximately \$20 to \$22 thousand per lot in cost out of our pocket. If you take that times 6, it is \$120,000; and, if you take \$120,000 and spread that across 22 lots, which is not right because other lots here are already under contract --- We have 13 lots over which to spread this.

SENATOR PARKER: When you say "under contract," that means the price is firm?

MR. ACKERMAN: Yes, sir.

SENATOR PARKER: It can't vary?

MR. ACKERMAN: Of the 48, 17 are settled and I don't even own anymore. I can't go back to them and say, "Hey, the Pinelands doesn't like these 6 lots. How about helping me out and throwing in a few bucks."

SENATOR PARKER: Who is building the houses on those? Are you building the houses?

MR. ACKERMAN: Seventeen of them I no longer own. I have conveyed them to private individuals.

SENATOR PARKER: With no contract agreement for you to build the house for them?

MR. ACKERMAN: No, sir.

SENATOR PARKER: The developed lot has been sold. You are not building the houses in addition?

MR. ACKERMAN: No, sir. I am a builder and we have built every house out there.

SENATOR PARKER: So you have no way to recoup your loss?

MR. ACKERMAN: That is correct, yes, sir. We have built every house on that job; every stick we have put up.

SENATOR PARKER: There are lots that have been sold. You don't have the ability now to put a house on there and increase the price of the house.

MR. ACKERMAN: No lots have been sold, no, sir. Any lot that has been sold has been sold with a house on it. Any lot that has been sold has been sold with a house on it which we contracted to build - both the lot and the house.

SENATOR PARKER: What about the 17 that he said the lots were sold, that you don't own anymore?

MR. PRATT: There are people living in them.

SENATOR PARKER: Oh, you built the house?

MR. ACKERMAN: I built the house and people have physically moved in.

SENATOR PARKER: You still have 22 developable lots.

MR. ACKERMAN: But of those 22, we have sales.

SENATOR PARKER: Right. But you can still increase your ---

MR. PRATT: We have 19 lots in the third section. Everything in the second section is basically committed right at this point. We have 2 going into the contractors next week. Right now, we have 19 lots left; and, of the 19, we have the 6 lots taken out of section three.

SENATOR PARKER: Out of the 19 you have left to develop, you have to recoup \$60,000, which is \$10,000 for each of the 6 lots.

MR. PRATT: We have to recoup \$120,000 because the \$60,000 that John related to you is only the site improvement per lot. The cost to put the curb in, the cost to ---

SENATOR PARKER: That doesn't include your overall development.

MR. PRATT: We are bonded with Republic Insurance Company on all of Section 3. The bonds were posted last summer. We signed personally on that bond. If I go back to Shamong Township and tell them I am not going to complete the road on that side of the street where they are taking those lots out ---

SENATOR PARKER: They will probably raise your bond.

MR. PRATT: (Continuing) --- of course, they are going to pull the bond in and they are going to complete those center improvements and also put a deacceleration lane out here. Those 6 lots are the most expensive lots for us to complete.

SENATOR PARKER: Let me ask you this: Suppose you don't get the approval. Suppose you lose. What are you going to do, go into bankruptcy or are you going to increase the value of the house and the lot if you sell it?

MR. PRATT: Right now, we have \$120,000 to be spread over 13 more lots. A lot of people in the audience can verify what I am going to say now. Right now, a one-acre lot in Shamong Township with no trees on it - if you think I can market those lots at \$30 to \$35 thousand a lot, I will sell the whole third section to them right now because it won't happen.

SENATOR DODD: Anthony, would you finish your testimony, please.

MR. ZICCARDI: Just as a sideline to the testimony that was just given, the League will be preparing and I will prepare for you a listing of the cases that we are aware of, through our membership, supporting the testimony.

SENATOR PARKER: I know that Kings Grant has \$20 million in the ground.

MR. ZICCARDI: If you wish, we will prepare a full report.

SENATOR PARKER: That is why we are having this hearing today. That is one of the main issues.

MR. ZICCARDI: There are a number of points that we wanted to raise.

I will continue my statement. I left off at this particular paragraph. It was our understanding of the legislative history that the law specifically left the hardship criteria up to the Commission so that it could be reasonable and flexible. Yet it contained the "no substantial impairment" proviso to prevent a qualified economic hardship from creating a substantial impairment of the Pinelands environment.

We urge you to request the Commission to broaden the hardship criteria to include preliminary and final approval costs.

SENATOR PARKER: Excuse me. On that point, was it at the time the moratorium went into effect?

MR. ZICCARDI: I think even beyond that, Senator.

SENATOR PARKER: Why should we allow it after?

MR. ZICCARDI: Well, there could have been a considerable amount of money spent in acquisition and engineering before the preliminary plan was submitted. So I think if you say anything that was preliminary beforehand and grandfathering that, you are not including the entire ---

SENATOR PARKER: How did you know the municipality would give you the preliminary? I am involved in a lot of suits now in which they have gone ahead and the township has then turned then down. All the Mount Laurel cases involved that.

MR. ZICCARDI: That is a risk that we normally take. If we research the law and the zoning ordinance and the subdivision ordinance in a town, we know that in accordance with the Municipal Land Use Law we are allowed certain rights under those regulations.

SENATOR PARKER: Once you get the preliminary.

MR. ZICCARDI: Right. But if it meets the zoning requirements, there should be no reason, other than meeting the engineering requirements, that the subdivision shouldn't be granted approval. When you are out on a limb on a piece of land that is not meeting the zoning where you are going and after a zoning requirement that is not part of that particular town's subdivision master plan, then you have a different situation.

SENATOR PARKER: But if we permit what you are saying, then every developer could come in and do his engineering now after the Act has gone into effect and boot-strap himself in anywhere he wanted to go.

MR. ZICCARDI: No, I don't think that is the intent of what we are saying.

The next issue I wish to bring to your attention is the qualification of the clause, "no substantial impairment." It would appear from many of the applications recommended for denial that the Commission has not developed a way of qualifying "substantial impairment" of Pinelands resources, and includes no hard findings or evidence of such impairment in its recommendations for denial.

We are certain that the Pinelands Protection Act intended there be findings of fact in the review process which are quantifiable and would distinguish negligible impairment from substantial impairment.

Since the Commission has scant scientific evidence to back up several of its standards, it is very difficult for an applicant to prove "no substantial impairment" of the resource, since he is trying to prove his case against a non-existent base-line target.

We urge you to seek a resolution to this dilemma. We believe the Commission must be able to show quantifiably that substantial impairment of the resource will follow the approval of a particular hardship application. After all, the legislation specifically included the "no substantial impairment" language to cautiously liberalize the approval process for hardship cases.

One of the most troubling aspects of the development review process is the issue of defining what is "piecemeal" growth, which is discouraged in the Act. Other than Standard #4 which relates to off-tract improvements, the Commission has not developed a standard which defines this condition. There has not been any public hearing or discussion on the subject at all. However, this condition of "piecemeal growth" is one of the conditions most often referred to in letters of denial. Since no standard or definition exists, it is impossible for an applicant to know whether to proceed with an application or how to technically argue the merits of his case should he decide to proceed.

We feel it is imperative that a definition for piecemeal development be developed immediately and subjected to public debate. We urge your assistance in seeing that this is done and that the final definition meets the intent of the legislation as the Energy and Environment Subcommittee understood it.

In concluding my comments on the development review process, I think it would be fair to say that we feel some of the standards, or their interpretations, are more strict than the legislation intended and, as if that weren't bad enough to cope with, several members on the Commission have voted to deny applications which have made it through the regulatory wringer and been recommended for approval by the Executive Director.

We feel the public and economy of South Jersey would be well served if the Energy and Environment Committee scrutinized the 12 development review standards to assure that their effect is that which was intended by the letter and spirit of the law.

The League would be available to assist the Committee in gathering any information it would need to conduct such an assessment of the standards and their actual interpretations.

The rest of my comments relate to the preparation of the plan. We are extremely concerned with the short time which the Commission will have to complete its studies, analyze the findings, propose recommendations and conduct an intelligent and thoughtful dialogue with the public prior to the August 8, 1980, adoption deadline.

This plan is perhaps the most comprehensive land use law in the country and it seems inconceivable that it can be completed thoroughly in a scientifically defensible manner in the 10 months it has had since it obtained its planning staff.

We cannot more strongly recommend to you the need for your direct and continuing legislative oversight of the preparation of this plan.

Issues such as who does the development review after August 8th, when the municipalities have not yet adopted new ordinances in compliance with the plan, are critical to the building industry which cannot be put on hold again while chaos reigns in a transfer of power between the Commission and its 52 municipalities and county and State agencies.

We urge you to consider holding hearings on substantive planning issues if you sense the public debate is not going well or the plan is heading in a direction contrary to the intent of the legislation.

Again, thank you, Senator Dodd, for taking the time to stay in close touch with this planning process which is vital to the environment and the economy of a vast portion of Southern New Jersey.

SENATOR DODD: Thank you very much. Thank you, gentlemen.

We will recess for lunch and return in one hour.

(Recess for Lunch)

SENATOR DODD: We will start the afternoon session and run through 4:00. We will have a follow-up meeting in the State House for the people we don't get to here. It will be held at a regularly scheduled meeting.

I would like to call William Thompson, representing the Coalition for Sensible Preservation of the Pines.

W I L L I A M T H O M A S: My name is William Thomas. I am a realtor from Ship Bottom and Vice Chairman of the Coalition for the Sensible Preservation of the Pinelands. We are very active in the deliberations which preceded passage of the Pinelands Protection Act and have closely monitored its implementation.

We asserted when the law was passed, and continue to believe, that New Jersey's Pinelands area is truly a unique natural resource which should be protected from environmental damage through sensible planning goals and realistic land-use regulations. As is accepted in other equally sensitive areas of this State, environmental protection is a goal that can be pursued in a manner which also respects the historical and constitutional rights of residents to land ownership and regulated development.

In opposing a blanket moratorium and many of the provisions of the Pinelands Act, which we regarded as excessive, we warned of the adverse impact such measures would have on the Pinelands area -- a seven-county region, covering fifty-two municipalities, or one-fifth of the entire State. Our claims were dismissed by some at the time as cries of wolf from self-interested groups. But, the experience of land owners, municipalities, builders, bankers, and developers since the imposition of the moratorium -- and particularly during the six-month operation of the Pinelands Commission -- have proven us to be correct. This massive governmental intrusion on the rights of thousands of residents of South Jersey has exacted a costly and frustrating price.

As damaging as these events have been, however, we find ourselves faced with an even graver concern, namely, that the excessive "interim" restrictions imposed upon us by the Pinelands legislation and its executor, the Pinelands Commission, might now become a permanent hardship under the terms of the Comprehensive Management Plan being assembled by the Commission.

The importance of the Plan cannot be overstated. It will not only provide a conceptual blueprint for the future of this huge region, but actually will dictate the manner in which the areas will be permitted to grow or to stagnate.

Such an important and far-reaching undertaking demands the close attention of the Legislature which called for its imposition.

It is our firm belief that the Pinelands Commission, as presently constituted, will find it extremely difficult to produce a plan which will prove fair to all interests in South Jersey. The actions of this group to date have confirmed a "no-growth" bias which reaches well beyond the intent of the law.

Without strict legislative oversight, we are convinced this Commission will produce a plan which will cause profound damage to the economy and future of South Jersey.

What is the record of the Pinelands Commission? The Commission's first task after taking office in July, 1979, was to construct a set of standards governing development and construction pending implementation of the Comprehensive Management Plan. The standards which emerged went well beyond reasonable goals of the legislation, such as strict preservation of the environmentally sensitive "core" area.

For example, the Act said that standards for the Pinelands fringe, or "Protection" area, were to ensure that no "substantial impairment" would result to the environment. Instead, they were drawn in a manner calculated to discourage virtually any development larger than a single-family dwelling.

As if standards were not sufficiently stringent to discourage development applications, hard-liners on the Commission then produced an additional set of building "conditions" which Commission staffers could demand of individual applicants. These nine, so-called "Low-Tech" conditions, which are now being imposed freely on most applicants, have never had to stand the test of public hearings.

Thus, even if an applicant can satisfy the Commission's standards, Commission staff members can impose any one or all of the nine conditions. They include prohibitions on grass lawns, hardtop (macadam) driveways and the use of any fill to raise ground elevation, as well as narrow limitations on the placement of utility lines and vegetation clearing around structures.

The result of all of this has been that few residential units other than single-family homes have emerged from the review process to win Commission approval. Many are disallowed by the stringent standards. Others are recommended for denial when applicants refuse to agree to onerous conditions. Many applicants simply give up and withdraw their applications after months of frustrating delays.

The Commission's official publication, "The Pinelander", recently boasted in a lead headline, "Commission Putting Brakes on Big Subdivisions While It Writes Pinelands Plan." The story under the headline announced that "a tally of the Commission's development review decisions and pending cases...shows that the moratorium has had a marked effect in holding down the number of new houses in the Pines."

That admission is actually too modest. These figures that I am about to quote do not include last Friday's meeting. In other words, they represent what went on before that time. In its six months of operations, the Commission has approved only 893 new housing units in the entire seven-county region. Meanwhile, it has recommended the denial of 3,567 new units and has taken no action on an additional 23,168 residential units. If halting home construction anywhere in the Pinelands is its goal, the Commission is doing an exemplary job.

Of course, as the statistics show, large building enterprises are being severely damaged. But even less able to survive are hundreds of small builders, usually family operations, each of which account for only a handful of new homes each year.

Many other people also have been affected. They include lifelong residents whose sons and daughters cannot find housing in their home towns, and elderly landowners who would like to sell their properties and retire elsewhere but cannot find buyers because of the chilling effect the moratorium has had on the Pinelands real estate market. They, of course, must continue to pay taxes at pre-moratorium rates for land which suddenly is of much less value.

Meanwhile, available land adjoining developed areas where some construction is being approved is selling at such inflated costs as to exclude all but wealthy home buyers. Mortgage money is tied up; construction companies and developers are losing tens of thousands of dollars on lots which now cannot be developed; municipalities fear further erosion of ratables will result in skyrocketing tax increases, and South Jersey residents who voted for Clean Water bonds to construct treatment plants to protect the Pinelands' valuable groundwaters now face rate hikes from municipal and private utilities whose plants may never be fully utilized.

Atlantic County planners have projected a need for some 5,400 new housing units a year to support the area's casino boom, but the Commission continues to reject applications based on technicalities. And, the Commission is not satisfied

to police post-moratorium development, but is extending its review powers to projects legislators never intended to come under its control. It claims that builders who received every necessary state and local approval for their projects prior to the imposition of the moratorium still must go through the Commission if they lack a building permit. It is clear to anyone familiar with building regulations that this is simply a ploy to extend the Commission's jurisdiction, since building permits - a misnomer - are nothing more than local certification that the builder has obtained all necessary permits.

What happens when an application for a sizable development squeezes through the eye of the Commission's regulatory needle?

In one such case, being good enough wasn't good enough. A developer in Medford was approaching approval for a 195-townhouse development at Atco, a developed area, when the Pinelands Development Review Board was replaced by the Commission. The Commission staff took five more months to review the application but agreed to recommend its approval after the applicant agreed to trim his proposal to 86 units and relocate a proposed detention basin. The application received the blessing of the Commission's executive director, but environmental hard-liners on the Commission were able to block its approval at a meeting which several moderate members failed to attend - a chronic problem.

The applicant, who bargained in good faith, bowed to the Commission's conditions and met its standards, nevertheless must now re-argue his case before an Administrative Law Judge before his application can again appear before the Commission. He estimates losses of thousands of dollars each month that construction is delayed.

This may be environmental protection to some, but we believe it is a shameful way for the state to deal with its citizens.

There are several others here today who would like to relate how their applications have been treated by the Commission. We believe you will find their stories enlightening and you will conclude that the Pinelands Commission is a public body which requires the closest monitoring as it shapes the plan which will guide South Jersey for many years to come.

We strongly urge this Committee to undertake an immediate review of the standards and requirements of the Commission and hold public hearings on the Comprehensive Management Plan at various stages of its development. Thank you.

SENATOR DODD: Thank you, Mr. Thomas. How many members are in the group you represent?

MR. FISHER: Well, the Coalition is made up of builders and developers.

SENATOR DODD: May we have your name, please?

MR. FISHER: I am David Fisher. I am an Environmental Coordinator with the New Jersey Builders Association. Our Association is a member of the Coalition, along with many of our locals. The Coalition is also made up of other developers, realtors, Chambers of Commerce, and other banking interests.

In terms of organizations, we probably number somewhere in the neighborhood of 25 or 30 organizations, but in terms of people, it goes far beyond that number.

SENATOR DODD: All right.

MR. THOMAS: Senator, if I may, I said there were several others here today. Apparently only one of them stayed on after lunch. I was just wondering if you would hear Mr. Steve Brick?

SENATOR DODD: What is your affiliation, Mr. Brick?

STEVE BRICK: The Coalition for the Sensible Preservation of the Pinelands asked me if I would present a specific case.

SENATOR DODD: Are you a builder, or a developer?

MR. BRICK: I am a developer, yes.

SENATOR DODD: I see.

MR. BRICK: My name is Steve Brick. I am from Medford. The project I am going to describe today is called Muskingham Woods. If I may, I think I will try to be brief. It is a complicated situation, but I think this map - if I can ask someone to hold it up - would be helpful.

If I may, this is a total sub-division. It represents 41 lots on 79 acres in the protection area in Shamong Township, New Jersey. It is also within the critical area of DEP. We never owned Section 1. We bought Section 2, which is these 13 lots, and Section 3, which is these 17 lots, from a construction outfit who developed Section 1.

We bought Sections 2 and 3 on September 11, 1978, in a partially improved state. Mostly, I will deal with Section 2. Section 3 has been granted an exemption. It was granted an exemption in April or May of last year by the predecessor board, the Development Review Board.

Preliminary and final approval were granted on Section 2 in 1979 - the final one was granted in '78, the preliminary one was granted long before that. Prior to the imposition of the moratorium - and again I refer to Section 2 only - we had expended a little over \$200,000 in land acquisition, curbing, drainage, paving, engineering interest, posting our bonds, final approval, and what have you.

In January of '79 we received Critical Areas Ethic Approval - DEP Critical Approval - for Section 2, which contained 13 lots. I state that we are selling lots. We are not builders. We sell lots to builders. We sell lots to Mr. and Mrs. Smith or Mr. and Mrs. Jones, who want to build their own home on them.

From January until September of '79, we sold five of the lots, the five lots in Section 2 with red pins. Houses were built on those lots, using the permits that we had obtained -- the well permit, the septic permit, and all the local township approvals. Our well and septic permits-- Our DEP Critical Area Approval and the well permit expired in September of '79. In August of '79, we submitted an application for exemption for Section 2, having already gotten an exemption on Section 3, and having fully improved the job, eight-tenths of which, approximately, was on the basis of being prior to the moratorium. The balance was spent on reliance on our DEP Critical Area approval and the well permits. We went through a five month period, or a six month period, from January of '79 to August of '79 when we would have been able to get a building permit. Now, we are not builders. We had no idea what would be built there and we couldn't take out building permits. They would have expired within six months, I believe, and that would have served no purpose. But, we had all our approvals, including the Critical Area Approvals that were described by the DEP people who were here earlier.

We submitted an Application for Exemption in September. In October we were requested to submit some hardship information. We submitted costs at that time totaling about \$280,000. This was only for Section 2. All my numbers pertain to Section 2 only. I received a call from the Pinelands Commission in

November stating that they would grant us approval on five of the remaining eight lots, but they wanted to delete, or deny approval, on these three. The three blue pins, by the way, are lots that we have under contract to sell, subject to getting a Pinelands Exemption and renewing our approvals.

Let me backtrack and give you some financial information. We have, on Section 2 alone, mortgages totaling \$88,300; personal loans of about \$100,000; cash investment out of our pockets of \$92,000; and a letter of credit, in lieu of a bond, to install the improvements, from a bank, of \$25,800.

To backtrack, I got a call from the Commission saying that they would like to take away those three lots because portions of the lots were within 300 feet of the Wetland. This is technical, but I would like to go through it, if I can take your time.

SENATOR PARKER: Identify the stream.

MR. BRICK: There is a stream here--

SENATOR PARKER: What is the name of it?

MR. BRICK: Jordan's Branch.

SENATOR PARKER: Where does it drain?

MR. BRICK: It drains into Muskingham Brook, and I can't tell you where it goes beyond that.

Our lot line ends here. There is a blueberry field here. There are houses here. All the houses are built in the first section -- the first section and the second section come together here.

We were told we had two problems. One was that the storm drainage from Sections 2 and 3 drained down to here and at a head wall, spill into the Wetlands. That drainage question was examined at the time we got our exemption on Section 3. Both Sections 3 and 2 flow into that one head wall. The drainage situation was analyzed at that time and a condition of our Section 3 exemption was that we do some additional work at the end of that head wall. But, now, in going back and seeking approval for Section 2, that drainage - which had been installed for some time - was problem number one. Problem number two was the fact that portions of three of these lots were within three hundred feet of the Wetland, although over six hundred feet from the stream channel itself.

I met once with representatives of the Pinelands Commission and at that point they agreed that maybe this lot was okay. So, now we were down to losing two lots. I had prepared, at that point, an exploded view of that cul-de-sac. This is Cedar View Court, which is the cul-de-sac. Again, the stream is down here, some three hundred feet from the head wall.

Standard Number 9, which is the three hundred foot standard, defines the beginning of a Wetland as the occurrence of certain types of vegetation. So, we retained a botanist to locate, precisely, the location where the vegetation changes. At that point it was agreed that this lot was probably okay. We were down to two lots and a storm water problem. That had been approved as part of Section 3 and was already completely in place. It drained both Section 2 and Section 3.

I then went back and took test borings in the blueberry field, because they were saying that the blueberry field was Wetland as well.

SENATOR PARKER: What constitutes Wetland?

MR. BRICK: I will have to refer to their Standard 9, which identifies certain types of vegetation and says that if that vegetation is there, it is

a Wetland. This had been cleared for blueberries and there wasn't any of that vegetation. But, in any event, we went back and took four test borings in the blueberry field.

SENATOR PARKER: Let me ask you another question: Does the Wetland drain anywhere in particular?

MR. BRICK: It drains into Jordan's Branch.

SENATOR PARKER: And then it drains on out?

MR. BRICK: It drains from there into the Muskingham Brook, and from there, I don't know.

We went back after locating this line, and with these four test borings, and then we were told, "Well, gee, I guess your problem is only with this lot." A month goes by each time we produce more evidence. The most recent word I have gotten is, "Gee, the storm water is going to be a problem whether houses are built on the land or not." The storm water is there. The streets are paved. The curbing is in. The storm water is going to flow out of that head wall if any construction activity takes place or not. So I guess we can't do anything about that, although we would like to.

We explored some engineering solutions to the drainage problems, but the pipes here are so deep, that is impossible to construct a detention basin, or a retention basin, or do anything else with it at this point.

The last word I got, informally, in discussion with the Pinelands Commission was that we now have one lot in jeopardy. It happens to be one of the lots that I have under agreement of sale. This process has taken from August 17 until today. I don't have an approval yet. I was originally told that if I were willing to give up 3 I could have an approval. Then if I were willing to give up 2, I could have an approval. Then if I were willing to give up 1, I could have an approval. That's where it stands today.

I have, by the way, looked into the source material. It is the only reference material I can get from the Pinelands Commission which deals with the three hundred feet. It is presumably the source of the three hundred foot guideline. That material refers to distance from septic system to a stream channel. We are six hundred feet from a stream channel, but it says: "It would seem prudent that no septic tank should be as close to a channel as about three hundred feet."

The septic tank on this one remaining lot that is in question is about two hundred and sixty feet, at its nearest point -- between two hundred and sixty and two hundred and eighty feet - from this line. There is no question that we would have avoided, under today's standard, this area if we were designing the project today.

We have an agreement of sale on three lots and I can't perform under that agreement until the exemption is granted. It has been pending since August. We had, at one point, all of our approvals, including Critical Area, DEP approvals, which we think answer the question of substantial impairment. The standards under which we got our DEP approvals are still in effect. They haven't changed. We are not working with outdated standards.

We have a total investment of \$280,000. Our business is primarily a brokerage business. We are a residential brokerage in Medford. Last week we went to borrow some funds from the bank who holds these mortgages and letters of credit in order to obtain a swing loan for some customers who were between houses. I got back a letter - yesterday - which says that until the Muskingham

Woods obligation is reduced, they will grant us no further credit of any sort. So, at this point the problem I have here is spilling over into all my other business ventures. I should say that I own one-quarter of the project. My father owns three-quarters of it. He has substantial personal loans. Our carrying costs are about \$3,000 a month. We have three agreements of sale that are dependent upon the sale of these lots.

Further - if I can put this other map back up a minute - the builder who bought four of these lots would like to buy some more. He would like to buy these two lots to put sample houses on. Because of the fact that I can't sell him a lot due to the Pinelands Exemption, he can't put up a sample, and that interferes with the sale of all the other lots. We have taken the lots in Section 2 off the market, as of November 1st, because we did not know what their status was. What wasn't a crisis in August has turned into a real financial crisis for us at this point, because this tail is wagging our dog substantially.

I started out losing three lots; I am down to losing one lot, and that is unacceptable. Further, my final point is, I submitted an analysis in November or December which shows that if we sell all eight remaining lots for the average sale price of the five we have sold already, we will lose \$42,770. I am not working with profit; I am working with how much I am going to lose. We will make some money - not that much - in Section 3. We bought the job from a builder who was going bankrupt. I, quite candidly, wish I had never seen it, but that is my problem at this point.

SENATOR PARKER: Where is that? You must be pretty near Ackerman.

MR. BRICK: We are about a mile from Ackerman.

SENATOR PARKER: Because he was on that same stream.

MR. BRICK: Yes, we are about a mile from Ackerman.

SENATOR PARKER: He must be on the south side of--

MR. BRICK: It is in Shamong Township.

SENATOR PARKER: Oh, this is Shamong Township?

MR. BRICK: Yes.

SENATOR PARKER: Oh, I thought you said it was in Medford.

MR. BRICK: No, I live in Medford. That is where my business is.

I will lose if I sell all eight lots. I will lose \$42,700, and I can document that very clearly. I have lost about \$10,000 in the delay, from August to today, in spite of the fact that I went through a seven-month period when I could have gotten building permits. I don't understand the justice of that.

SENATOR PARKER: Can I ask you a question? Why does DEP have different standards for the water than it has for the Pinelands? In other words, how can DEP approve this and give them the approval, three hundred feet from the water, or the Wetlands? I see you have defined this and the book has two pages of definitions on it. How can you justify, environmentally, the difference and the degree of difference? I would like to see the degree of difference and how that septic on that one lot is going to affect a stream and overall water quality.

MR. MOORE: First of all, I would like to address the initial issue. The applicant has talked about his documentation of hardship, which was requested by the Commission staff. We always make provisions for the applicant to document certain financial hardships. The applicant did so. The letter is dated January 26, 1980.

MR. BRICK: No, no. Excuse me, my submission was made in October,

MR. MOORE: I have a letter dated January 26, 1980 from Mr. William Harrison, which details the hardship information from a financial standpoint. I believe it is signed by Mr. Brick.

I also have a letter which was delivered to our office today, which is a request for speedy movement of the application.

The standards which we have adopted as part of the interim standards for development review, are, in most cases - particularly in the critical area - the same as the DEP Critical Area Standard. The Commission adopted a standard for septic effluent discharge outside of the critical area, utilizing the drinking water standard of the State of New Jersey, at the property line, which is ten parts per million.

SENATOR PARKER: That is the same as the DEP?

MR. MOORE: That's correct. The difference between the standard we utilize in the protection area, or outside the critical area, is that while DEP uses two parts per million nitrate contamination, surface water contamination, we use the existing background level of the stream, which may be higher than that. In other words, it is a relaxed standard, to some extent, outside the critical area.

SENATOR PARKER: You will have to explain that.

MR. MOORE: All right. The two parts per million, which they use in the critical area -- we say that if a stream has nitrate contamination in excess of that today, that is the standard that will be utilized to judge an application. It is a non-degradation standard -- you can't exceed the existing water quality of a stream. That is a different standard than the DEP uses. It is a more relaxed standard than DEP utilizes.

The issue on this application, however, does not relate to septic contamination; it relates to a three hundred foot buffer zone around the wetlands which has been adopted by the commission as a standard.

Every plan that we have undertaken in the course of this planning with our consultants has recommended a substantial buffer zone to be placed around wetlands within the Pinelands. The wetlands happen to play a very integral role in the eco-system that is represented in this land, in terms of purification, in terms of the support of wild life and in terms of the support of unique vegetation. I think if we do come out with a recommendation to this commission in the future, it will be a buffer around wetlands which will be utilized to protect that kind of resource in the Pinelands.

Mr. Harrison has a great deal of knowledge about this particular application. Again, I think I would like to point out something to this committee - the strict interpretation of how we do things. One could strictly interpret our rule as getting an application, evaluating that application, approving it, or denying it. What we have not done is that single kind of interpretation. We attempt to work with the applicant. We attempt to approve as much of an application as we possibly can, although we don't have to. The applicant submits to us an application. If he doesn't meet the standards, as far as we are concerned we could deny that entire application. But, we attempt to work with the applicant to provide some basis of approval, where certain lots meet the standards.

The applicant has indicated some great concern, I think, about the numbers of lots that have been recommended for denial. I think the basic fact is, this staff and this Commission was willing to work with the applicant,

because he went from three down to one lot. I think that does indicate some willingness on our part to recognize new information as it come in. I will let Mr. Harrison deal with the other issue.

MR. BRICK: I would like to address myself to something Mr. Moore said. I received a letter from Mr. Harrison on September 26th, asking for additional hardship information. I responded to that letter. I have a copy of my letter right here. It is dated October 9, 1979.

Then, at a meeting on January 3, 1980 with Mr. Harrison, he asked me to recategorize the hardship data. The letter that Mr. Moore refers to, dated January 26th, is not, by any means, my initial submission. The totals and the numbers are the same. They are simply recategorized. My initial hardship information was submitted in the letter of October 9th. The January 26th letter was simply a clarification, as requested.

SENATOR DODD: Proceed, Mr. Harrison.

MR. HARRISON: Mr. Brick submitted a application to the Pinelands Commission, in which he submitted a total cost for improvements of \$109 thousand, which I do not deny as being substantial. It was not until January 26th of this year that we got a total breakdown, leading to a total of the \$221 thousand that he has referred to.

We have been working with Mr. Brick. I met with him in early January. We discussed the hardship information. I explained what we needed in order to find a hardship under the rules, as adopted by the Commission. He submitted that, and I met with him a week ago Monday to go over that - to go over the environmental data, which he agreed to discuss. We were ready to take action on the subdivision in December, or even November. We tried to work with him and see if we could work out an approval on some, or all, of these three lots. We have been trying to work with him and as he has submitted information, we have given a recommendation.

Quite honestly, at this point, the problem we are having is, we have two subdivision maps which show different measurements. The one lot, which we are particularly concerned with, shows a distance of 270 feet and the other shows a distance of 303 feet. Once that is clarified, and we get the actual dimensions of that lot as it affects the distance from the wetlands in total, we can solve this problem.

SENATOR DODD: The difference is 270 feet and 303 feet. Is that what is in dispute?

MR. HARRISON: Three hundred and two feet.

SENATOR DODD: How much discretion do you have on that thirty feet - on the thirty feet difference, 270 and 303?

SENATOR PARKER: Tell us why there is that substantial impairment under the statute. That is incredible.

MR. HARRISON: There has been no determination on this application. We received the information from Mr. Brick a week ago Monday. We have not recommended this for denial.

SENATOR PARKER: What you have done by holding it up since August, when he filed it, for one lot and a thirty foot difference, is absolutely incredible.

MR. HARRISON: It was not the thirty foot difference we were dealing with. We received the application and reviewed it under the standards. The three lots involved were within three hundred feet.

Mr. Brick, at that time, met with us and asked if there was additional information

he could submit. We received that information a week ago Monday, and we met with him. There has been no delay on our part. We have been very clear to Mr. Brick as to what was needed under the standards. We have been trying to work with him. Once we straighten out which is the accurate measurement of that lot, we will be ready to act on that application. There is no reason it will not be ready within the next couple of days.

SENATOR DODD: In a broad sense, this is one case. I am sure there are going to be other cases. How much, if any, discretion do you have, if that is the only criteria that is standing in the way? Are we as a Commission standing on that thirty feet?

MR. HARRISON: No, I don't think-- We are talking about--

SENATOR DODD: I am trying to zero in on what is specifically the problem.

MR. MOORE: We have had applications which have not met one or even two of the standards which have been recommended by the Commission, and which have been approved by the Commission.

What we try to do - and I think we would be remiss if we did not do this - is, we attempt to go through every application, in light of the standards that have been adopted by the Commission. We have to assure ourselves that the applicant's application meets the standards, or does not meet the standards. If it does not meet a single standard, and where we have discrepancies - as Mr. Harrison has indicated on the map - it is incumbent upon us, as public officials, to resolve those discrepancies.

SENATOR DODD: All right, but how much is thirty feet worth? That is what I am trying to get at.

SENATOR PARKER: It is just hard for me to understand substantial impairment when the difference is thirty feet -- it is a two hundred and seventy foot buffer, instead of a thirty foot buffer and it is not going to impair the Pinelands.

MR. HARRISON: No. If the lot is three hundred feet, the septic will be roughly two hundred and seventy feet away. That is a much easier number to deal with and it is roughly two hundred and forty feet.

SENATOR DODD: You have discretion on that?

MR. HARRISON: Yes, we have.

SENATOR DODD: That is not written in stone.

MR. HARRISON: Once we clarify that, we will be ready to act. I am not saying that even two hundred and forty feet is even necessarily knocking that right out. We received this information a week ago Monday and by going through the different site plans the applicant has submitted, we discovered this discrepancy. Mr. Brick and I have been missing each other. We have been calling each other this week.

MR. MOORE: The other point that ought to be clearly understood is that I make recommendations to the Committee. The Commission acts upon my recommendation. On many occasions I have made recommendations on applications that do not fully meet every standard of this Commission.

SENATOR PARKER: That was my next question.

MR. MOORE: The standards themselves, as you will note, contain a word, and that word says the standard may be used in terms of evaluating an application for approval or denial. The Commission, on numbers of occasions, has had applications and has approved applications that did not meet one or more of the standards.

SENATOR PARKER: So, what you are saying is that you may, now that you have

all the information, approve this particular lot?

MR. MOORE: I am not sure I am going to announce my recommendation, but certainly should I determine that that particular footage is not a substantial impairment, it would receive my recommendation.

SENATOR PARKER: You understand where I am coming from. You know, with a thirty foot difference, it is two-parts per million and the DEP has already approved it, so how in hell can that be a substantial impairment to the Pinelands - just that one lot?

SENATOR DODD: Even more important than that, if we - or you - could plug into a computer all of the various standards and all of the factors that would go into an exclusion, we wouldn't need a commission. We would just hit the button and it would be either yes or no, with several variations on it. The human input and the common sense that you and your staff supply is really the factor that will make it acceptable and livable to the people in New Jersey, and to people who have investments that are being phased out of that now. The main mission of the Pinelands legislation is to preserve what we have left; not to absolutely kill, financially, the people who got caught in the middle of it. That is why we are here.

MR. MOORE: I think the issue also relates, if I may, to what we call the planning period. The standards that this Commission has adopted relate to the fact that we are doing a plan under this legislation over a certain period of time. Many of the answers to some of the confusion about what is the right standard to utilize come from that plan. But, I think we would rather, if I may, air on the side of preserving at this point, rather than necessarily moving quickly ahead and destroying without the knowledge of what the impact is going to be.

SENATOR PARKER: Well, you know, as legislators who were trying to deal in fairness -- when we put the hardship in and when we put those provisions in, there was a lot of "push come to shove", there is no question about that. But, I know it was my intention - I don't know about Pat - not to kill people who had put in substantial amounts of improvement and who have expended a lot of money.

MR. MOORE: As I said earlier, Senator, to my knowledge this Commission--

SENATOR PARKER: Put the stuff in the ground, not in the planning process.

MR. MOORE: I understand. This Commission has never received a recommendation for denial from me on an application that had something in the ground - ever. And, this Commission has never denied an application that had something in the ground.

SENATOR PARKER: But, you have had a lot of push and shove on the lots - the number of lots - and--

MR. MOORE: Yes, but I think that is part of our job to do that.

MR. BRICK: One final comment, if I may. If this crystalizes around the three hundred feet, or the two hundred and seventy, as I told Bill Harrision in the hallway this morning-- Three hundred and two feet, first of all, is the proper dimension and the plan they are going by is the preliminary plan, which is just that. They also have had, since August 17th, a copy of the final plan, as recorded, which reflects the three hundred and two feet. I must say, I don't understand how thirty feet can be so critical when there are two hundred and eighty thousand dollars at stake.

Let me present to you the only source material I have gotten from the Pineland's Commission, which deals with three hundred feet. It says, "about three hundred feet from a stream channel" and is entitled, "Hydrology For Urban Land Planning." I don't believe acre and one-quarter lots on this sized land are an urban situation.

MR. MOORE: If I may, I think we might submit that an urban situation which requires up to three hundred feet would, by any planner, or by anyone with a sense of environmental knowledge, be far exceeded in a rural environment.

SENATOR PARKER: They have ways to challenge the standards if they don't like the standards.

MR. MOORE: They have a hearing process, and certainly the standards are a part of that.

SENATOR PARKER: The problem I find myself dealing with is at the end, when it is a substantial impairment under the statute. I thought if you had stuff in the ground and you had these expenses, that it was mandatory to point out that they did have this other standard they have to meet - substantial impairment.

Where I really have problems is, when you get all the way down, you have one lot and a septic system which is three hundred feet away, or two hundred and fifty, and you are going to deny them on that basis. You say you haven't denied those kinds of things and that there is room.

MR. MOORE: I think in this applicant's case the decision has not been made.

SENATOR PARKER: That makes it somewhat better, but you talk about substantial impairment on all of South Jersey with one lot, or two lots, or six lots, and you are starting to blow my mind.

MR. MOORE: I don't think the Pineland's Commission would ever make that statement.

SENATOR DODD: All right. Thank you. I think this was an excellent example. It was a very good example.

MR. THOMAS: Senator, I would like to repeat this for Senator Parker's benefit, because he wasn't here at the time this was said. In its six months of operation, the Commission has approved 893 new housing units in the entire seven county region. Meanwhile, it has recommended denial of 33,567. And, it has taken no action on 23,168. Now, on top of these statistics, how many people are there out there who won't even go in? They won't even go in with an application because they know that they are going to run into just this kind of frustration that you were watching here at the beginning. It started last August. There is no question about it, even some of the recommendations, where the Planning Department recommended it, got turned down.

SENATOR DODD: That is the purpose of your organization, to challenge these things.

MR. THOMAS: Yes.

SENATOR DODD: You use your combined economics and skills and go in and challenge this.

MR. THOMAS: Yes. And, any person that I have talked to - and I am talking about former planning directors for counties that I have talked to - say that there is absolutely no possibility that this plan is going to be turned out by August of 1980; not and be turned out properly. We will get another patchwork set of--

SENATOR DODD: We were told at this morning's session that it will be out by May.

SENATOR PARKER: If it is not out, then you can go ahead and build.

SENATOR DODD: Your problem is solved.

MR. THOMAS: Unless we get another executive order, sir.

SENATOR DODD: No, he can't supersede a public statute.

SENATOR PARKER: He can't?

SENATOR DODD: I don't believe so.

MR. THOMAS: I'm glad to hear that.

SENATOR DODD: All right. Thank you very much.

SENATOR PARKER: Wait a minute, your figures differ from the ones that were given today.

MR. THOMAS: This is up to last Friday's meeting.

SENATOR DODD: I would now like to call on Earle Hill, the Mayor of Washington Township.

E A R L E H I L L: Thank you very much for the invitation to speak. I come to plead on behalf of the "Pineys" of Washington Township.

To give a little background, Washington Township, I believe, is the largest in the State. It is one hundred and seven square miles. Now, these figures are very important. Out of that one hundred and seven square miles, the State owns, outright, over eighty percent. Then, to add insult to injury, the Wetlands take another several thousand. Now, to top it off, the Wild and Scenic River, outside of one little bit in Ocean County, goes through Washington Township.

The point is this: Washington Township is totally in the hard core and I haven't heard of one permit being given out in the hard core area. I may be wrong. In the periphery, yes. In White Horse Pike there were a couple of permits, but what are we going to do in the future when the whole, darn township is owned by the State?

The State has flyers out now on several thousand more acres, including some of mine, in order to buy this land. They are putting feelers out. They note the lot and block number and send the people a letter saying: "We are interested in your land." Some of it is as small as one acre. That is ridiculous.

SENATOR DODD: As it reflects from the Green Acres?

MR. HILL: Yes. The point is this: If you have five acres or ten acres of land, you cannot give it to your son or daughter to build on. That is number one point.

The second point is, who is going to be foolish enough to buy that land from you if they can't build on it?

SENATOR PARKER: I thought Earle-- You just corrected me. My thought was that we corrected that in the statute, but that wasn't in the core area; it was only in the preservation area.

MR. HILL: Then, on top of that, we only have one industry in Washington Township, and that is in Chapter 11. So, I just don't know what my people are going to do. And, on top of that, the county wants a re-evaluation. They only had one four years ago. Our tax rate is three sixty now and I don't know what my people are going to do. Nobody is going to buy land if they can't do anything with it, except pay taxes. That is just plain stupid. A lot of it isn't - some of it that is left - fit to build houses on. Our municipality, for 300 years,

has protected that land; that's why there are only 700 people in the whole 107 square miles. We protect it. We can do it again.

SENATOR PARKER: Have any permits been allowed in Washington Township at all, for a single-family? Or, have there been any applications made?

MR. MOORE: We have had very few applications coming out of the preservation area. We have approved approximately five units in the preservation area, I think, including, also, an application for the expansion of Lisbon State School.

If I may, the Mayor raises an interesting issue, and I think one that will become of great concern to this Committee as you go on in the future.

SENATOR PARKER: Yes, I don't think we can foreclose a whole town and not have anything built.

MR. MOORE: I think you know that under the Pinelands Protection Act, this Commission has to submit to the Governor, on May 30th, a recommendation concerning various types of in-lieu payments in those areas that may be most impacted by the Pinelands Protection Act. That particular study is of great interest to members of the Commission because, of course, half of them represent counties within the area. That is a very tough issue for us, but it is one we spending a good deal of time on. We hope to have some rather unique recommendations for the Legislature and the Governor on in-lieu payments, particularly as it affects the Pinelands area.

SENATOR PARKER: Well, even with in-lieu payment how can you address a situation like this? Eagleswood is totally within it. Woodland is totally within it. Manchester is totally within it. Bass River is totally within it. Is it the position of the Pinelands Commission that no building at all will be allowed in there?

MR. MOORE: No, I don't think the Commission has ever indicated that no building would be allowed in the preservation area. I think we have to go by, and we do, the description of what we are supposed to do in the area. The Act says we are supposed to encourage the most development in the existing developed areas. That would be the conclusion of this plan, I can assure you.

The level of development may be divided into communities within the preservation area, has to be determined in terms of density and the ability of that particular area to support development.

The other question is the acquisition program, which we are mandated to provide in the five years scheduled for acquisition. We don't yet know where those particular properties will be. I wouldn't be so foolish as to stand before this committee and say there will never be another house built in the preservation area. There are houses that have been approved by us in the interim period in the preservation area. The question for us is, how much? That is the question we have to resolve in the plan.

MR. HILL: There is one other thing I want to bring up. In lieu of taxes, the state, on approximately fifty thousand acres, pays ten cents an acre. Now, when Fish and Game stepped in, that was one of the problems that came up in our township. They go under this thirteen-year business. The first year you get the full price and then it declines down to "zip." "Zip" is not even ten cents an acre. Now, as I said, our municipality is three hundred years old. What the hell is thirteen years in the life of a municipality? It is a lot in my life, but the people are going to be run out. They are the original settlers

in New Jersey - on the Mullica River.

SENATOR PARKER: They fought in the Revolution, right Earle?

MR. HILL: Yes. There is one young fellow who has been there for six generations. There is one family who has been there since before Eric Mullica. They applied for a permit. His father has owned the land for 50 years. He didn't get the permit.

SENATOR PARKER: He couldn't get it from the Pinelands Commission?

MR. HILL: That's right. That land has been in the family -- Well, I know of forty years. And, they have been paying taxes on it.

SENATOR DODD: All right, Mr. Mayor, thank you very much.

MR. HILL: Thank you very much for your attention. I hope you can help me.

SENATOR DODD: Mr. Robert Bennett from Elm Town Village. Mr. Bennett, we are sorry we didn't get to you earlier regarding your problem.

R O B E R T J. B E N N E T T: Senators, ladies and gentlemen, this is a statement of Robert J. Bennett, President of Elm Town East and Elm Town Village, Winslow Twp., in Elm, New Jersey. Elm is a subdivision of Winslow Twp. It's 30 miles from Atlantic City and 26 miles from Philadelphia. It's on the Whitehorse Pike. We're right on the edge of Camden County, almost into Atlantic County and right now, our homes are sold out, if the people don't lose their mortgage commitments, and we're getting the majority of our people from Atlantic City and that area, though we're not getting the gamblers so much, but we're getting the people who sold to the gamblers.

SENATOR DODD: Those are the only rich people that deal in gambling.

MR. BENNETT: Well, they get paid cash.

SENATOR DODD: I never met a rich gambler.

MR. BENNETT: I'll read the gist of this statement. Thank you for the opportunity to speak here today. What I would like to present you with today is a case history of what one builder has gone through during the last two years as a result of the actions you and others took in Trenton and elsewhere.

I know the history of the case which I'm about to relate to you very well, because it is my story, and lest you have any doubts about how I feel, I will tell you right from the start that I believe that I have been shafted by the State of New Jersey. I hope, after I relate the facts of my story, you will at least share my feelings about this situation, if not the financial losses I have incurred. I will be brief in describing my situation to you, even though I have been caught up in this situation for more than two years now.

First, let me tell you that in addition to my position Elm Town East, I am President and owner of the Bennett Trailer Corporation in Philadelphia, which sells and rents mobile field offices and storage trailers. I also own one large apartment building. I got released from World War II and came to Philadelphia in 1946 with \$10,000 and I worked my butt off to get where I am, but in my entire business career which I started with an investment of \$10,000 after returning from the service in World War II I have never come across anything as frustrating and befuddling as what I have gone through with the property I own in the protection area of the Pines in Winslow Twp.

I purchased that property--some 400 acres, plus a 50 acre lake--in 1964-65, with the intention of developing a residential trailer park. That's what I purchased it for. However, after seeing Leisure Town Adult Community up in Lakehurst, I was stupid enough to decide to try to copy Leisure Town, but I didn't have the money. I decided to develop my own adult community, which is Elm Town and Elm Town East.

I believed that with the lake, which at that time was crystal clear and extremely attractive, and with frontage along the Whitehorse Pike--Route 30--it would be an ideal site for an adult community.

I purchased the property with a 10% down payment and initially paid a 6% mortgage rate. That was \$335,000, the purchase price. After the first five years of the mortgage, that rate went up between 9 and 10% and eventually to 12%. I still owe \$300,000 on that mortgage, even though I have paid in over \$1,000,000 in interest payments and property taxes since purchasing it.

Prior to having to halt development because of the changing water quality and preservation laws in this State two years ago, I have built 135 homes in the old Elm Town section and 86 homes are either built or under construction in the

Elm Town East section. Of the 450 acres of land I originally purchased, 350 acres remains undeveloped. I might mention that the property that I'm talking about is close to Ancora State Hospital.

That is important because the lake that I purchased when I bought the property has been virtually destroyed--not as a result of any building that I have done, but rather as a direct result of the inadequate sewerage treatment at Ancora. This is documented through newspaper accounts and through the State itself and yet, little, if anything, has been done to correct the ongoing situation. They made a partial sewer out of my lake. In other words, the water hasn't been treated for the nutrients and phosphates and all that stuff.

SENATOR DODD: Do you know if there has been money allocated to upgrade that?

MR. BENNETT: I was also told, Senator, that the algae at the bottom of the lake has to be dug out.

SENATOR DODD: Right, that won't go away by itself.

MR. BENNETT: They told me that with my money I would have to do it, but it was the State money that ruined it.

SENATOR DODD: Proceed.

MR. BENNETT: I will be glad to provide documentation of any of this stuff here. I have a whole briefcase full. However, the algae growth and fish kills that have resulted from this pollution with the odor they create have diminished the value of my property and the State has indicated that it is unwilling to correct the problem. They have been unwilling so far. This evolution from a pristine lake to what amounts to an open sewer for Ancora has taken place over the last 10 to 12 years, and the State is the one responsible.

Beyond this issue over which I have filed suit in Superior Court, however, I would like to relate some of the other problems I have faced.

Two years ago, I was ready to embark on further development of Elm Town. I had the necessary local approvals from Winslow Twp. and Camden County, everything but the actual building permits. To this day, I haven't gotten those building permits and all indications from the Pinelands Commission are that there isn't a prayer that I'll get them before August, if then. That means my development investment has been held up for three building cycles at this point.

In an effort to resolve the situation and on the suggestion of the Pinelands Commission, my company, which is myself, expended \$50,000 for engineering design work for a sewerage treatment plant. I also have been assured by local township officials that while the plant is under construction, I can truck the sewerage from the development to their existing plant in Waterford.

Despite these efforts to meet every reasonable request by the State and despite the demand for housing, particularly in light of the growth in the Atlantic City area, I am still at an impassable roadblock.

Because of these stumbling blocks, I have not paid local or county taxes or the mortgage payments on this property. As a result, I think the State has thrown another lien on the property.

I don't like that idea, but there is no way in the world that I can make these payments if the State refuses to allow me to run a business to generate the funds to pay for this.

I understand the need for requiring sound development in both the core area of the Pinelands and the protection area.

However, I don't understand laws that are putting builders who are willing to meet environmental standards out of business.

If the State isn't going to let me continue development of this land, which I purchased 16 years ago--and that is exactly what has happened to me in the last two years--then I think it has a responsibility to pay me a fair price for this property and I think that fair price should be in the area of \$3 million.

In the meantime, people are being deprived of reasonably priced housing--those in my development sell for between \$40,000 and \$50,000--at a time when there is a tremendous need for it.

I urge this committee to consider my case and other cases like it in reaching its conclusions. I don't think the State of New Jersey should be in the business of shafting people, regardless of what end it is trying to achieve, but that is precisely what I believe has happened to me.

I want to thank you gentlemen. I hope I wasn't too boring and I would like to have all of this as part of your public record.

SENATOR DODD: Thank you very much.

MR. BENNETT: Again, I will say that I came up here against the advice of my attorney. He said that the Pinelands will crucify me for coming up here. That was the advice that he gave me.

SENATOR DODD: That will not be the case.

SENATOR PARKER: Do you have all your improvements in?

MR. BENNETT: No, sir. That \$1 million was paid for taxes and I paid 25% interest for two years to save myself from losing it. I have all those figures.

SENATOR DODD: Thank you, Mr. Bennett, for testifying. Mr. Frank Intessimoni?

F R A N K I N T E S S I M O N I: Thank you, Senator. My name is Frank Intessimoni and I'm a property owner in Waterford Twp. On September 11, 1978, I purchased 4.4 acres of property with the intentions of building a house to live in and selling three building lots to help finance the cost of the house. The lots were 1.1 acres each and everything was well in compliance with the laws P.L. 199 and so forth. Before the Executive Order was signed, I was indebted to complete my investment. I owed money to the bank to purchase the property, engineering fees and the like. I had already filed application with the township for the subdivision and I had already received approval by the Camden County Planning Board, as well as approvals to construct the water supply and other systems.

Soon after the moratorium came about, I filed an application for exemption. After months of waiting and supplying the DEP with additional information, I was told that I was too close to the Wharton State Forest and too close to the preservation area and that I was not consistent with the Executive Order. I was told that an appeal to this denial should specify which findings of fact are challenged, including omissions. Immediately, I called the DEP office to find out what was omitted. Several days later, I received another resolution stating that, number one, "applicant's subdivision is located in the protection area"; two, "applicant's subdivision consists of four one acre lots"; three, "development has taken place north of Hunt Blvd., which is a through street and Martha Blvd. which is not a through street." My comment to that is that actually it is reversed. Hunt Blvd., actually, was vacated by the township to encourage development on the street where I own property. Number four, "the Wharton Tract is 500 feet south and adjacent to the project site." Well, that is incorrect. I am not adjacent to the Wharton Tract. There's another block of property owned by the township between my property and the Wharton State Forest.

Number five, "there are no other developments in close proximity." Well, about 300 feet away, there's a major subdivision, Maple Glen. It is about three quarters completed. Across the street from my property is a block of land exactly the same size of mine. It was divided into five lots, which puts it less than one acre each and this property was bought on the same exact day that my property was bought. We bought the property at a township land sale. This land directly across the street from me was granted Pinelands exemption. Now, supposedly, the street I am on is not a through street. Then, why was an exemption granted there? Why was I denied? That is my question.

The question that I have is that there doesn't seem to be any consistency, from what I have seen and the way I have been treated. I went for an appeal and I was told that I had to go in front of an administrative law judge and naturally, I had to get a lawyer, and I've spent almost \$2,000 in lawyers' fees, and I've gotten as far as the pre-hearing conference, which took my lawyer a whole day and nothing, absolutely nothing came out of that pre-hearing conference. I could read part of a letter which came to me from my lawyer, "To confirm our telephone conversation of October 22, 1979, the deputies attorney general handling this appeal, namely William Grabowski and William Harrison, adamantly refused to discuss any of our proposals, with a view toward settlement. I mentioned the possibility of using the township property adjacent to the Wharton Tract as a sewerage disposal area or even eliminating one of the lots, as solutions to their suggestions. For every solution came a new objection, until we got down to their primary objection, substantial impairment to the Pinelands."

I'd like to close by saying that I think that "substantial impairment to the Pinelands" should be defined a lot more clearly than it is because at this point, it is financially impossible for me to go any further, whether it be with lawyer fees or whatever, but I don't think that my home and that woods there is ever going to become a reality.

I thank you for the opportunity to speak. I would be glad to answer any questions that you might have.

SENATOR DODD: Thank you Frank. I would like to call Dave Ennis, New Jersey Conservation Foundation.

D A V I D E N N I S: Thank you, Mr. Chairman. My name is David Ennis and I am the Special Projects Director of the New Jersey Conservation Foundation and I thank you for the opportunity to appear before you.

You've heard a lot of discussion here, I'm sure, in the morning session, and I was not able to attend that session. I would like to be rather brief in what I see as happening with respect to the Pinelands Planning Commission and their activities, realizing that they have a dual responsibility, one in respect to the exemption procedures and the other in their planning function. Personally, I have attended the meetings of the Commission. I have been over at their offices here and I, first of all, find the staff in particular to be very energetic. The energy going on in their office is enormous. They are a bunch of bright folks who are working very hard to bring together a plan that will be one that will be acceptable to everyone concerned. At this moment, they are getting in their gross reports, their initial reports. Terry Moore is going over their time schedule and I think they're going to have their plan ready for approval by the deadline in August.

Now, with respect to the exemption process, which they're going through, Senator Parker, you are right in your feeling that, "Gee, I don't see how one more

house is going to have much of an effect." I guess it is sort of like voting for senator. You don't know if your vote will count, but if you don't vote and people don't vote collectively, nobody gets elected. Now, I think what you have to deal with, and I'm sure you're aware of the problems, is dealing on a collective basis. The one fellow's house or the one lot may not be the one that tips the balance, but you don't know which one does tip the balance. As far as their exemption procedure, they are running about 50% approval on their single family homes. They did have an overload of work, I think, when they first started because, perhaps, it may even have been that folks made application for development approval prior to their actual planning to do this because we had this situation of another level of what exemption process to go through. At this point, we are not really out of the tight money time. We've seen our prime interest rate soar, gold soar and when we have interest rates that go up, historically, building has been the first to suffer and the last to come back and I think for some of these reasons we'll see a lessening in the slackening of building starts alone. It becomes a question as to whether this was caused by general, international economic trends or whether it was caused by the Pinelands legislation. I think that we have a great deal of the money situation being directly reflected in our building starts and there might not have been as much building as would be anticipated because of tight money situations, disregarding the Pinelands legislation because I think we have a depressed market going on. But, I think now, as Senator Parker pointed out, this Planning Commission is working until August and my own personal feeling is that the group is working effectively and quite hard and my feeling, as well as the feeling of the Conservation Foundation, is that they should continue their planning with as much help as everyone in the public involved can give them and we should see what they will say.

I'll be glad to answer any questions that you have. Otherwise, I thank you very much for giving me the opportunity.

SENATOR DODD: Thank you very much, Mr. Ennis. I would like to now call Mr. Scott Hazard from the Pilgrim Lake Trailer Park.

S C O T T H A Z A R D: Senator, thank you for the opportunity to come back and speak and I appreciate you coming down here instead of making me go to Trenton.

Senators, as you know I operate Pilgrim Lake Campgrounds in Bass River Twp. and I've been there since 1970. I have two major problems as a result of the Pinelands Preservation Legislation here. The real estate taxes at Pilgrim Lake have tremendously increased over the last three years. Mayor Hendrickson testified regarding the municipal reserve from paid taxes and this is a major reason for the increase in real estate taxes.

SENATOR PARKER: You're Bass River, right?

MR. HAZARD: Yes. Last year in my testimony, I urged payment in lieu of taxes to offset this problem and I'm sure a lot of other people have also.

The second problem is in obtaining mortgage money for expansion of my operation. I had all intentions of opening up a camp store and supplying it and I went to remortgage the campground just as recent as a month ago and I got a flat denial, basically because of the devaluation of decline of value in the Pineland area.

SENATOR PARKER: Do you have an existing mortgage?

MR. HAZARD: I have an existing mortgage.

SENATOR PARKER: With the same bank?

MR. HAZARD: With the same bank. It's a five year balloon and they will

renew the existing mortgage to keep me in business, but they won't give me any additional funding for any kind of expansion.

SENATOR PARKER: This is only on the Pinelands, not because of your cash flow or anything else?

MR. HAZARD: The reason they gave me was they can't see the value being there. They base the value on being able to sub-divide it and sell it for building lots because, as you know, the campground operation, a lot of our value is the equity in the land and without the ability to show that this could be sub-divided and built upon, the banks shy away from it.

SENATOR DODD: Well, due to your prior testimony, we've given you almost an exclusive, if you will, for the campgrounds in the Pinelands, which we look to encourage, and especially your project. So, that should be a very definite plus for the banking community.

MR. HAZARD: That is a plus and with what I have to recommend, maybe we can get some other assistance.

Because of the type of an operation a campground is, once you take the people, the campers away, the tents and the RV's, the land, basically, goes back to what it was originally, the original pinelands setting. But, with the banks looking at the building and selling of homes as a criteria for real value, they're not going to risk their money in that area for this type of venture. Has the Commission, in their working, come up with any way of helping private enterprise with these types of problems, whether it be in the form of Small Business Administration guarantee or something?

SENATOR PARKER: You have the E. D. A.

SENATOR DODD: Terry, is there anything that could be done on this basis?

MR. MOORE: I'm not sure that Act gives us the power to make grants and loans for economic development.

SENATOR DODD: Would a clarifying letter to your bankers, a "To Whom It May Concern" kind of letter help? Perhaps they misunderstand your particular kind of business, as it applies to the Pinelands.

MR. MOORE: Often we get into trouble because of the myth of what's going on in the Pinelands right now. Many banks tend to say, "you have no right to utilize your land and therefore you shouldn't get a mortgage." I think that sort of glosses over the review process and the local planning board review process. In terms of the application of whether your particular property would be approved by the Pinelands Commission for subdivision, nobody can answer that question unless we have an application and I can't say to a bank, "yes, he has value as a sub-divided land" because I have no application to review.

SENATOR DODD: For existing use, though.

MR. MOORE: Right. The type of use he has underway may be consistent with what the Pinelands Protection Act is all about, but I can't say I'm a banker and that constitutes a mortgagable piece of land.

SENATOR DODD: And bankers don't pretend to know the Pinelands legislation either. So, I'm looking to convince at least one bank, for this gentleman, that, yes, he does have a good investment for what he does. If he chooses to do something else with the land or attempt to do something else with the land, he and the bank are then on their own.

MR. MOORE: And he has the right to apply, as any other property owner. I have no problem with that, but I can't evaluate the value of his land for him.

MR. HAZARD: A letter stating it is an accepted use would probably be an assistance also.

SENATOR DODD: Could you and your council devise a letter for Mr. Hazard?

MR. MOORE: We'll try to do something.

SENATOR DODD: All right, thank you Scott.

G E O R G E S C H I A B O R: Senators and ladies and gentlemen, I represent, as Managing Director, a company known as ROC Investment Corporation. We are involved in the protection area as designated by the State of New Jersey and have been working in this area since 1977. What I'd like to do here quickly, and not to go on, is to bring you some information that we will leave with you and also bring you an idea of what our company has been involved with.

With me today is the President of ROC, Mr. Joseph Hayes and our Engineer, Mr. Ralph Engel, who has done the work on the project. So, basically, I just have a statement here and I would like to read it quickly and then have Mr. Hayes present a few points and then answer any questions you may have relating to our project.

Our group currently has pending before the Pinelands Commission an application for exemption to build a sub-division for senior citizens, which lies in the protection area, not in the critical preservation area, of Manchester Twp., Ocean County. This project is known as Warwick at Manchester. That is the name we have given it. The project actually began back in 1977 and during the following year, we had done all the engineering work, the preliminary work and all necessary information was presented to the Township of Manchester and we have received master site plan approval. That was received in the Fall of 1978 and as we all know, the moratorium was not instituted until 1979, in February, approximately.

Basically, I would just like to relate how this group was created and what it has run into due to this hardship, financial hardship we are now trying to resolve. Number one, the project purchased 1106 acres in 1977 for the sole purpose of developing a senior citizens community, under every existing guideline and known zoning ordinance that was present at that time. Following these guidelines and these zoning ordinances, we received full endorsement from Manchester Township for our seniors community.

SENATOR PARKER: What do you mean by endorsement, preliminary approval?

MR. SCHIABOR: Master site plan approval.

SENATOR PARKER: For how many years?

MR. SCHIABOR: A guaranteed approval for three years, based on the engineering design concept work we presented to them.

MR. ENGEL: And there was a recent reaffirmation of that from the township on the record.

MR. SCHIABOR: Based on this fact, we, in the beginning, had designed, or Mr. Engel has, this whole concept with the environmental impact situation in mind. We have done everything we could possibly do to see that it is a balanced community, one that not only fits your environmental scheme, but also a business scheme, naturally, since we're involved in a business and we would go along with the regulations. Now, actually, we have information and we have designs and we have layouts and we have maps, but at this time, that's not the point I'm trying to make. In 1979, when the moratorium came upon us, we then, immediately, presented to Mrs. Betty Wilson and her committee an application for an exception because it is our belief that we do fit into the exception category. We presented volumes of documents to that committee. Our lawyer, Mr. Barry Evenchick, appeared before

that committee and I think the hearing lasted three minutes, after we had spent over \$2 million, documented, which I will leave with you, in preparation, in mortgages and in design work. We, at that time, were given a total of approximately three minutes and rejected by this committee. There wasn't a hearing. I didn't have a chance to present our case as to the work that had been done by this group.

SENATOR PARKER: That was Betty Wilson?

MR. SCHIABOR: Yes, it was, sir and we had immediately gone to them.

SENATOR PARKER: It wasn't the Pinelands Committee.

MR. SCHIABOR: No. It was a three man committee, I think, basically instituted because the moratorium was thought about and they had to do something to try to resolve the situation at that time. Now, we were certainly with that and we did present our package to them. At that time, upon being rejected, we were then put in a limbo state. This project is costing the stockholders of ROC Investment over \$1200 a day, right at this moment, in order to stay in a solvent condition. If and when we cannot resolve the situation that now presents itself, we face bankruptcy, period. We cannot continue to make the staggering payments that have been forced upon us by the moratorium.

SENATOR PARKER: Let me ask you something. Have you made application fo the Pinelands Commission?

MR. SCHIABOR: Yes sir.

SENATOR PARKER: What is the status of that?

MR. MOORE: I think, Senator, this application has been denied by the Development Review Board. When the Commission took over applications, we gave every applicant that had been denied by the Development Review Board an option, either to continue their appeal before the administrative law judge or to resubmit their application to the Commission for evaluation under new standards.

SENATOR PARKER: Couldn't they do both?

MR. MOORE: No. We gave them the option to do either one. Either that or they would have to have an administrative hearing under the new standards. It was beneficial for most applicants to come back. I'm quite familiar with this application because the attorney for the applicant met with me about a month and a half ago inquiring about the delay in the application. The delay was caused by a lack of information that had been requested being submitted by the applicant's engineer. We also gave the applicant additional time to submit hardship information prior to my making my recommendation to the Commission. That was handled in our offices yesterday afternoon by the applicant. The applicant's application is now deemed to be complete and I will be making a recommendation to the Commission regarding this application in a very, very short period of time, but as far as we are concerned, the delay in the application was caused totally by the applicant.

MR. HAYES: Senator, we are not here to lean on the Pinelands Commission, per se, with the exception that from the beginning, we were rejected in March by Betty Wilson's review committee. We tried and have documented, through our attorney, through the Attorney General, through the Commissioner of Labor and Industry and anybody else we could get some direct answers from, as to how we could get before this Board almost immediately because of the financial position we were in at the time. It was eight solid months before we were answered and put on the agenda of the current Pinelands Commission. We now have, and I admit that we have drug our feet since the meeting and we did not submit until yesterday, but that was a loss of six weeks, prior to which we lost eight months. I have documentation and would be glad to provide it, but we were held up over eight months, which has put us substantially close to an insolvency position.

SENATOR DODD: Bill Kenny, from the Department of Agriculture, were you on that committee?

MR. KENNY: Yes.

SENATOR DODD: Could you shed any light on the proceedings?

MR. KENNY: I don't recall the incident. This was a major development of 4500 units in Manchester Township.

SENATOR PARKER: On Route 539, right?

MR. SCHIABOR: Yes, sir.

MR. KENNY: If my memory is correct, the attorney came in and appeared before the Board and they got in some kind of debate about procedures and he walked out and that was the last I saw.

MR. ENGEL: If I may speak, before the attorney even spoke, the denial had already been made in a period of about three minutes. But, let's get back on the track. We're not here to discuss that event. We could have gone to court and all that nonsense, but we chose not to. We're not criticizing Mr. Moore or his staff. When his department was finally formed back away and he had his staff and so forth and once we got on the track, his group and staff has acted rapidly. There's no question about that. We, in turn, have prepared and our case for exemption is documented based on a consistency and no substantial impairment and public need and a severe financial hardship, having purchased the land on reliance of the local law, having improved and spent a substantial amount of funds over a year's period and after review by the Township and preliminary approval and having documented the financial hardship, which we would like to leave with this Committee today. We are not saying that the Pinelands Commission has not acted in due time. We are merely asking this Committee to address itself to the financial hardship which Senator Parker referred to before or to include the commitment to the bank on land that was purchased for a specific purpose, development, and also the cost of going through a preliminary approval, local approval, for a full year. There is a tremendous amount of money and financial obligation that has spent here in reliance on the current law, which is now going onward at a rate of \$1200 a day while we sit.

SENATOR PARKER: Other than development costs, do you have improvements in the ground?

MR. ENGEL: No, sir.

SENATOR PARKER: Your basis, then, is to ask us to change the hardship statute?

MR. ENGEL: Yes. We're saying that financial hardship is constituted by obligated a group to the landowners and having spent a substantial amount of money and substantial time and lawyer's fees and so forth and so on. Those, to us, are real dollar expenditures. Whether we have improvements in the ground or not, we had the preliminary approval in the Township and we had a reiteration of the Township's want and need for the project as recent as several weeks ago.

SENATOR PARKER: You have all that, so we can look and see how much the acquisition costs were and so forth?

MR. ENGEL: Yes, it is documented and we would like to submit this document into evidence for your future reference. We don't want to read it, but we would like to submit it.

SENATOR PARKER: Unfortunately, one of the problems is that at the time we went through this, I think we had pretty much run down the number of approved sub-divisions and number of houses and I think it was like 5000. It was 20,000 and then it was reduced down to 5000.

MR. CATANIA: The 5000 were building permits, I think, and the 20,000 were preliminary sub-divisions.

SENATOR DODD: And that was including the major developments.

SENATOR PARKER: And this was part of the battle and I'll be frank with you. I doubt, in waging that battle again, we're going to get very far, even if we wanted to, one way or the other. I think it's going to be tough to fight that battle over again. Maybe I feel it is fair and I think I voted for your position at that point, realizing that there is substantial costs, but I think you also have to realize the other side of that coin. When you go before a planning board or something, you have a lot of costs involved and you get turned down. You know, that's what some of these Mount Laurel cases are all about. A guy in Lumberton spent hundreds of thousands of dollars and they kept turning him down and he went to court and he's awaiting the decision.

MR. ENGEL: The point here is, Senator, that we were not turned down by the planning board of either the County or the Township. We were not turned down. We were approved.

SENATOR PARKER: It's going to be pretty tough for us, I think, to make that charge. I'll be honest with you, to make that legislative change now, I think there might be something as far as substantial impairment is concerned, but we have to look at their record and they have been approving them. But, I can see where your development of 4500 homes would be a substantial impairment. I can see that. But, you know, we lost that round and I don't know if you can win it again. We understand your position and we'll discuss it again.

MR. ENGEL: We're in the protection area, not in the preservation area.

SENATOR PARKER: I understand that, but when the plan goes into effect, aren't you on your own, at that point, if you meet the standards? I don't know. Mr. Moore?

MR. ENGEL: That hasn't been determined yet.

MR. MOORE: First of all, we have to have a recommendation from the Commission on the application that's pending before the Commission right now. Should the applicant be recommended for denial, the plan will continue as we mentioned before.

MR. HAYES: Senator, I have a question I would like to ask. I think it is basically on a lot of people's minds. We saw the news about the money being set aside at this point in time for acquiring land in the pinelands area. They have about \$12 million. We have a substantiated M.I.A. appraisal, prior to the moratorium, that amounts to about \$9 million. The way I count it, that's three quarters of what their budget is and I know that we're only a small drop on the map of the total pinelands enclosure. How do they expect, with the current budget they have, without putting people like ourselves, very simply, in bankruptcy so we lose the ground along with all this small group of businessmen that was put together to formulate this and followed all the criteria, how are they going to buy the pinelands, whether it be the critical core or part of the preservation area? I don't understand how they're going to operate and how you can expect, as legislators and as the State of New Jersey, to force people to what they're doing under the wetlands. The State is not claiming the pinelands and I think we should be entitled and I think there are federal cases in place now. If you aren't going to let us build, fantastic, but how are you going to buy it with your current budget? It's an impossible dream.

SENATOR DODD: This is not unlike a town changing its master plan at some point.

MR. HAYES: We have no objections as long as they're willing to buy it, but they do not have the funds, nor are there any funds showing in the future.

MR. ENGEL: If a town changes its master plan after a specific approval, you're guaranteed your right for three years.

SENATOR PARKER: Once you get your preliminary, you're protected against any changes.

MR. ENGEL: That's right and that's the status we're in right now in the Township with this project. We were guaranteed our status for three years by that approval.

SENATOR DODD: You know, about five years ago, at 12:01 AM, Denmark changed from driving on the left side of the road to the right side of the road and after 70 years of driving on the left side, they designated, arbitrarily 12:01 on this one evening that everyone would shift. Whether it was a good idea or not, it was an arbitrary decision on when they were going to do it to keep the accidents to a minimum, which is not unlike the situation that we in the Pinelands Commission and everybody involved in the Pinelands finds himself now. Right or wrong, it was decided by the elected body of the State of New Jersey to preserve the pinelands as best we could and in changing from the left side of the road to the right side of the road, we created a commission to help with the transition and to soften the economic impact, not only for Scott Hazard, but for multi-million dollar corporations such as yourselves and the others that we'll be hearing from on another day. Now, it is our ability, how well can we do this, keeping the economic impact minimal, when faced with an enormous growth pattern coming out of Atlantic City and the critical need for housing, where west of the Parkway is designated pinelands. It also has a tremendous impact on investments in the State of New Jersey, directly in the pinelands and there is a ripple effect throughout the rest of the State, which reflects on our bonding, municipal sewerage and all of the others, the building of schools. Now, how do we do this transition and are we doing it right? That's why we on this Committee came down here today and we will continue to monitor the on-going progress of our pinelands legislation.

SENATOR PARKER: Well, one of the other reasons we really came down was to also look at the hardship process itself as it is being implemented and whether it is being arbitrary and whether they are just absolutely just shutting people off, not giving anybody a chance and to find out what the status of the Pinelands Commission was as far as development of their plans and where they're going and I can assure that as long as I am sitting here, Atlantic County is not going to get a better shot because they have casinos and have to build it there than you're going to have. I tried to make that clear and with all the power and what's going on down there, if they start down there, they're really going to hear about it. I don't know whether I can do anything about. I can't do much anyway, but we'll sure raise hell. I think you have to go through their process and work with their planning process. I don't know what more we can say. I just don't think we're going to be able to get your position through the Legislature or even our Committee. We had protection, I think, pretty much and we needed one vote, if I remember and the Senator from Camden would not consent to go as far as you guys wanted and we in the Committee then had to vote it out.

MR. ENGEL: We understand what you're saying. We're just saying that a financial outlay of money and a substantial personal commitment to a land mortgage, simple for that purpose, constitutes in our mind at least a financial hardship.

SENATOR PARKER: I know a couple of them. Herb Bushnick of Woodland Village, he had improvements in the ground. He already had the building permit and I don't know what he's done. I guess he's abandoned that, trying to sell it.

MR. SCHIABOR: Basically, Senator, I know it's running late, you have to take into essence, I have a complete breakdown of the impact into Manchester Township. Basically, our project, when you speak of 4500 homes, we envision an immense parcel of land in the middle of a pinelands situation, which no one is trying to say. Our project is bordered by major sub-divisions. Roosevelt City is bordered by it and they are building a street away from our property. We are not stuck in the pinelands.

SENATOR PARKER: You are also across from Scarborough.

MR. SCHIABOR: That's right. Scarborough is building right across from 539. We sit in the pocket of Manchester. We also have Manchester Township completely behind us because they know this and the Committee must weigh the facts that with a senior citizens community, as we have here, there's going to be a tremendous impact into the local revenues and rateables and job employment in Ocean County and Manchester Township wants us. We are not infringing. We have no water streams on our property. We are among other developments. We are not asking to protrude out into the pinelands. This must be considered and the impact into Ocean County must be considered. We will create over 1000 jobs on our project. We will not be a liability on the Township. We will bring over \$18 million worth of revenue into Ocean County and it needs it and the other counties in the south need it. Now, if we fit into the hard governing of a township who has laws which we follow and proceed to go by and are stringent and it was not easy and they felt that we met all these and we left our project with 80% green area, we brought it to the DEP--

SENATOR PARKER: Probably a Manchester ordinance requires 50%.

MR. SCHIABOR: Yes and we're above every ordinance because the people of New Jersey and the senior citizens want and need housing and and they are coming to Manchester Township and Ocean County, looking for relief from what they're running into at other places in New Jersey. If this commission so feels that the tax ratables and the revenues and the jobs and a town that wants us, a bunch of small businessmen, and there are no multi-millionaires in this group, I guarantee you, we're all hard working people, who have spent their hard earned dollars to create something and to present to a town nothing but benefits which would help our area, then how can we sit here and judge that particular project as a pinelands as a whole? We hope and we know the Commission has been good to us. We're not here for that reason. We're here to explain our position and how we created what you see in front of us and we can document it. I have done three years of work in here. I can substantiate everything. We have tried to answer every question presented to us by these gentlemen and I appreciate your thoughts and I really think if you would look into, we would appreciate it. We really would.

H A R R Y S C H M A L L: Thank you. My name is Harry Schmall from Stafford Township and I am a member of the Township Committee. This is Tom Powers, also a member of the Township Committee. We got a copy of the agenda when we got in here today and we're down towards the end of the first page. We noticed that people were taken ahead of us who were on the agenda and people went ahead of us who were not on the agenda. So, we're just a little amazed as to why we've been sitting here all day and not being able to speak and being cut off. Our time is as valuable as anybody else's. We have unique problems in Stafford Township and we did prepare a written

statement and we'll send you copies since we weren't allowed to speak.

SENATOR DODD: Gentlemen, if you could submit a written statement, then perhaps you could give a brief overview right now. What I was going to do in concluding was to explain why we jumped around. The Committee came down here for a very specific purpose and we did want to hear from the construction side, the individual side, most importantly, and the conservationists, and certainly the public officials, and we didn't mean to slight you, but we had very definite information that we wanted to gather and that's why we jumped around and accepted people late. So, I would apologize to you and everybody that we're not going to get to today and we will hear from you at the next hearing in Trenton. Would you care to give a statement now?

T H O M A S P O W E R S: Yes. My name is Tom Powers and I'm a Stafford Township Committeeman and I'm here to speak on behalf of the individual lot owners in the Ocean Acres area. The creation of the moratorium has brought on many hardships both to the Stafford Township government and its taxpayers. The Township government has lost taxes so far this year of \$500,000 because they cut back 25% of the tax revenue that we would have received on the lots that are unbuildable. To give you a brief idea of the situation in Ocean Acres, there were originally 5,600 lots there. Now, this development, they're just selling land. They're not selling homes and this was sub-divided 15 years ago and sold as single lots at that time.

SENATOR DODD: These are quarter acre lots?

MR. POWERS: The majority of them are 75 by 100 lots, yes and this is on the fringe area. By the way, this is at Route 72 and the Parkway, the Garden State Parkway. There are 4000 empty lots at the present time, in the Ocean Acres area. Of these, 3300 of these lots are owned by 2800 individual people. There are some that own a couple of lots. Some of these individuals have yet to hear about the moratorium. In fact, each day, we have people coming to the Town Hall asking why they can't build on their property. This is one area where the taxpayer is being hurt. To me, this is confiscation without compensation. I have brought this out at many meetings on the pinelands moratorium. Just recently, DEP, to show that the State government, one, isn't telling the other what's going over there, the DEP approved a sewer line to go up the Mill Creek Basin. That's alongside Route 72. That follows Route 72 up to the Fawn Lake retirement community. They approved that sewer line to go up there and to me, this is working against the whole idea of the preservation of the pine barrens. First of all, if a sewer line is allowed to go up this basin, a leak could develop and the creek would be polluted, Manahawkin Lake and also Barnegat Bay. It all goes into Barnegat Bay and this, to me, seems to be against the idea of the preservation wildlife or whatever the whole idea is behind this moratorium. It also would open up an area on the south side of Route 72 to a developer that wasn't even considered in the beginning and people who live in the Ocean Acres area, who should be given the opportunity to have sewerage first are being denied this, if the sewer line were to be routed they want to route it now. The present Township Committee is against the way the sewer line is going to go. Because we are now at a point between two forces, we cannot get federal funds to install sewers in Ocean Acres because of the lack of density and the Stafford MUA couldn't possibly handle it by themselves because it wouldn't be financially feasible. Stafford Township is also considering the possibility of an industrial park, the construction of an industrial park on the south side of Route 72 and west of the Parkway. Some of the problems the moratorium has created has slowed down this industrial park. The unemployment in the area has increased because of the

lack of building. We, the electorate of Stafford Township, ask for relief from this cross that has been put on our shoulders. I don't even think the Commission has even come down to the different areas and the different townships to see the impact that has been put on the townships because of the moratorium. Earlier in the morning, you asked why the mayors and the elected officials in these townships hadn't gone to any of the meetings that were being held around the coalition of municipal people and all. It's because people that have been elected in these small towns feel that they are butting their heads up against a wall. They're beating a dead horse. The environmental people have decided that there's not going to be any building in the pinelands area and people don't even want to put in applications to go for relief of any kind because they think it is a waste and we've been told this continually. Stafford Township, the Ocean Acres area is not in the pinelands. It's between the pinelands and the, what do they call that thing, the water preservation. It's taken up most of our township. We don't even have land to develop anymore and these are some of the things that the townships have run into and that's taken revenue away from us. If you have any questions, I would be glad to answer them.

MR. SCHMALL: I would like to add one thing to Mr. Powers' statement. We have a situation where there is no more developer. These lots have been sold and they are owned by individual land owners and it was our understanding that those individual land owners would have to apply for exemptions to build. We feel that it is a township problem and we would like to apply for exemption as a township governing body on behalf of all of those land owners, individual lot owners and we want to know why we can't do that. We looked into that sometime ago and they said we had no standing to file that kind of a request and we think that's some kind of a change that ought to be made and if we don't have standing, we should have standing because it is a township problem that affects our taxrolls, it affects the employment of the people in the town and we feel that we should be able to do that on behalf of them, as sort of a class action procedure, something of that nature. I would just like to make that request and bring it to your attention.

SENATOR DODD: All right, gentlemen, thank you very much. I would like to call on either Mr. Parker or Mr. Moore for a summary or any statement that you would care to make.

MR. MOORE: Thank you, Senator. I think, just as a quick response to Stafford, the issue of the Ocean Acres sub-division is a very critical issue and is one which has received court attention in the past and was the subject of a case involving the critical areas designation. The applications that we received from Ocean Acres are immediately referred to the Department of Environmental Protection for review under the critical areas requirements and our recommendations on denial always come from the recommendations of denial by DEP because they don't meet the critical area water standard. The Ocean Acres sub-division, I think we would concur, should be sewerred. We are very eagerly awaiting, I might add, the application on the Stafford extension. It has not been placed before this Commission at this point in time, but we hope it will be forthcoming shortly.

I think what we've been through today has raised a number of issues that the Pinelands Commission is very actively involved in. We talked today of landfills with Mr. Schiffman. The Pinelands Commission plan is taking into consideration very seriously the issue of landfills within the pinelands area. There was discussion of Big Hill. We are eagerly awaiting for an application for an extension of Big Hill to go through the Pinelands Review process. It has not yet arrived.

SENATOR DODD: When will that come due, Terry?

MR. MOORE: That's up to the applicant. We have not yet received that application.

The issue of the Mayors' Council has been discussed today. This Commission, I think, has indicated its willingness and indeed its eagerness to assist Mayor Garnett and others in generating interest in the Mayors' Council. I was directed at the last Commission meeting last Friday to prepare recommendations to the Commission for next Friday on how the Commission might better play a role in the establishment of the Mayors' Council. It was, as Mayor Garnett indicated, a call from the Chairman of this Commission which began the first meeting of the Mayors' Council. Why the mayors are not showing up, I don't know. One member of our Commission, who is a mayor, indicated at that meeting, perhaps we haven't done anything yet to cause anyone concern to fall out and come to the meetings. That may or may not be the case. I think I can guarantee this Committee and I know I can guarantee Mayor Garnett that on May 30, when this Commission issues its draft plan, I don't believe that there will be a problem of a quorum on the Mayors' Council. I think they will come together very quickly. I would hope, however, and this Commission would hope that they would get involved in that particular process well before that particular time period.

We've also heard today issues of applications. We feel quite secure, and I think our record on application review has shown this to be the case, that when we attempted to recommend applications for denial, we do not do it lightly. We do it based on the facts of the standards and our evaluation of that application as it relates to the standards. We've had one hearing regarding an application and the Commission was upheld in its denial of that particular application, which I might add was in Ocean Acres.

The other kinds of issues that this particular Committee has expressed interest in are hardship applications. I think it is very interesting today that we have heard mostly from developers. We have not had come before this Committee the single family home owner that resides within the pinelands, who have come before this Commission with applications and has, at times, been denied based on the substantial impairment issue. I think you will also find, as you go through our records on single family applications, that we've been quite generous in the area of hardships, that we've tended to recognize when young couples, when people who reside in this particular area have an economic or a capital investment or have a health issue or have a relationship to an elderly parent which requires some humanity on the part of this Commission and particularly on the part of the staff. We've attempted to respond to those and we're continuing to look at those applications with great care, as they relate to hardship. I have some difficulty and I think the Committee, when it was drafting the bill, probably had the same difficulty of being too concerned with large development patterns in the pinelands over the period of one year, while this plan is being undertaken. We look very carefully at the Pinelands Protection Act and we see some wording in that Act that gives us the guidance that goes through this planning year, as well as guides the plan itself. It does say, I believe, that we should hold down development during the planning period. That's what a moratorium is all about. There has to be a certain number of people that get angry during a moratorium because we have to deny people, based on the standards that we have adopted. We think our standards are equitable. They have never been challenged. Not one applicant has ever brought to a court of law an issue relating to those standards and we think those standards are defensible as they stand right now and they are being implemented, we believe, in a fair manner and we have yet to have an

applicant take a legal recourse, other than our usual appeal procedure, regarding any of the kinds of applications before us. Senator Parker mentioned previously that he would like to have samples of the kinds of hardship applications that we've been processing. I think I would just like to ask Mike, perhaps, how you would like to handle that and we can discuss that after this particular session is over. But, I think I would like to say again what Senator Parker said, that we welcome you here because we want you to view us and we want you to see what we're doing and we are quite confident, as I think we would prove beyond a shadow of a doubt. On August 8, 1980, there will be a comprehensive plan for the pinelands and it will be a damn good plan and I think you will find that when you get it delivered to you. Thank you.

SENATOR DODD: Mr. Moore and members of the Commission, on behalf of the Senate Energy and Environment Committee, we would like to thank you and, again, apologize to the people that we haven't gotten to today. Our next regularly scheduled meeting will be Monday, February 11 between two and four o'clock. We will give the courtesy of those that waited today to be heard for first hearing. We will only have a two hour period during that particular day. It is a legislative day. So, if you would contact Mike Catania either right now, today, or during the week to set up that scheduling, we will try and keep it as accurate as possible. Yes, Ma'am?

I S A B E L L E D I E T Z: My name is Isabelle Dietz and I live in Manchester Township in Ocean County. We moved to the pinelands area six years ago. For the first year or so, we were busy replacing and restoring in our own corner that which had been destroyed by development. It took a while to realize what was happening to the pinelands as a result of the tremendous growth in the area. Largely on behalf of senior citizen interest, we became self-appointed watchpersons at our township level, attending planning board and township meetings and pointing out what we considered bad planning and decisions of those bodies. We became very familiar with the phrase, "A man has the right to the use of his land." That noble concept, which we feel must have born for a higher purpose, seems to be a cover for many speculative ventures, as well as forgiveness for a downgrading of standards for proper development. It was with a sense of relief that we discovered, first, that the Pinelands Environmental Council had been reactivated and make no mistake about the fine quality of the job done by the Pinelands Environmental staff in the last year of its existence. During that time, we also attended several meetings of the Governor's Pinelands Review Committee and, again, our hopes were raised for an end to the destruction of the Pinelands. With the Governor's Executive Order, imposing a moratorium, and subsequently the passage of the Pinelands Protection Act, it really did seem that there would be an all-out effort to plan wisely and equitably for this very special area of New Jersey. We have attended almost of the Commission meetings, including many of the sub-committee meetings and the workshops, and would like to report our impression of the Pineland Commission's performance. They are proceeding according to statute. Their approach to, determination of and application to a tremendous task has earned top marks in our business bible. They are more than willing to hear all voices in putting together a plan for the pinelands. Not content with waiting for participants to come to them, they have sought out those who should have a voice in the planning. They have provided a wide dissemination of information developed in their work, together with reports of progress. Measured in terms of accomplishments and efforts beyond the call of duty, they are very high on the list of our commendation and also the

excellent job relations among the leadership, the Commission members and the staff. We believe that with the limited time remaining for the work to be done, any changes in midstream would seriously inhibit the ongoing work of the Pinelands Commission, jeopardize the meeting of deadlines and the overall objective of the Pinelands Protection Act. We would like to express our appreciation to the Governor and the legislators who devised and endorsed this statute and we respectfully request that it not be changed. Please, do not be like the cow that gives a good pail of milk and then kicks it over. Thank you.

SENATOR DODD: Thank you very much. That's a good note to end on. Thank you, everyone.

(Hearing Concluded)

SUBMITTED BY MAYOR JOHN T. HENDRICKSON

MUNICIPALITY TOWNSHIP OF EAGLESWOOD MUNICIPAL APPROPRIATIONS

	1	2	3	4	5	6
	I T E M			1976	1977	1978
1	General Government			52 854 -	71 161 -	60 800 -
2	Judiciary			3 000 -	4 550 -	6 000 -
3	Police			2 000 -	3 000 -	500 -
4	Fire			5 000 -	5 000 -	5 000 -
5	Public Works			33 016 -	31 735 -	36 500 -
6	Health & Welfare			10 000 -	9 255 -	10 050 -
7	Recreation & Conservation			-	-	4 000 -
8	Libraries			50 -	50 -	100 -
9	PERS			-	316 -	600 -
10	Social Security			1 029 -	1 429 -	2 000 -
11	Capital (Current Revenue)			1 000 -	1 000 -	3 000 -
12	Capital (Borrowed)			3 600 -	3 983 -	-
13	Debt Service (Principal)			-	-	-
14	Debt Service (Interest)			-	-	-
15	School District			-	-	-
16	Reserve for Uncollected Taxes			✓ 131 953 -	✓ 164 030 -	156 288 -
17	Workman's Compensation			75 -	-	-
18	Insurance			321 -	-	-
19	Police/Fire Pensions			-	-	-
20	Pension Increase (Chapter 143, P.L. 1958)			-	-	-
21	Deferred Charges			-	900 -	1 725 -
22	Deficit			-	5 940 -	-
23	Emergency Appropriations			2 700 -	1 500 -	-
24	CETA			-	-	-
25	Safe & Clean Neighborhood			-	-	-
26	Other Unclassified Appropriations			-	-	-
27	Contingent			900 -	900 -	900 -
28	E.P.A. Sewer Planning			-	9 970 -	-
29	N.J. Unemployment Insurance			-	-	300 -
30						
31						
32	Appropriation Within CAP			79 529 -	82 600 -	93 514 -
33	Appropriation Excluded			167 969 -	232 119 -	194 249 -
34	Total Appropriation		1X /Y	247 498 -	314 719 -	287 763 -

## LOCAL BUDGET NOTICE

**Section 1.**

Local Budget of the \_\_\_\_\_ Township of \_\_\_\_\_ Eagleswood \_\_\_\_\_, County of \_\_\_\_\_ Ocean \_\_\_\_\_ for the fiscal year 1975.

Be It Resolved, that the following statements of revenues and appropriations shall constitute the local budget for the year 1975.

Be It Further Resolved, that said budget be published in \_\_\_\_\_ The Beacon \_\_\_\_\_ in the issue of \_\_\_\_\_ February 20, \_\_\_\_\_ 1975.

The governing body of the \_\_\_\_\_ Township of \_\_\_\_\_ Eagleswood \_\_\_\_\_ does hereby approve the following as the budget for the year 1975:

RECORDED VOTE (Insert last name)	Ayes	Barber Hendrickson Rulon	Nays	Abstained  Absent	2X
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Notice is hereby given that the budget and tax resolution was approved by the \_\_\_\_\_ Township Committee of the \_\_\_\_\_ Township of \_\_\_\_\_ Eagleswood \_\_\_\_\_, County of \_\_\_\_\_ Ocean \_\_\_\_\_, on \_\_\_\_\_ February 5, \_\_\_\_\_ 1975

A hearing on the budget and tax resolution will be held at \_\_\_\_\_ The Fire House \_\_\_\_\_, on \_\_\_\_\_ March 6, \_\_\_\_\_ 1975 at \_\_\_\_\_ 8:00 \_\_\_\_\_ o'clock (P.M.) at which time and place objections to said budget and tax resolution for the year 1975 may be presented by taxpayers or other interested persons.  
(Cross out one)

EXPLANATORY STATEMENT	SUMMARY OF CURRENT FUND SECTION OF APPROVED BUDGET			YEAR 1975		YEAR 1974	
General Appropriations For: (Reference to item and sheet number should be omitted in advertised budget)	xxxxxxx	xxxxxxxxxx	xx	xxxxxxxxxxx	xx	xxxxxxxxxxx	xx
1. Municipal Purposes (Item 8 (H), Sheet 16)		108,295	40	89,957	00		
2. Local District School Purposes in Municipal Budget (Item 8 (K), Sheet 17)							
3. Reserve for Uncollected Taxes (Item M, Sheet 17)--Based on Estimated <del>81%</del> <sup>81%</sup> Percent of Tax Collections 40006-00		60,264	03	57,350	00		
4. Total General Appropriations (Item 9, Sheet 17)		168,559	43	147,307	00		
5. Less: Anticipated Revenues Other Than Current Property Tax (Item 5, Sheet 7) Building Aid Allowance } 1975 \$ _____ (i.e. Surplus, Miscellaneous Revenues and Receipts from Delinquent Taxes) for Schools-State Aid } 1974 \$ _____		159,768	43	142,707	00		
6. Difference: Amount to be Raised by Taxes for Support of Municipal Budget (as follows):							
(a) Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes (Item 6 (a), Sheet 7)		8,791	00	4,600	00		
(b) Addition to Local District School Tax (Item 6 (b), Sheet 7)							

Section 1.

Local Budget of the Township of Eagleswood, County of Ocean for the fiscal year 1976.

Be It Resolved, that the following statements of revenues and appropriations shall constitute the local budget for the year 1976.

Be It Further Resolved, that said budget be published in The Beacon in the issue of March 4 1976.

The governing body of the Township of Eagleswood does hereby approve the following as the budget for the year 1976:

RECORDED VOTE (Insert last name)	}	Ayes	} Barber Hendrickson Taeye	}	Nays	}	Abstained	}	Absent	}
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Notice is hereby given that the budget and tax resolution was approved by the Township Committee of the Township of Eagleswood, County of Ocean, on February 18 197

A hearing on the budget and tax resolution will be held at The Firehouse, West Creek, N.J., on March 17 197 at 8:00 o'clock (P.M.) at which time and place objections to said budget and tax resolution for the year 1976 may be presented by taxpayers or other interested persons.  
(Cross out one) 3X

EXPLANATORY STATEMENT	SUMMARY OF CURRENT FUND SECTION OF APPROVED BUDGET		YEAR 1976		YEAR 1975	
	XXXXXXX	XXXXXXXXXX	XX	XXXXXXXXXX	XX	XXXXXXXXXX
General Appropriations For: (Reference to item and sheet number should be omitted in advertised budget)						
1. Municipal Purposes (Item 8 (H), Sheet 16)		111,045	38	108,295	40	
2. Local District School Purposes in Municipal Budget (Item 8 (K), Sheet 17)			00		00	
3. Reserve for Uncollected Taxes (Item M, Sheet 17)-Based on Estimated <u>73</u> Percent of Tax Collections 40006-00		131,952	69	60,264	00	
4. Total General Appropriations (Item 9, Sheet 17)		242,998	07	168,559	40	
5. Less: Anticipated Revenues Other Than Current Property Tax (Item 5, Sheet 7) Building Aid Allowance } 1976 \$ _____ (i.e. Surplus, Miscellaneous Revenues and Receipts from Delinquent Taxes) for Schools-State Aid } 1975 \$ _____		155,498	07	159,768	40	
6. Difference: Amount to be Raised by Taxes for Support of Municipal Budget (as follows):						
(a) Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes (Item 6 (a), Sheet 7)		87,500	00	8,791	00	
(b) Addition to Local District School Tax (Item 6 (b), Sheet 7)						







SUBMITTED BY SYDNEY J. WALKER

REMARKS

Before

THE N. J. SENATE COMMITTEE ON  
ENERGY & THE ENVIRONMENT

Thank you Senator Dodd for the opportunity to appear on behalf of the Department of Environmental Protection, to state our support and interest in the Pinelands Commission's efforts.

The Department of Environmental Protection has been involved in the management of land and has provided technical service in the Pinelands for many years.

State-wide interest in the protection of this unique area was first expressed in the purchase of the Wharton Tract in 1954 & 1955. As many of you are aware, plans had been formulated to utilize this area as a military air base. Historically, both the Wharton Tract and the Pinelands, have been the subject of various development and land use plans, ranging from Joseph Wharton's intention to make it the reservoir for the City of Philadelphia, to the Jetport Plan of the mid 60's.

The Department has taken an active role in the acquisition of additional acres of the Pinelands since the passage of the first Green Acres Bond issue of 1961. It also joined interested groups and individuals seeking national recognition for the area. These efforts culminated in the first of several studies by the National Park Service and other governmental agencies, which commenced in the mid 1960's and lead originally to the appointment of the Pinelands Environmental Council and eventually to the creation of the present Pinelands Commission.

The Department, at the Commission's request, is assisting in four separate areas. The Bureau of Forest Management will be reporting to the Commission its recommendations for management of the Region's timber resources; the Division of Environmental Quality will be providing data on air quality and the source of noise pollution in the Pinelands; the Division of Fish, Game, and Wildlife is

assisting the Commission in its assessment of the wildlife, rare and endangered species, and fish of the Pines; the Bureau of Forest Fire Management will advise the Commission on the high hazard Forest Fire Zones in the Pines and development of a practice to minimize risk to human life. We estimate the value of the work at close to \$100,000, which we are treating as an in-kind contribution to the Commission.

Nationally, the Secretary of the Interior, at the specific request of the Governor, has made available to the Commission, from the Land and Water Conservation Fund, a \$100,000 grant for preparation of the Plan.

The Forests and Parks administered by the Department in the Pinelands, presently have public visitation and recreational use in the excess of 1.2 million visitor per year. They picnic, fish, hunt, camp, photograph, hike, swim, canoe and other boating, ride horse, motorcycle, 4-wheel drive, and conventional vehicles, and visit historic sites, to name a few. We know that 80,000 people canoed the rivers of the Wharton Tract last year.

The great majority of these recreational users, do little permanent or lasting damage to these sensitive areas.

The Department is vitally interested, that any plan for the Pinelands, allow for the continued pursuit of these recreational activities in these present forms.

The Department is further, vitally interested in the acquisition of critical areas of the Pinelands.

The Department feels that the major acquisition effort should center on the CORE area of the Pines, generally in the Wharton, Lebanon, Penn, and Bass River Forests areas. (See Appendix 1).

The areas recommended for acquisition, include interior exceptions to present State-administered lands, but also additional lands including the Plains areas.

Two examples serve to demonstrate the administrative problems inherent to the present ownership pattern of the Department.

The Oswego Tract on the eastern portion of Wharton Forest, is privately owned. The Oswego river is one of the most picturesque of the Pines. The checkerboard land ownership along this river, leads to problems both to Park Visitors and land managers alike. The private ownerships, if continued, lends itself to further development.

The Batona Trail connects Lebanon and Wharton State Forests. It is heavily utilized and in fact, the Boy Scouts of America, offer a "patch" to Scouts completing this hike. When the trail was established in 1960 by the Batona Hiking Club, verbal approval was granted to this club, to cross the approximately six miles of privately-owned land it traverses. Ownerships have changed hands since then. Development has started and is now in existence along portions of the trail. The continued existence of this Trail will hinge on the purchase of a suitable corridor to protect its integrity.

The Department of Environmental Protection has followed with interest, the Department of Defence's proposal for the acquisition of 40,000 acres in the East Plains around the Warren Grove target range. While we are not fundamentally opposed to this acquisition, we are sensitive to two factors concerning it; (1) that no present State-owned lands be included in the acquisition, and (2) that traditional recreational activities for the area now allowed, not be curtailed.

In conclusion, let me say that the Department of Environmental Protection, supports efforts to protect the Pinelands. It's value lies not only in the watershed and recreational values inherent there, but even more importantly, the fact that it is one of the last remaining unspoiled areas in the State, and indeed, in the Northeastern United States.

Thank you.

Sydney J. Walker  
Regional Superintendent  
Division of Parks & Forestry

REPORT AN ACQUISITION

BOUGHT

<u>WEST PLAINS - BEH</u>	<u>975</u> **	<u>\$ 468,837</u> **
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UNDER CONTRACT

<u>WEST PLAINS - BEH</u>	<u>4,025</u> **	<u>\$ 1,731,163</u> **
GOOSE POND AT TABERNACLE	900	1,220,000
SUBTOTAL	4,925	\$ 2,951,163

CONTEMPLATED

<u>WEST PLAINS</u>	<u>5,000</u>	<u>2,000,000</u>
<u>CEDAR CREEK</u>	<u>1,500</u>	2,000,000
LEBANON ADDITIONS	400	250,000
SIM PLACE	3,000	2,000,000
OSWEGO RIVER	5,800	4,000,000
WHARTON ADDITIONS	800	1,500,000
FREENDSHIP BOGS.	2,150	2,000,000
BULLTOWN	400	400,000
BASS RIVER	2,000	2,000,000
SWAN BAY	1,800	1,000,000
SUBTOTAL	22,850	17,150,000
	28,750	19,570,000

TOTAL BEH - 5000 ACRES @ 440/AC FOR 2,200,000

(UNDERScore) - INDICATES APPROVED FEDERAL LWCF '80 GRANT

# ***Bennett's Trailer Co.***

5515 LANCASTER AVE., PHILADELPHIA, PA. 19131  
(215) 877-5100 or (215) 877-5700

February 8, 1980

Re: Pinelands Committee meeting 2-6-80

State Senator Frank Dodd  
New Jersey Energy & Environment Committee  
Trenton, New Jersey

Dear Senator:

I wish to thank you and your committee for allowing me and other builders to present our testimony regarding the disastrous effect on building growth in New Jersey caused by the ill-conceived Pinelands Act and the even more disastrous administration of said Act. The Pinelands Act coupled with the record high interest rates is making it extremely difficult to provide decent housing at a reasonable cost.

Enclosed please find various literature to supplement that which I presented to the committee. Also enclosed please find engineering studies prepared by the firm of Taylor, Wiseman & Taylor of New Jersey regarding a private sewerage treatment plant. The Pinelands Commission has had this information for a long time but, judging from their actions, they probably have not given it any consideration.

Both home builders and home seekers in New Jersey desperately need your help to cut thru the morass of red tape without further delay.

Please do not dispose of the Taylor, Wiseman & Taylor engineering studies. Inspect them at your earliest convenience and I will personally visit your office in approximately three weeks to pick up the studies; if you have any questions regarding them, perhaps I can answer those questions then.

Respectfully yours,

*Robert J. Bennett*

Robert J. Bennett, President  
Bennett's Trailer Company - Pennsylvania  
Elm Towne - New Jersey  
Winslow Lakes - New Jersey

SUBMITTED BY ROGER HANSEN

TESTIMONY BEFORE SENATOR DODD'S SUBCOMMITTEE ON THE ENVIRONMENT  
AND ENERGY RELATIVE TO THE PINELANDS PROTECTION ACT:

Gentlemen, my name is Roger Hansen, and I would like to thank you for affording me this opportunity to speak before you relative to your oversight hearings on the Pinelands Protection Act.

I would like to first establish that I am the officer and owner of approximately 2,000 acres of property that falls within the auspices of the Pinelands Protection area, none of which is in the critical preservation zone.

I am here to discuss; namely, a recommended denial we have received on an application in Galloway Township, Atlantic County, New Jersey, known as the Villages at Stockton. I would also like to touch upon the housing shortage that exists today in Atlantic County, New Jersey, and will become much more critical in the coming months.

Gentlemen, a recent study prepared for the Atlantic City Housing Authority by ERA Associates projects an estimated need for 5,500 units per year to accommodate the increased employment as a direct outgrowth of the casino development which is taking place in that town.

One interesting statistic to note within that study is that the housing within Atlantic County today is selling at a 60% premium over the housing in the secondary market area which has been designated in that study as being those outlying areas outside of Atlantic County. One recent example of this is a condominium project on the Greate Bay Country Club which two years ago was selling at approximately \$65,000.00 per unit. The most recent sales which have been recorded on record

have been at \$135,000.00 per unit. Gentlemen, this has not been caused by inflation, but rather by the old supply and demand principal which we were all taught in economics as a direct result of the Pinelands Protection Act which has limited the availability of land at reasonable prices. Land in the Coastal Area Facilities Zone is selling at appreciated values and existing housing whether new or re-sales are selling far in excess of their market values.

With the advent of possibly two or three more casinos opening this summer in Atlantic City, I think it is imperative that Atlantic County receive some relief from the Pinelands Protection Act so that it may immediately begin to meet the housing needs of this rapidly expanding economic area.

It is because of these reasons and because of the fact we are landowners and would like to make use of our land that we submitted an Application to the Pinelands Planning Commission known as the Villages at Stockton. This has been a very frustrating experience for us inasmuch as our original submission was made to the Old Pinelands Review Board on May 21 of 1979. We were notified on May 25th that that application could not be considered because it lacked preliminary subdivision approval. I would like to call

your attention at this time that this was one of the original proposals which was to be incorporated in the Interim Standards which were adopted in July of 1979. At the time of this denial on May 25th, these standards did not exist, but were rather anticipated and the applications were subject to these anticipations.

In July we wrote to Terry Moore requesting that our application be re-activated after the Interim Rules and Regulations were adopted in July of 1979. We were advised by Mr. William Harrison on July 19th of these new regulations and the requirement that we needed conceptual approval or knowledge of the application by the Galloway Township Planning Board. We submitted this information to the Pinelands on July 25th as well as some additional information concerning our application. Also, at this time we commenced full engineering of this site and proceeded to secure preliminary subdivision approval from the Township of Galloway. On September 6, 1979, we submitted a complete set of preliminary plans concerning all engineering and drainage calculations as well as a reduction in the number of units proposed for this site.

I would like at this time to address some statements by Mr. Moore that were made last Wednesday on the first day of your hearings.

Mr. Moore stated that the Pinelands Commission is presently processing applications within a 60 day time frame and furthermore that his technical staff has been rendering assistance to applicants who have applied for exemption on meeting the technical matters of the Interim Standards. Gentlemen, I can only inform you that the correspondence

and communications with the technical staff of the commission concerning this application has been unilateral with all inquiries made on our part and that it took approximately five months to receive a recommended denial letter from Mr. William Harrison which we received on December 12th. although they received the final set of information from us which represented complete preliminary drawings on September 6th. We feel they could have more expeditiously rendered a decision on this application which would have facilitated our appearance before the administrative law judge so that we could argue our case for consistency and no substantial impairment on the Pinelands Region.

I think it is best to look at the reasons for denial in our letter of December 12th so that you can see how close our application came to being passed. It is stated the proposed development of this 217 lot subdivision is not consistent with the Pinelands Protection Act and the applicant is not eligible for extraordinary hardship exemption. This is because an applicant is not permitted to include the cost of his real estate as part of his total monetary package to demonstrate hardship.

One other item which was not mentioned in this denial letter was the fact that we requested approval based on a compelling public need. I think this is evidenced by my earlier testimony and by the many studies which have been conducted concerning the housing shortage in Atlantic County.

Concerning the reasons which were given for the substantial impairment criteria was that there is a hardwood swamp on the applicant's

property and that we are not maintaining a 300 foot buffer from this wetland area. We do not deny the existence of a marginal wetland area on this site that is known in environmental terms as a "spung". It has no flowing water in or out. It happens to be a natural depression area on this site. We can engineer by use of re-charge basins around this "spung" to protect this area. This has been acknowledged by the Pinelands Commission. *staff.*

The other reason was that the proposed subdivision will result in an average concentration of nitrate nitrogen in the ground water at the applicant's property line in excess of the potable water standards of 10 parts per million. Gentlemen, using the Trella Douglass model that the Pinelands Commission uses this means we would have to drop nine lots from our application of 217 to 208 and we would qualify under this standard.

Another reason detailed in this denial is that the applicant is required to dedicate land along existing roads for future road widening. This is one requirement we have no control over in that the county requires additional right-of-way for the future widening of Mays Landing-Port Republic Road. Gentlemen, we will request a waiver from this additional right-of-way requirement, but we should not be penalized on this application for it.

As I think you can see, these are technical items we feel that either through planning or engineering we can take care of.

Two items mentioned in this denial letter which we are having difficulty grasping are that the applicant's property is in an undeveloped area and that there is no subdivision comparable in magnitude or density to the applicant's property in the area, and because of these reasons these constitute piecemeal and scattered development which will result in a substantial impairment of the natural resources of the Pinelands.

This a very difficult thing to address inasmuch as there is existing development completely surrounding our site in that Stockton College with its dormitories and educational centers is located directly across the street; we have two <sup>other</sup> subdivisions, granted, not in the magnitude of our site, that border two boundaries; and it is based upon our subjective judgment that it does not constitute an undeveloped area. Are we to construe that because there is not a subdivision of comparable magnitude and density in this area that this is reason for denial and that no subdivisions in the Pinelands Region will be approved unless there is an existing subdivision of comparable magnitude and size next to it. Gentlemen, I feel this is somewhat arbitrary. Our application received preliminary approval from the Galloway Township Planning Board with minor modifications on December 21st. It is a Planned Unit Development which represents a community which is self-contained using all the finer planning aspects such as buffering, <sup>clustering</sup> maintenance of substantial open space, minimal removal of tree cover, and active recreation on site for its residents. Due to its locations, its moderate density, its preservation of the tree cover and the self-

contained community concept, it is precisely this type of application that the Pinelands should be granting approval,

We are very proud of this application and feel it is indeed sensitive to the ecological systems that would exist on the site and would like the Pinelands to use it as a model as to the type of development they would like to see in the protection zone.

I would like at this time to show you an aerial photograph of our site and to point out the existing development that borders our project as well as the proposed PUD of 6700 units in the CAFRA Zone which is planned by the Historic Smithville Development Co. I think this will show you beyond a shadow of a doubt that this is not an undeveloped area, nor does it represent piecemeal and scattered development in our opinion.

-----  
(Note to Roger: At this time show them the map pointing out such areas as the College Park Subdivision, Tiger Oaks Subdivision, Stockton State College campus, as well as proposed dormitory <sup>500+ unit</sup> expansion, proposed area of the Smithville PUD and various zoning districts as established by the Galloway Township Master Plan.)

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Gentlemen, I think it is imperative at this time that we establish a definition and standard of what constitutes piecemeal and scattered development. As you can see on this aerial, we don't feel this application fits this non-existent definition that the technical staff has labeled it.

Furthermore, we don't feel there is a compelling necessity that there be an existing subdivision of a comparable size to be

justification for getting an exemption from the Pinelands Act. We would like Mr. Moore to address these issues immediately and to propose additional standards or definitions as would be required.

We have heard in the first day of testimony that the commission expects to have its comprehensive master plan ready by August 6, 1980. I must admit I am somewhat skeptical that this will be completed, and even if it is there will be additional time required so that the various municipalities which are affected by it can incorporate these provisions into their master plans which will further inhibit development within the Pinelands Protection Zone.

My own timetable would seem to dictate that the actual commencement of construction within this zone will not take place until sometime in 1981 and by that time Atlantic County will have a most critical housing shortage with the other casinos which will be on line.

Our recommendation to you gentlemen is that you amend the legislation to lift the moratorium on the Protection Zone for the time which will be required to complete the plan and also the amendments which would be required by the local counties and municipalities for compliance and at that time all future development would be subject to the standards as dictated by the comprehensive management plan.

TESTIMONY OF WILLIAM BARANYAY  
EXECUTIVE DIRECTOR  
THE NEW JERSEY AUDUBON SOCIETY

MY NAME IS WILLIAM BARANYAY. I AM EXECUTIVE DIRECTOR OF THE NEW JERSEY AUDUBON SOCIETY WHICH HAS APPROXIMATELY 4,000 MEMBERS. THE SOCIETY OPERATES 5 EDUCATION CENTERS FROM BERGEN COUNTY TO CAPE MAY, AND WE SERVE BY PERSONAL CONTACT APPROXIMATELY 75000 PEOPLE PER YEAR WITH INFORMATION ON WILDLIFE AND ABOUT OUR STATE'S NATURAL RESOURCES.

THE SOCIETY HAS ADVOCATED THE PRESERVATION OF THE PINELANDS, BROADLY DEFINED, AND THROUGH ITS PINELANDS TASK FORCE HAS PLAYED A ROLE IN PROMOTING THE STATE AND FEDERAL LEGISLATION. WE APPEARED AS WITNESSES AT HEARINGS SUPPORTING BOTH THE FEDERAL AND STATE LEGISLATIVE ACTS.

N.J. AUDUBON ADVOCATES THE CONCEPT OF MAJOR PRESERVATION OF THE UNIQUE AND SCIENTIFICALLY VALUABLE PLANT AND ANIMAL HABITATS WHEREVER THEY APPEAR WITHIN THE PINELANDS AREAS OF THE OUTER COASTAL PLAIN. WE RECOGNIZE THAT IMPORTANT PINELAND AREAS TO BE PROTECTED LIE SOUTH OF U.S. ROUTE 30, IN ATLANTIC, CAPE MAY, AND CUMBERLAND COUNTIES.

OUR OBSERVATIONS ON THE ACTIVITIES OF THE COMMISSION HAVE BEEN MADE OVER THE PERIOD SINCE THE COMMISSION WAS FIRST APPOINTED AND BECAME ACTIVE.

1. THE WORK PLAN OF THE COMMISSION HAS BEEN DEVELOPED CAREFULLY AND A CAPABLE GROUP OF CONSULTANTS HAS BEEN RETAINED UNDER CONTRACT.

2. We would hope that the Pinelands Commission will conduct field studies to determine the minimum acceptable size of tracts in each Pinelands habitat because such data does not now exist and is crucial to preservation efforts. We would also hope that habitat types are not ranked in importance anymore than individual species should be ranked because all are important to the overall Pinelands system.

3. THE REVIEW OF DEVELOPMENT AS REQUIRED BY LEGISLATION AND UNDER PROCEDURES DEVELOPED BY THE COMMISSION HAS BEEN LABOR-IOUS. HOWEVER, THIS REVIEW IS IMPORTANT, AND WE SUPPORT THE CAREFUL ATTENTION OF THE COMMISSION AND ITS STAFF TO DEVELOPMENT PROJECT REVIEW. INFORMATION FROM THIS OPERATION HAS BEEN VALUABLE TO THE PLANNING PROCESS AND IN ACQUAINTING THE STAFF WITH THE PINELANDS.

4. THE RELATIVELY NEW CONCEPT OF A NATIONAL PRESERVE OPERATED IN THE MANNER PROJECTED BY THE LEGISLATION INTERESTS THE SOCIETY VERY MUCH. WE BELIEVE THAT THE CONCEPT DESERVES YOUR SUPPORT AND CONTINUING ATTENTION.

5. WE URGE THAT THE BEST THINKING OF THE SCIENTISTS AND HUMANISTS IN THE FEDERAL GOVERNMENT, IN STATE GOVERNMENT, IN THE COLLEGES AND UNIVERSITIES BE BROUGHT INTO THE DECISION-MAKING PROCESS.

6. WE SUPPORT THE CONCEPT OF EXTENSIVE PUBLIC PARTICIPATION IN THE DEVELOPMENT OF A MANAGEMENT PLAN. IN PARTICULAR, THE RESIDENTS OF THE PINELANDS AND THEIR ELECTED REPRESENTATIVES NEED BE BROUGHT INTO THE CONTINUING PROCESS.

7. I THANK YOU FOR THE OPPORTUNITY TO INDICATE THE STRONG SUPPORT OF THE N.J. AUDUBON SOCIETY FOR THE WORK OF THE PINELANDS COMMISSION.

THE ILLINOIS LEGISLATURE  
HOUSE OF REPRESENTATIVES  
FOUR HOURS OF THE HOUSE OF REPRESENTATIVES  
AT THE CAPITAL CITY OF SPRINGFIELD, ILLINOIS.

There are 2,081 parcels of vacant land in Woodland Township which make up approximately 35,950 acres. This amounts to \$17,871,125 in assessed value. The total assessed value of Woodland Township is \$21,734,243. Therefore 82% of the assessed value is attributed to vacant land, 18% to residential, 0% to industrial and commercial, and 5% to farmland.

There has been some discussion of a possible creation of a Landmark Assessment Act similar to the Farmland Assessment Act. If such legislation were to be enacted vacant land owners would receive a 50% reduction in their taxes, however, the bulk of which would be recovered, would have to make up the loss.

In 1979 it cost \$2.00 per acre to raise \$700,000.00. If for instance vacant land were to be assessed at \$1.00 per acre, it would raise the total rate to \$33,950,211. A loss of \$15,920,911 in revenue. In order to raise \$700,000 the tax rate would increase to \$1.43 per acre of assessed valuation.

In 1979 it cost a homeowner of \$100,000.00 in value with a tax rate of \$1.43 it would cost the same homeowner \$1,900.00. He would not see the burden of this tax levied on the owner.

With a loss of \$15,920,911 in revenues and in order to sustain the tax base under a program of this type, Woodland Township would have to add a millage rate of \$50 per acre or \$3,000.00 each.

Another example of the purchase of land by the township for the purpose of creating a green space park, thereby in lieu of property taxes would be paid to the municipality.

Using 20,000 acres as an example the results would be as follows;

If the property was purchased in 1980 the base year to be used for payment would be 1979, meaning the assessment and the tax rate for 1979. The assessment for 20,000 acres would be \$10,000,000 and the tax rate would be \$2.40 per hundred. The first in lieu of tax payment in 1981 would be for the full amount followed by a decrease of 8% each year for the next 12 years. This would be a loss \$800,000 in ratables each year for that period. At this rate the construction of 24- \$35,000 homes would be needed to maintain the original tax base. If no construction were to be allowed at all and assuming that the remaining 14,950 acres remained at the same assessment the amount to be raised now after 13 years will have increased to \$1,130,979 resulting in a tax rate of \$8.04 per hundred. The owner of a \$35,000.00 home would now pay \$2,114.50 per year in taxes.

If both programs were enacted whereby 20,000 acres become exempt and the remaining 14,950 acres are under a Pinelands Assessment program at \$50.00 per acre this would reduce the total ratables to \$12,000,740. The same home in 13 years, would pay \$3,297.00 in taxes with a tax rate of \$9.42.

The point being brought out here is that new construction is a must in order that homeowners in Woodland Township can survive.

  
John Keller, Jr. Assessor  
Township of Woodland

PRESENTATION TO N. J. SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

BY: STEVEN J. COCCODAN, MAYOR

MEDFORD TOWNSHIP

FEBRUARY 6, 1980

I WOULD LIKE TO THANK THIS COMMITTEE FOR THE INVITATION TO SPEAK BEFORE YOU TODAY AND FOR TAKING THE INTEREST IN THE IMPACT OF THE PINELANDS LEGISLATION ON OUR COMMUNITY.

SOME BACKGROUND ON OUR TOWNSHIP MAY BE HELPFUL. MEDFORD CONSISTS OF APPROXIMATELY 46 SQUARE MILES CONTAINING SEVERAL HUNDRED ACRES OF LAKES. A LARGE PERCENTAGE OF OUR TOWNSHIP IS UNDERLINED BY THE COHANSEY/KIRKWOOD FORMATION. INCLUDED IN OUR TOWN ARE NOT ONLY HUNDREDS OF ACRES OF WORKING FARMS BUT PORTIONS OF THE WHARTON TRACT AND JERSEY BOGS. RECOGNIZING THESE NATURAL ASSETS, NINE YEARS AGO THE TOWNSHIP HAD THE FORESIGHT TO COMMISSION A TOTAL STUDY OF OUR ENVIRONMENT. THIS REPORT, REFERRED TO AS THE McHARG STUDY, ANALYZED EACH AND EVERY ASPECT OF OUR ECOLOGY AND THOSE FACTORS IMPACTING ON IT. THIS STUDY ALSO INCLUDED FULL LEGISLATIVE RECOMMENDATIONS DEALING WITH IMPLEMENTATION AND ENFORCEMENT.

WHAT FOLLOWED WAS THE FULL TIME STAFFING OF A PLANNING OFFICE, RETAINING OUTSIDE PLANNING CONSULTANTS ON A CONTINUING BASIS, HIRING ENVIRONMENTAL REVIEW OFFICIALS, THE ADOPTION OF A LAND USE ORDINANCE, EXPANDED ENFORCEMENT RESPONSIBILITIES, AND DETAILED REVIEW PROCEDURES.

OUR LAND USE ORDINANCE DOES NOT MERELY ADDRESS ZONING BUT GOES INTO DETAILED REQUIREMENTS FOR MONITORING WELLS, STREAM TESTING, IMPERVIOUS SURFACES, ETC. OUR ZONING INCLUDES A PRESERVATION AREA WHICH PROBABLY ESTABLISHED A PRECEDENT IN SUCH ORDINANCE.

THE JOB IS NOT DONE. RESEARCH IS UNDERWAY TODAY ON SURFACE WATER QUALITY AND A STUDY OF THE HEADWATERS. A REVIEW OF THE LEGISLATIVE AND ENFORCEMENT PORTIONS OF OUR LAND USE WILL BE COMPLETED IN THE COMING MONTHS.

IT IS IMPORTANT TO NOTE THAT THIS ENTIRE PROGRAM, BEGINNING WITH THE McHARG STUDY, ALL PLANNING-ENVIRONMENTAL CONSULTANTS AND EMPLOYEES, AND ALL CONTINUING RESEARCH HAS BEEN FUNDED BY OUR TOWNSHIP ENTIRELY. YES - MEDFORD HAS TAKEN OUR ENVIRONMENT VERY SERIOUSLY.

THE END RESULT OF THIS IS THAT MEDFORD IS CONSIDERED THE LEADER IN PLANNING BY MANY EXPERTS IN THE STATE. OUR PERSONNEL ARE FREQUENTLY CALLED FOR ADVICE BY MANY OF THE VARIOUS DEPARTMENTS IN NEW JERSEY AND ELSEWHERE.

THERE ARE THOSE WHO WILL CLAIM THAT ENFORCEMENT OF ENVIRONMENTAL SAFEGUARDS AND LAND DEVELOPMENT ARE NATURAL ADVERSARIES. THIS MAY BE SO - - - HOWEVER, THROUGH PERSISTENT WORK AND COOPERATION, MEDFORD HAS GROWN AT A FASTER RATE THAN MOST ANY OTHER COMMUNITY IN SOUTH JERSEY IF NOT IN THE STATE. MEDFORD'S RATABLES, WHEN CALCULATED ON A PER CAPITA BASIS, CURRENTLY RANKS AS ONE OF THE HIGHEST, IF NOT THE HIGHEST, IN THE ENTIRE STATE. THIS BECOMES MORE NOTEWORTHY WHEN YOU CONSIDER OUR LOW PERCENTAGE OF NON-RESIDENTIAL DEVELOPMENT.

I HAVE GIVEN YOU THIS BACKGROUND IN ORDER THAT YOU MIGHT UNDERSTAND OUR PERSPECTIVE OF PINELANDS LEGISLATION AND THAT SUCH LEGISLATION CAN BE VIABLE ONLY IF ALL FACTORS, INCLUDING ECONOMIC, ARE FULLY ADDRESSED.

TWENTY PERCENT (20%) OF MEDFORD LIES WITHIN THE PINELANDS "PRESERVATION AREA" AND AN ADDITIONAL FORTY PERCENT (40%) WITHIN THE "PROTECTION AREA". WITH APPROXIMATELY TWO-THIRDS OF OUR TOWNSHIP EFFECTED BY THIS LEGISLATION, WE HAVE A SIGNIFICANT INTEREST IN ITS IMPACT.

IT IS DIFFICULT, IF NOT IMPOSSIBLE, DUE TO OTHER FACTORS, TO ASCERTAIN THE TOTAL IMPACT OF THE PINELANDS MORATORIUM ON MEDFORD. WE KNOW THAT THERE HAS BEEN A DRAMATIC DECREASE IN THE NUMBER OF NEW SUBDIVISION APPLICATIONS, A SIZEABLE SHIFT TO AREAS OUTSIDE THE ENFORCEMENT AREAS, AND BUILDING PERMITS HAVE DECREASED ALMOST 50 PER CENT THIS YEAR COMPARED TO THE SAME PERIOD LAST YEAR.

WE HAVE BEEN WORKING FROM A LARGE BACKLOG OF APPROVED SUBDIVISIONS. THE ANTICIPATION HAS BEEN THAT THE DECLINE WOULD NOT BE SIGNIFICANT UNTIL MID 1980. YET - I HAVE ALREADY STATED THAT BUILDING PERMITS HAVE DECREASED BY ALMOST 50 PERCENT JUST SO FAR IN 1980.

MORE STATISTICALLY ACCURATE IS THE IMPACT ON RATABLES. MEDFORD HAS IN EXCESS OF THREE THOUSAND ACRES IN THE "PRESERVATION AREA" (EXCLUSIVE OF QUALIFIED FARMLAND) WHICH COULD BE APPEALED AND GRANTED TAX REDUCTIONS IN 1980. THE ESTIMATED LOSS IN RATABLES WILL PROBABLY EXCEED \$2,000,000 THIS YEAR ALONE. THIS WOULD BE IN ADDITION TO THE \$148,400 RATABLE LOSS IN THE SAME AREA LAST YEAR.

WE HAVE OTHER CONCERNS:

1. WHY ARE WE NOT INFORMED BY THE PINELANDS COMMISSION ON ACTION TAKEN ON AN APPLICATION FROM OUR TOWNSHIP?
2. WHO WILL ENFORCE THIS LEGISLATION? HOW WILL THIS ENFORCEMENT BE FUNDED? IS THIS AN ADDITIONAL COST TO BE BORN BY US?
3. THERE IS AN OBVIOUS NEED FOR REIMBURSEMENT AT FAIR MARKET VALUE TO OWNERS OF PROPERTY TO BE UNDEVELOPABLE. HOWEVER, WHAT REIMBURSEMENT IS THERE TO A MUNICIPALITY FOR THE LOSS OF RATABLES?

4. WHAT DOES THE STATE INTEND TO PROVIDE IN CONTINUING FUNDING TO A MUNICIPALITY TO OFFSET THE TAX INCOME LOSS WHEN AGREEMENT IS TAKEN OFF OUR TAX ROLLS?

5. WHAT INPUT CAN WE HAVE TO JOINTLY ESTABLISH FAIR BOUNDARY LINES OF THESE AREAS WHICH WERE ARBITRARILY ESTABLISHED BY ROADS OR HIGHWAYS?

6. WHY HAVE NONE OF THE PROFESSIONAL CONSULTANTS RETAINED BY THE PINELANDS COMMISSION CONTACTED ANY MEDFORD TOWNSHIP PERSONNEL FOR THEIR INPUT? THIS APPEARS STRANGE CONSIDERING THE ACKNOWLEDGED EXPERTISE IN THIS FIELD BY OUR TOWNSHIP.

IN CLOSING, NO ONE DESIRES TO SEE THE PINELANDS PRESERVED MORE THAN MEDFORD TOWNSHIP. HOWEVER, ANY LEGISLATION WHICH IS NOT RESPONSIVE TO THE ECONOMIC REALITIES IS, QUITE FRANKLY, NO LEGISLATION AT ALL.

THANK YOU.

The following is quoted from Ephraim Tomlinson, previous Mayor - Medford Township, contained in the preface of the Report - McHarg Study, published in March 1974:

*"In the Beginning...and then...and then came Man, arrogant, impatient and full of greed. For centuries he was forced to live with nature and within the delicate balance created for all things. Gradually he developed from the hunter to a member of an agrarian society, knowing full well his complete dependence upon the bounty of nature. With the advent of the Twentieth Century, Man gave more and more of his attention to industrialization and mechanization, finally reaching out to touch the stars, and in doing so forgot the world within which he must live and his attendant responsibility to it and to generations yet unborn.*

*This study represents a commitment by the people of Medford Township to their posterity and its environment. It was conceived in a consensus, a general public determination to preserve the beauty of Medford's environment, the quality of its waters, the richness and variety of its vegetation and wildlife, as the Township adjusts to and accommodates the acknowledged inevitability of growth....."*

SUBMITTED BY BERNARD D. MILLER

My name is Bernard D. Miller. I am a resident of Forked River, N. J. since 1964, and I have owned the Forked River Pharmacy since 1966. I have served as President of the Lacey Township Chamber of Commerce and I am currently the Treasurer of the Ocean County Chambers of Commerce, which represents the Chambers of Commerce of Point Pleasant, Brick Town, Lakewood, Jackson, Greater Toms River, Berkely, Lacey and Long Beach Island.

It is common knowledge that Chambers of Commerce have an interest in the welfare of the businessmen and women of their respective communities; but don't forget that we live and play in these communities as well. We Chamber members respect the need to preserve vital land areas but we do not agree that the protection area of the Pinelands falls into that vital category. The needless moratorium on development in the protection area is a threat to the economy of central and southern Ocean County as well as our sister counties.

30X

The construction industry has been brought to a halt. Our local and county tax base has been threatened, local land use control usurped, and no end to the problem is in sight.

Like myself, many business people located in Ocean County because we saw it as a place where our businesses would grow and prosper as did our communities. We saw a County where job opportunity would increase so expensive commuting to work would be eliminated. We saw a County where our children would build their homes and careers as the County grew. We saw the State give guidelines in 1972 when our regional sewers were planned. Instead, as a member of the Lacey M.U.A., I have agonized as we now have a sewer system but can't build the homes to provide the volume of flow needed for economical operation of the plant. Who will pay the bill? In Lacey Township we're building a high school that was planned with sensible growth in mind. If we don't grow, who will pay the bill?

It seems that the words " economic impact" have no place in State planning activities.

The Ocean County Chambers of Commerce recognize that critical land areas must and should be preserved. We simply do not feel that the protection area falls into that category. Moratoriums have had a track record of lasting for years without any resolution. This economic destruction in all its disguises must stop. We urge the release of the protection area at once with local land use control in effect. Let the Pinelands Commission provide guidelines and standards but let each community administer its land.

We must be allowed to grow in a responsible, sensible and progressive manner. The Ocean County Chambers of Commerce feel that our local and county governmental bodies are more than able to guide that growth.

The original Federal concept for preserving the Pinelands certainly didnot intend for a protection area or a moratorium to occur. Why must every business person and indeed every tax payer in the involved area of our state be placed needlessly in an economic vise? As energy supplies dwindle it becomes even more vital that Ocean County be allowed reasonable growth to provide jobs and homes for our greatest asset.. our children. Thank you very much.



---

Bernard D. Miller, Treas.  
Ocean County Chambers  
of Commerce



February 5, 1980

Senate Energy & Environmental  
Committee  
Room 223 State House  
Trenton, New Jersey 08625

RE: KINGS GRANT

Gentlemen:

The Owners of Kings Grant wish to impress upon members of the Committee and the concerned public, as stated so many times over the past several months, the following facts related to Kings Grant:

- (1) Kings Grant is an 1800 acre planned unit development (PUD) which received tentative application approval in 1968 for a density of 5 units per acre from Evesham Township, Burlington County.
- (2) Land improvements commenced in 1970.
- (3) The first resident moved into Kings Grant in 1974; today there are 140 families, or approximately 500 people, in Kings Grant.
- (4) A water treatment plant has functioned since 1974.
- (5) An advanced wastewater treatment plant went into operation in early 1979.
- (6) 6.1 miles of roads, 2.6 miles of storm sewer lines, 15.3 miles of sanitary sewer lines, and 11.4 miles of water lines have been built. These services are designed to meet the needs of a substantial portion of the PUD.
- (7) Over 50 acres of lakes serve for recreation and storm water management.
- (8) An 18-hole/160 acre golf course exists.
- (9) An administration building and display center serve the needs of management.

34X

Kings Grant is an environmentally planned community on the periphery of the Pinelands which offers a logical, orderly, and controlled growth pattern of development as an alternative to haphazard and scattered building. Since we are located within the boundaries of the Pinelands protection area, we are proceeding with the preparation of exemption applications. We are sensitive to the goals of the Pinelands and we are making every effort to cooperate with the Pinelands staff.

However, we maintain that, because of Kings Grant's advanced state of construction and urban oriented location in an area of continuing growth and development, with sewer and water facilities and other improvements in place, all installed for a growing community at a cost of millions of dollars, projects like Kings Grant should not be in the Pinelands. Based on past commitments and expenditures to date, not to be able to move forward in a meaningful way presents a severe economic hardship to Kings Grant. As a planned community, the growth of Kings Grant is subject to continuing checks and review through the municipal and county approval processes. These processes are capable of monitoring the environment and other sensitive issues related to development.

We urge the Committee to support the redrawing of the Pinelands boundary to reduce the size of the Pinelands to a meaningful area so that projects like Kings Grant can move forward to provide those needs required by our community. In addition, a smaller and more manageable Pinelands area can be better controlled to safeguard those sensitive environmental areas. Your consideration of our request will be most helpful and we appreciate the opportunity of appearing before you.

Sincerely,



Eldon M. Chorney  
General Manager

EMC/cg



*Primary concern is to keep the integrity of the Act, S3091 - intact!*

# Sierra Club

## WEST JERSEY GROUP

Burlington, Camden, Gloucester, Salem, Cumberland,  
Atlantic, & Cape May Counties

"...TO EXPLORE, ENJOY AND PRESERVE THE NATION'S  
FORESTS, WATERS, WILDLIFE AND WILDERNESS..."

February 6, 1980

Hearing on Bill S3091, Pinelands Protection Act, which was signed into law June, 1979.

Senator Frank Dodd, Chairman Energy and Environment Committee

We have been appearing before many governmental agencies and legislative bodies since 1976 to support regulations and legislation for measures to preserve New Jersey's Pine Barrens. In fact, I have lost track of the *no. of* public meetings, hearings, and conferences called to discuss the many controversies involved in this endeavor. Some were in Trenton, Washington DC, Pine Barren communities, and many other locales where interests are keen regarding the ultimate fate of this great natural resource.

It is not necessary to describe the Pine Barrens at this gathering; we have all documented its area, assets, vulnerability, value and methods to deal with its management. Considering the debate ran its course in the federal legislation for a long, torturous time resulting in the establishing of Section 503 of the National Parks & Recreation Act of 1978, we hoped our congressional legislators would cooperate with the remaining essential state efforts. In spite of objections raised by Congressman Hughes, and to a lesser degree, Congressman Forsythe, we saw this legislation, S3091, pass the state legislature and be signed by Governor Byrne.

We went through the difficult period of consideration and disagreement about this bill; working to our utmost to prove that the citizens, a majority of them throughout the state, wanted this carefully drafted plan implemented. We realized that there need be individual concern expressed for those who live in the Pine Barrens while they appealed for exemptions from the building restrictions. We believe all other objections raised by developers and special business interests must be held at bay until the Pineland Commission completes its studies, data gathering, and drafting of a good management plan.

We also believe it would be a breach of faith with the citizens of this state, not to mention the correctly followed political process, for this committee to change the legislation or interfere with the work of the commission. Now it is imperative to demonstrate your impeccable devotion to principle in basing political decisions on the common good and strictest public interest.

Not only is the fate of the ecology of this delicate resource at stake, the construction of houses in inappropriate places causes financial <sup>loss</sup> and unhealthy conditions for the residents. A development in Waterford Township, Camden County is an example. In January 6, 1980 edition of the Bulletin there is an account of disaster for home-purchasers in a new development that should never have been built. The high water table and soils are unable to handle the septic and rain, for starters. This development was approved by the township and county officials, those same governments that the opponents of this bill want to resume permit authority. This particular instance is just one of many horror stories and improper construction efforts you can find all over

what is referred to as the "Protection Area" of the Pines. Not only is the natural resource of the entire Pine Barrens affected, the people buying homes here are endangered. I attach the newspaper article about this Waterford development - read the accounts in the other local newspapers of the region and you will learn of much more that points out the inability of local and county authorities to cope with construction in the Pine Barrens.

The Pineland Commission has been granting many new housing units, as of January 4, they approved 893. The commission publishes a newsletter and the January 15, 1980 issue details its record of handling the applications, we recommend the committee study it. The DEP Weekly Bulletin of January 25 contains 37 pages listing the applications for development, What would happen if there were not the right consideration given to the advisability of granting or denying permits?

We ask this committee to reject any proposed amendments or changes in the authority of the Pineland Commission as mandated in S3091, Pinelands Protection Act.

*Carol Barrett*

Carol Barrett, N.J. Chapter Sierra Club  
Pine Barrens Chairman  
1305 Walnut Ave.  
W. Collingswood, N.J. 08107

11/6/84

# New houses near barrens float in woes

By LARRY REINSTEIN  
*Of The Bulletin Staff*

Waterford — When John Brown steps out of the rear door of his new \$51,800 house here he is immediately confronted by a 10-foot high, gently sloping hill that covers all of his backyard.

Brown occasionally jokes about the hill to neighbors. "I tell them when it snows they can come over and ski," he said last week.

But despite the joking, Brown and his neighbors are bitter about the hill and a variety of other construction ills plaguing two new housing developments here. For some, the problems have turned the pleasure of home ownership into a nightmare.

"I'm sorry I ever saw this house. I'm sick of it," said the 32-year-old Brown, who moved last July into the 17-home Forest Parke development off Richards ave.

Brown's backyard is covered by a hill because the development was built on land that sits only a few feet above the Pinelands' underground water supply. To keep it from polluting that precious water, Brown's septic system had to be installed above ground level, thus producing the hill that covers the system.

Brown's eyesore hill, which didn't exist when he bought the house, is not all that went awry with the Forest Parke development and the adjacent Partridge Woods development. Many residents at Forest Parke have experienced severe flooding in basements or crawlspaces because of the high water table under their land. During heavy rains, waste water can be seen bubbling up in one homeowner's yard from a septic system. One home in Partridge Woods has a basement that fills with water during rains, the neighbors say — a statement that is not denied by the developer's owner, Robert Nabrzeski.

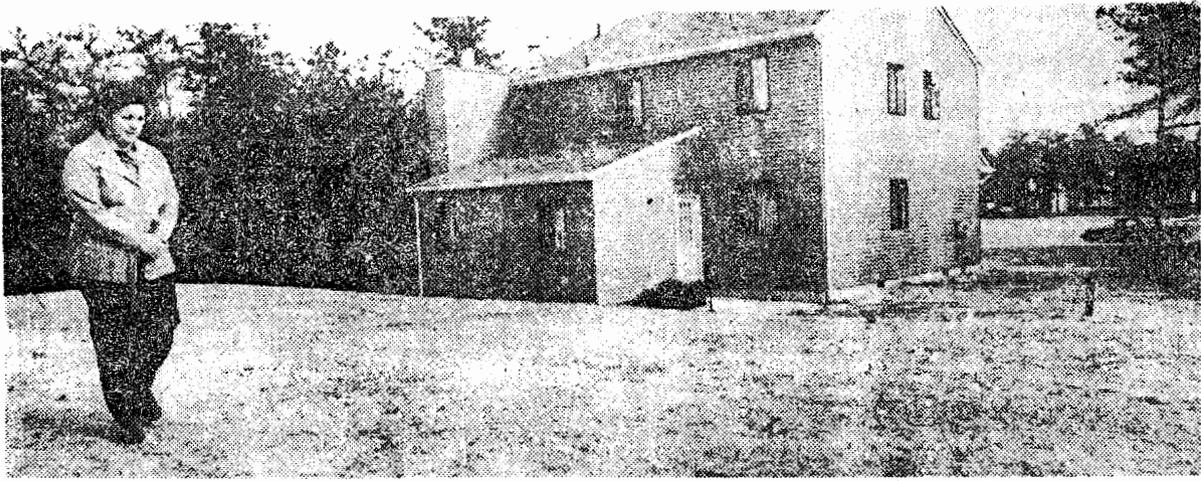
Pushed by rising mortgage interest rates, many families opted to move into unfinished and allegedly shoddily-built homes in both developments — only to see their builders run into financial troubles, unable to finish the jobs. One family moved last November into a Forest Parke house with a hole in a wall where the fireplace was to go. The hole is gone now but the fireplace still is not hooked up. Others complain of weak foundations, broken windows, a lack of landscaping and unfinished floors and walls.

The residents say they wonder how the township approved the developments in the first place.

"This is the fault of the county and township inspectors and engineers not doing their job," said Gary Moritz, a Partridge Woods resident. "The builder is going to do what he can get away with."

Township building inspector Anthony Previtera has been criticized by residents for allegedly being lax in ensuring that the homes met all building standards. A house bought by Robert Brelle was given a certificate of occupancy signed by Previtera; the certificate, which allows a family to move into a house, was actually for another house down the street.

Previtera insisted last week he inspected the Brelle house, but he said he had no explanation for the mixed-up certificate of occupancy. "I don't know what happened," he said.



Bulletin Photo by Carl A. Brettinger

Gilda McMichen walks on a mound covering a septic system at the Forest Park development.

# Big hill and lots of water gripes Waterford residents

Continued From First Page

Dominic J. Rocco, the township zoning officer, concedes the residents may face permanent water problems because of the high water table in the area.

Citing the environmental problems, Rocco, who assumed his job after the developments were approved, stated, "They (the developments) never should have been built."

Both developments were approved before February 1979, when the Legislature imposed a moratorium on most building in the 1.1-million acre Pinelands until a plan is mapped to preserve the ecologically sensitive area. The entire township of Waterford, a town of 8,000 people undergoing rapid development before the moratorium, is in the Pinelands territory.

The original developer of both housing tracts was Gerald Pliner, an active developer in the area who is considered as having strong Democratic political influence in the southern end of Camden County. Pliner won planning board approval for Partridge Woods in August 1976 and for Forest Parke in January 1978.

He then sold the Partridge Woods land, with the approved subdivisions, to Carriage Realty, owned by Robert Nabrzeski and Anthony Pagano. Pagano, who became a planning board member after the board granted approval for the subdivision, said he later sold his portion of the company to Nebrzeski as construction

was beginning.

Pliner sold the Forest Park land to the Vos Corp., owned by Michael Vosbikian and Jacob Hagopian, who built the homes.

Peter Scaffidi, chairman of the township planning board, said both developments were approved at a time when laws regulating certain environmental factors, such as the amount of dry ground needed below construction level, were weaker than they are now.

## Not enough dirt fill

But Scaffidi said he believed the flooding problems at Partridge Woods stemmed from the Nabrzeski firm failing to elevate the homes above the underground water level by adding enough fill dirt before laying the foundation.

"When he went in to do the work he probably decided to try to save money on fill dirt and kept elevations lower than they should have been," Scaffidi said.

Because the homes in the adjacent Forest Park are built on higher ground, the water from their property flows onto the homes in Partridge Woods, causing the flooding, Scaffidi said.

Nebrzeski, now working in real estate in Brigantine, said last week that his development was built in compliance with engineering studies. But he said that with construction of the adjacent developments the land was altered to create flooding conditions.

"Each job is treated on its own

merit. You put the combination together and they don't work. This is what is happening," Nebrzeski said.

He added that most of the flooding occurred during last winter's heavy rains. "I'm not a swami," he said.

Scaffidi also criticized Nebrzeski for building basements in some of the homes. To that Nebrzeski responded, "A lot of people wouldn't buy the house without a basement."

## Mystery stream

Residents and township officials have also raised the question about a stream that Nebrzeski allegedly diverted or covered with dirt in order to build his houses. If that's true the stream now runs somewhere under the development, a situation that almost certainly means flooding.

Nebrzeski adamantly denied he built on top a stream. However, he said the natural flow of rain water did create what appeared to be a stream, and that flow was diverted by other development.

Despite the arguments back and forth, the residents seem to agree with Partridge Woods development homeowner Gary Moritz, who said, "Something is wrong somewhere."

The builders of Forest Parke, the Vos Corp., could not be reached for comment. A telephone listed under the name of the firm has been disconnected.

About five of the development's 17 homes are vacant and residents say there have been few construction workers in the area for weeks. Scaffidi said he believed the Vos Corp. is in financial trouble due to the rapidly rising construction costs.

Rosemarie Guarro, who moved in last November, would love to have her house finished. Right now, it lacks exterior grading and some carpeting. Its walls are unfinished and there is no door on her bathroom.

"I had a houseful of people here on Christmas and someone had to stand guard on the steps when someone went to the bathroom," she said. The last time she talked to the builders, they promised her the house would be completed by Christmas, she said.

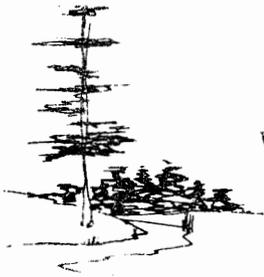
Mrs. Guarro, who had been living with her parents since May, agreed to move into the house in November, when the house was supposed to be completed. The interest rate on her mortgage during that time rose from 9.5 percent to 10.5 percent.

Previtera, the building inspector, said he has done "everything I possibly could" to make sure the homes meet building codes.

### ***'They begged me'***

Referring to the Guarro case, in which he issued a certificate of occupancy before the house was done, he said, "They had no place to go and they begged me, begged me and I said I would take care of them. What are you going to do? I have a soft spot for people," he said.

The residents with unfinished homes are hoping now that the banks that hold the building mortgages will pay for the final construction work, using money put in escrow by the builders. But even then, homeowners like John Brown, the man with the hill in his backyard, feel they really won't be compensated.



# RANCOCAS CREEK WATERSHED ASSOCIATION

February 19, 1980

Senate Energy & Environment Committee  
New Jersey State Senate  
State House  
Trenton, NJ 08625

Attention: Senator Frank J. Dodd, Chairman

Dear Senator Dodd:

I wish to make the following comments on some of the testimony presented at the Energy & Environment Committee hearing on February 6th, 1980.

Congressman Hughes and others have been loudly lamenting the plight of the poor "little people" whose life savings and dreams have been shattered by the moratorium. To no one's surprise, the "little people" turn out to be developers.

Mr. Brick, Messers Ackerman/Pratt

The members of the Committee were not born yesterday, so I assume they will view the developers' statistics with appropriate skepticism. These gentlemen bandied about so many figures on costs, numbers of lots and sections completed or uncompleted that no one could get a true picture of the situation. Very likely many of the figures were greatly distorted. The tendency seemed to be to lay all their costs on the few lots being denied -- or at least to imply that these represented their sole margin of profit. Mr. Brick repeatedly stated his cost of \$280,000 but said not a word about his actual or anticipated gross sales. If, for instance, his anticipated gross were \$500,000, removal of one lot would slightly diminish his expectations. Would that constitute a hardship?

41X

BOX 414 366

RD. #1

□

VINCENTOWN, NEW JERSEY 08088

Ackerman/Pratt's case is similar. They may not realize as much profit as they had hoped, but I find it hard to believe they would be thrown into bankruptcy. The Commission's approval of 22 lots, with the possible approval of some or all of the six lots in question would seem to be a compromise they could manage to live with.

These problems are all caused by improper zoning. In my opinion, it is tantamount to consumer fraud to permit development in these high watertable areas where any fool can see the unsuspecting buyer is going to have drainage and septic system problems. Yet every township I know of has permitted the same thing. This, of course, is why the regional plan is needed in the first place.

It was said during the Brick discussion that since the lot in question was only 30 feet shy of the floodplain requirement, it was insignificant. Similarly, Ackerman/Pratt's six lots would not by themselves destroy the Pine Barrens. The line has to be drawn, however, on standards. If you allow 30 feet, why not 40, or 50 or 100. If you allow six lots to pollute, why not 40 or 50 or 100 of them? I think it is reasonable to assume that if you relax the standards for a few, there will be a flood of similar applications. The cumulative impact could be devastating.

ROC Investment Corp.

The principal claim of this group was that their engineering and other expenses incurred prior to preliminary approval should constitute a hardship. Should we, then, subsidize every developer for his initial expenses? It is our understanding that this development had not received preliminary approval. Certainly before that point any expenditures are a part of the risk associated with any business venture.

The Rancocas Creek Watershed Association is extremely concerned about this proposed development because it drains into perhaps the most pristine area of our watershed. No one, surely, could deny that 4500 homes is going to have a substantial impact.

William Thomas

Having watched Long Beach Island being gradually over-run by poorly planned development for 50 years, it is my belief that Mr. Thomas' position as a Ship Bottom realtor is a negative qualification for passing judgment on the Pinelands.

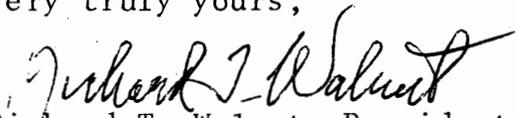
I would guess that Mr. Thomas' knowledge of and interest in the Pines is minimal to non-existent.

The organization for which he spoke appears to have a distorted view of the preservation effort. They seem to perceive this interim period as a temporary inconvenience, after which they will revert to building as before. While no one denies that there should and will be development, it must be stringently monitored and channeled to appropriate locations or all of the time and work you and so many others have put into the preservation effort will have been wasted.

It seems to me from the testimony that was given that many of the "hardships" are more perceived than real. As an overall problem I hardly think it warrants changing the legislation. There are, after all, only seven more months before the Commission's plan is scheduled to be completed.

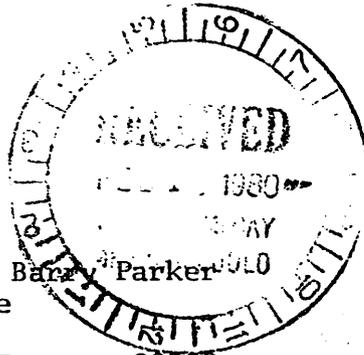
I urge you, therefore, to stick with the Pinelands Protection Act as it stands.

Very truly yours,

  
Richard T. Walnut, President  
Rancocas Creek Watershed Association, Inc.

RTW:nh

Catania



February 12, 1980  
16 Cannery Row  
Atco, New Jersey 08004

Honorable Senator Barry Parker  
Legislative Office  
115 High Street  
Mount Holly, New Jersey 08060

RE: Written Testimony--  
Pinelands Moratorium

Dear Senator Parker:

I was unable to attend the public hearing held on February 7th in New Lisbon, however, have attended many previous hearings at which you were present. Please allow me to address my particular case for your consideration during deliberation of the Pinelands management plan.

Application #159 has been through the Pineland Review Board, the Pineland three-man Commission, Pineland Staffs and is presently with the Pinelands Planning Staff in New Lisbon. My original application of a 6.4 acre parcel when submitted to the Review Board, February 1979, had local preliminary subdivision approval, County Planning Board approval and County Health Department approval, (in accordance with PL 199). Because of my inability to purchase building permits prior to the edict of the Moratorium, I've suffered unnecessary financial hardship--redesigning plot plans and septic, additional boring and perc data and loss from work in order to attend public meetings. In all sincere attempts to negotiate these 13 building lots, I have not been given the slightest consideration. Incidentally, to date there have been two sight inspections by two separate staff representatives on two separate occasions, six months apart, both of whom informed me that the area is suited for development.

I question the justification of tax dollar expenditure and environmental objectives being sought in this procrastinating process. How many more Sean Reillys, Darryl Jennus', William Harrisons, Nancy Immensbergers, etc. does it necessitate to review and approve a 13 lot subdivision with an average water table of 10 feet and no pine trees?

One of the foremost reasons for denial by the Pinelands Review Board dealt with consistency within the Protection Area. There has not been any consistency in identifying what is Protection Area, Critical Area, Preservation Area or Core Area, resulting in my application being reviewed and interpreted differently by each newly created agency all in the name of conservation. By which authority and whose guidelines must I comply?

February 12, 1980

RE: Written Testimony--Pinelands Moratorium

Page 2

During these difficult economic times with spiraling inflation, 5% mandated cap laws, unemployment, etc., we are conserving 6.4 acres of land when there is a real need for housing in the lower Camden County and western Atlantic County areas.

Senator, you have given me the impression that you are concerned about individualism, constitutional rights and local cohesive control, therefore, I respectfully submit, for your review and input, the history of my application and request that you include Application #159 among those you have already chosen for inconsistency.

I am enclosing a copy of some of the correspondence received just to give you an idea of the blatant procrastination and inconsistencies I have had to cope with. I might add that thus far all requests were satisfied on my part.

For further information you may require, please contact me as I have a complete documented filed.

Thank you for your time and anticipated assistance.

Respectfully yours,



Paul Lisnyj  
(609) 767-6797

cc: Mayors' Pinelands Council

Enc.

LAW OFFICES

*Bertman, Johnson and Sahli*

401 WELLS STREET, ROUTE 754  
HAMMONTON, N. J. 08037

JOHN BERTMAN  
JAMES C. JOHNSON  
RONALD W. SAHLI

April 23, 1979

Pinelands Development Review Board  
Pinelands Office - DEP  
1433 Hooper Avenue  
Corner of Indian Hill Road  
Toms River, New Jersey 08753

Attention: William Harrison

RE: Paul J. Lisnyj - Application #159

Dear Mr. Harrison:

As you know, I represent Mr. Paul J. Lisnyj with regard to his application for exemption from the Pinelands Office of the Department of Environmental Protection Dept.

Our application has been in your office better than seven weeks now, and in your most recent conversation with me, which was most disturbing, you advised that the plot plan had not been received by your office, and yet it was confirmed later that you did, in fact, have the plot plan in your office, which has now resulted in a further delay for my client.

I would ask that my client's application be handled at the next regularly scheduled committee meeting, in hopes of obtaining the necessary exemption. If, for some reason this application will not be heard on Friday, April 27, 1979 agenda before the committee, please contact me immediately as to the reasons why.

Very truly yours,

RONALD W. SAHLI

RWS:ja

cc: Mr. Paul J. Lisnyj

46X



STATE OF NEW JERSEY  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 OFFICE OF THE COMMISSIONER  
 P. O. BOX 1700  
 TRENTON, N. J. 08625  
 LOG-137-1535

April 24, 1979

Paul Lisnyj  
 Old White Horse Pike  
 Atco, N.J. 08004

Re: Application for exemption  
 to Pinelands Office  
 Toms River, New Jersey

Please be advised that your application as submitted is considered incomplete. Before the review procedure can commence, the following information must be supplied to this office:

- Application must be notarized
- Plot Plan )
- USGS Key Map ) Location Maps
- More detailed information concerning site and/or project design \_\_\_\_\_

(see attached)

The review period will begin subsequent to receipt of the above-requested information.

Sincerely yours,

*Sean Reilly*  
 Sean Reilly  
 Pinelands Coordinator

SR/scb  
 Attach.

*defected to the  
 Home Builders Assoc.  
 League*

The Pinelands Development Review Board has requested as of April 20, 1979 that all subdivision applicants provide information concerning their developments proposed impact on the local school systems (i.e. present school capacity, enrollment predictions; number of pupils per subdivision anticipated, etc.) *Submitted*

LAW OFFICES

*Bertman, Johnson and Sahli*

401 TWELFTH STREET (ROUTE 754)  
HAMMONTON, N. J. 08037

JOHN BERTMAN  
NELSON C. JOHNSON  
RONALD W. SAHLI

561 0095 561 0616  
AREA CODE 609

May 17, 1979

Mr. Paul J. Lisnyj  
16 Cannery Row  
Atco, New Jersey 08004

RE: Wharton Barrens

Dear Paul:

Enclosed you will find a copy of a letter received today from the Pinelands Review Board. Also, I received a telephone call from Darryl C. Jennus who advised me that I need to present aerial photographs and ground-level photographs of the tract being reviewed. *Submitted*

You should contact the County or your engineer to obtain these, since time is of the essence. If I have the photo's to their office by May 23, 1979, they said that your application would again be reviewed.

For general information, your application was reviewed on May 18, 1979 but the committee refused to take any action unless this information was supplied.

Should you have any questions in this regard, please do not hesitate to contact me.

Very truly yours,

*Ronald W. Sahli*  
RONALD W. SAHLI

RWS:ja

Enclosure *1/11*

49X

Applicant: **Paul Lisnyj**  
Address: **Old White Horse Pike**  
**Atco, N.J. 08004**

Project Location:

Municipality: Winslow County: Camden  
Lot No.: 23.1, 23.2, 23.3, 23.4, 23.6, 23.7, 23.8, 23.9, 23.10, 23.11, 23.12, 23.13, 23.14 Block No.: 5403

Description of Project: Subdivision consisting of 13 lots on 6.4 acres in the Protection Area.

Action by Board:

Denied Subdivision is not consistent with surrounding region as to density of development. Subdivision is within 1500' of the Wharton State Forest. *Subdivision approved for 90+ homes adjacent and surrounded by State Forest was O.K.?*

For the reasons stated above, the application for a certification is denied. If the applicant is aggrieved by the decision, it may apply to the Commissioner of the Department of Environmental Protection, within 20 days of the date hereof, for a review of this decision. Such applications should be directed to:

Office of the Commissioner  
Department of Environmental Protection  
P.O. Box 1300  
Trenton, New Jersey 08647



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF THE COMMISSIONER  
P. O. BOX 1399  
TRENTON, N. J. 08625  
609-292-2680

Applicant Paul Lisny

Address Old White Horse Pike  
Atco, N.J. 08004

Project Location:

Municipality Winslow County Camden  
Lot No. 23.1, 23.2, 23.3, 23.4, 23.6, 23.7  
23.8, 23.9, 23.10, 23.11, 23.12 Block No. 5403  
23.13, 23.14

Description of Project Subdivision consisting of 13 lots on  
6.4 acres in the Protection Area.

Action by Board:

Denied. Overflow Drainage from the tract drains eastward  
into Wharton State Forest via Woas Branch. Subdivision is not  
consistent with surrounding region as to density of development.

*Engineering data submitted proving above  
statement erroneous*

For the reasons stated above, the application for a certification is denied. If the applicant is aggrieved by the decision, it may apply to the Commissioner of the Department of Environmental Protection, within 20 days of the date hereof, for a review of this decision. Such applications should be directed to:

Office of the Commissioner  
Department of Environmental Protection  
P.O. Box 1399  
Trenton, New Jersey 08625



State of New Jersey  
PINELANDS COMMISSION

P.O. BOX 7, NEW LISBON, N.J. 08064

October 29, 1979

Paul Lisnyj  
Old White Horse Pike  
Waterford, NJ 08004

Re: Application # 79-0436  
Paul Lisnyj  
Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
Municipality Winslow

Dear Mr. Lisnyj:

The Pinelands Commission determined at its meeting on September 21, 1979 that it would consider as incomplete any application for which no data concerning perc results, a soil log and seasonal high water table has been submitted. *Submitted twice*

Once we receive this information, we will start to review your application.

If you have any questions, please contact our staff at (609) 894-4117.

Very truly yours,

William Harrison  
Assistant Director  
Pinelands Review

*hand delivered second time.*

WH:mac

52X



**State of New Jersey**  
PINELANDS COMMISSION  
P.O. BOX 7, NEW LISBON, N.J. 08064

February 5, 1980

TO: Members of the Senate Energy and Environment Committee

Enclosed for your information are materials concerned with the Pinelands Commission's planning and review activities. These materials include:

- . List of Pinelands Commissioners
- . Official Map of the Pinelands
- . List of Municipalities in the Pinelands Area and the Pinelands National Reserve
- . Commission Work Plan, which describes the procedure and components of the Comprehensive Management Plan
- . Pinelands Commission Contracts and Agreements (chart showing completion dates for consultants' products)
- . Interim Rules and Regulations for Review and Approval of Applications for Development or Construction under the Pinelands Protection Act (adopted July 27, 1979, amended November 2, 1979)
- . Procedures for Processing Applications for Development (adopted August 10, 1979)
- . Letters to Municipalities, re: Exemptions from Commission's Development Review Procedures
- . "Answers to Questions About Development and Public Land Acquisition in the New Jersey Pinelands", November, 1979
- . The "Pinelander" (Commission Newsletter; December 10th and 26th, January 15th and 30th)
- . Citizen Public Involvement Brochure

###

*New Jersey Is An Equal Opportunity Employer*

53X



**State of New Jersey**  
**PINELANDS COMMISSION**  
P.O. BOX 7, NEW LISBON, N.J. 08064  
(609) 894-9342

PINELANDS COMMISSION MEMBERS

FEDERAL APPOINTMENT

Mr. Don Kennard

STATE

Mrs. Candace McKee Ashmun  
Mr. Peter J. Burke, Jr.  
Mr. B. Budd Chavooshian  
Mr. Thomas B. Darlington  
Mr. Franklin E. Parker  
Mr. Gary Patterson  
Honorable Floyd V. West

COUNTY

Atlantic

Burlington

Honorable Robert C. Shinn, Jr.

Camden

Ms. Joan Batory

Cape May

Mr. Lester Germanio

Cumberland

Honorable Patrick Fiorilli

Gloucester

Honorable Donald H. Wagner

Ocean

Joseph S. Portash

EXECUTIVE DIRECTOR PINELANDS COMMISSION

Terrence D. Moore

DEPUTY ATTORNEY GENERAL, N.J.

Richard Hluchan

\*\*\*\*\*

MUNICIPALITIES IN THE PINELANDS AREA

<u>Atlantic County</u>	<u>Reserve</u>	<u>Cumberland County</u>	<u>Reserve</u>
Buena Boro	Brigantine	Maurice River Township	
Buena Vista Township		Vineland City	
Corbin City			
Egg Harbor City*		<u>Gloucester County</u>	
Egg Harbor Township		Franklin Township	
Estell Manor City		Monroe Township	
Folsom Borough			
Galloway Township*		<u>Ocean County</u>	
Hamilton Township		Barneget Township*	Dover
Hammontown Town*		Beachwood Borough	Tuckerton
Mullica Township*		Berkeley Township*	
Port Republic City*		Eagleswood Township*	
Weymouth Township		Jackson Township*	
		Lacey Township*	
<u>Burlington County</u>		Lakehurst Borough	
Bass River Township*		Little Egg Harbor Township*	
Evesham Township		Manchester Township*	
Medford Lakes Borough		Ocean Township	
Medford Township*		Plumsted Township*	
New Hanover Township*		South Toms River Borough	
North Hanover Township		Stafford Township*	
Pemberton Township*			
Shamong Township*			
Southampton Township			
Springfield Township			
Tabernacle Township*			
Washington Township*			
Woodland Township*			
Wrightstown Borough			
<u>Camden County</u>			
Berlin Borough			
Berlin Township			
Chesilhurst Borough			
Waterford Township*			
Winslow Township*			
<u>Cape May County</u>			
Dennis Township	Middle Twp.		
Upper Township			
Woodbine Borough			

\* Municipalities totally or partially in the Preservation Area.

PINELANDS NATIONAL RESERVE  
WORK PLAN  
FOR COMPREHENSIVE MANAGEMENT PLAN

STATE OF NEW JERSEY  
PINELANDS COMMISSION  
NOVEMBER, 1979

PINELANDS COMMISSION WORKPLAN

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- B. PINELANDS BOUNDARIES
- C. PINELANDS COMMISSION WORKPLAN SCHEDULE
- D. PLAN ORGANIZATION

## I INTRODUCTION

The New Jersey Pinelands, a million-acre forest expanse in the midst of the country's most densely populated region, is finally receiving the recognition it deserves as one of the nation's premier natural treasures. An outpost of near-wilderness in the shadow of Philadelphia and New York, the Pinelands shelters a multitude of rare plants and animals, provides outdoor recreation for thousands, and--- most importantly---contains a vast amount of pure water.

The Pinelands water filters through the sandy soil into an aquifer practically glacial in purity, and feeds quiet, tea-colored streams. The lifeblood of a unique ecosystem, it also supports a thriving agricultural industry, chiefly cranberry and blueberry farming, and serves as a potential drinking water source for the region. Within the past few years however, pressures for development have mounted. And just as the water supply is the area's most valuable resource, so it is the most vulnerable to the threat of improperly controlled growth which, through its harmful impact on the water, could alter entire ecological patterns. Unwise land use could also destroy other important Pinelands resources such as historic and archaeological sites, beautiful scenery, and old closely knit communities.

John McPhee's 1967 book, The Pine Barrens, was a milestone in the rising appreciation of the Pinelands' significance. At the time, massive development of the Pines was seen as the wave of the future, with plans for a giant jetport being promoted by local officials. McPhee himself warned that the Pinelands as he found them seemed to be "headed slowly toward extinction." The tide turned as the heightened environmental awareness of the early 1970's took hold, and new resolves were made to protect the area. That determination culminated in late 1978 and early 1979 with the passage, amid heated controversy, of federal and state legislation designed to safeguard the Pinelands' unique resources. But incompatible pressures have not abated. Besides constant growth of the huge, metropolitan areas to the west and north, the picture now includes casino gambling in Atlantic City and a relative economic boom on the Pinelands' southern fringe. Another factor that could push regional development pressures even higher would be the establishment of a major offshore oil industry. As it stands today, governments at the federal, state and local levels have their best opportunity to insure the Pinelands' permanent protection. But the obstacles facing them before that goal can be accomplished remain considerable.

## II BACKGROUND

The current legislative mandate to protect the Pinelands springs from the National Parks and Recreation Act of 1978, signed by the President on November 10. This act established the Pinelands National Reserve, encompassing approximately a million acres in seven southern New Jersey counties. It also authorized the establishment of a planning entity responsible for the preparation of a comprehensive management plan for the Reserve.

The planning entity's composition was prescribed in the law: 15 members, including one appointed by each of the Pinelands counties, seven appointed by the governor of New Jersey, and one designated by the United States Secretary of the Interior. The agency was directed to complete and adopt a management plan for submission to the Secretary of the Interior within 18 months of the receipt of federal funds.

The focus of this Congressional initiative was a region with some of the most distinctive ecological and cultural features in the United States. Situated on New Jersey's coastal plain, the Pinelands were the backdrop of many activities during the country's early years, such as iron-making and glass making died after a brief flourish, the Pinelands became few and far between, with mile after mile of pine and oak woods lying undisturbed while progress rolled on elsewhere in the Northeast.

To many outsiders, the Pines were a virtual desert---monotonous, scraggly trees sprouting from the sand as far as the eye could see, honeycombed with swamps and swept by terrible fires. It took a trained observer to point out the region's natural assets. There were rare species, and extensive range overlaps, where different plants reach their respective northern and southern limits. The various habitats were closely linked to the Pinelands hydrology, with porous soils atop the unseen reservoir known as the Cohansey Aquifer, and a large, unusually acid surface water network.

A century ago, Philadelphia financier Joseph Wharton was one of the first to see the value of the Pinelands' water. He bought huge tracts of land with the idea of giving his city a new water supply. His plan was blocked by the New Jersey legislature, and years later, in 1955, the state acquired the land. It became the 100,000-acre Wharton State Forest. Many other Pinelands parcels have come under public ownership since then, as state forests, parks and wildlife management areas. And in the meantime, the need for a regional approach to growth management and resource protection in the Pinelands became apparent. Several plans and studies over the past 15 years have laid the groundwork. A group called the Pinelands Regional Planning Board issued a "Future Development Plan" in 1965 keyed to the jetport scheme. In 1975, the state's first Pinelands agency, the Pinelands Environmental Council, published a "Plan for the Pinelands" branded by critics as a "developer's dream." And last February, the Pinelands Review Committee established by Governor

Brendan T. Byrne issued its report called "Planning and Management of the New Jersey Pinelands," pointing the way toward the present planning effort. National interest in the region has been reflected in the following reports: "A Study of Significance of the Pine Barrens of New Jersey" (Jack McCormick, 1967); "Pine Barrens of New Jersey: Study Report" (National Park Service, 1968); "New Jersey Pine Barrens: Concept for Preservation" (Bureau of Outdoor Recreation, 1975); and "A Plan for a Pinelands National Preserve" (Rutgers University, Center for Coastal and Environmental Studies, 1978).

A primary goal of the federal government's current National Reserve strategy is to provide alternatives to direct government acquisition. The plan must include a scheme to manage those lands which must be protected, but which are unsuited for inclusion in the traditional system of public land holdings because of size, cost, existing development, or other reasons. An array of less costly and more flexible land management techniques will be examined as part of the comprehensive plan required by the federal law. As stipulated by the law, the Pinelands plan will also include:

- \* a natural resource assessment;
- \* a detailed boundary map;
- \* a land use capability map and a comprehensive statement of land use management policies;
- \* a study of appropriate public uses of the land;
- \* a financial analysis;
- \* a program to ensure local government and public participation in land use decisions; and
- \* a program to put the plan into effect.

To comply with the federal statute, Governor Byrne issued Executive Order 71 in February, 1979. The order provided for the appointment of a 15-member Pinelands Planning Commission which was to carry out the required planning task. The order also made most development in the Pinelands subject to state approval during the planning period, superceding normal local government authority and generating stiff opposition from many local officials and development interests. Meanwhile, the review committee established under one of Governor Byrne's previous executive orders issued its detailed report recommending that a planning commission be established by state legislation. The measure was made a top priority of the Byrne administration, and the Pinelands Protection Act finally became law on June 28 after weeks of stormy hearings and debates.

The State act created the current Pinelands Commission and gave it responsibility for preparing the comprehensive management plan envisioned by the federal government. The plan is to be finished by August 8, 1980, and contain the various elements required by the federal act. The legislature also recognized, as did Governor Byrne, the need for controls on development in the Pinelands while the management plan was being prepared. It gave the Commission authority to block significant building projects in the region under an interim review procedure. The controls stipulated by the act are strictest within a "preservation area," the relatively undisturbed Pinelands

core where the regions's various resources are most prominent. The outlying "protection area," roughly two-thirds of the land coming under the Commission's jurisdiction, is the boundary zone between urban New Jersey and the wilderness. The entire area delineated in the State act is slightly smaller than the National Reserve, as can be seen on the attached map. The development controls stipulated by the State act apply only to the preservation and protection areas, while the management plan now being prepared will apply to the Reserve. But whether the terrain is unbroken woods, farmland, or small town, crisscrossing boundaries, the unity of the Pinelands is indisputable. The proof lies in the interdependence of the region's water supplies, open to widespread contamination at any point. It will take a planning effort of unprecedented foresight and determination to protect a resource at once so plentiful and so vulnerable.

### III. Goals of the Acts

The overriding goals of the Federal and State Acts are to preserve, protect and enhance the significant values of the land and water resources of the Pinelands. The Federal legislation (Section 502 a.1) identifies these resources as 1,000,000 acres of pine - oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species. The Federal Act also recognizes that the Pinelands provide significant ecological, natural, cultural, scenic, recreational, educational, agricultural and public health benefits.

To protect, preserve and enhance the Pinelands resources from incompatible development and use, a program which combines the capabilities and resources of the local, State and Federal governments and the private sector is needed. The goal of this program is to utilize the authority of the State of New Jersey and its local units of government to prevent or minimize adverse uses of the land and, to a great extent, to protect the health, safety and general welfare by the use of such authority.

The Pinelands Commission will develop a program which addresses the goals of the acts. This program, the Comprehensive Management Plan, will be implemented within a reasonable time frame after the date of approval. It will involve the exercise of police power responsibilities to the greatest extent practicable, will adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and will provide adequate and appropriate outdoor recreational opportunities.

The goals presented in the Federal legislation are carried forth in the State legislation. These goals specifically include, but are not limited to:

1. preserve and maintain the essential character of the existing Pinelands environment, including the plant and animal species indigenous thereto;
2. protect and maintain the quality of surface and ground water;
3. promote the continuation and expansion of agricultural and horticultural uses;
4. discourage piecemeal and scattered development; and
5. encourage appropriate patterns of compatible residential, commercial, and industrial development in or adjacent to areas already utilized for such purposes, in order to accommodate regional growth influences in an orderly way while protecting the pinelands environment from the individual and cumulative adverse impacts of such development.

With regard to the preservation area, the Comprehensive Management Plan will further seek to:

1. preserve an extensive and contiguous area of land in its natural state, thereby ensuring the continuation of a pine-lands environment which contains unique and significant ecological and other resources;
2. promote compatible agricultural, horticultural, and recreational uses, including hunting, fishing and trapping;
3. prohibit any construction or development which is incompatible with the preservation of this unique area;
4. provide a sufficient amount of undeveloped land to accommodate specific wilderness management practices; and
5. protect and preserve the quantity and quality of existing surface and ground waters.

The successful achievement of these goals will ensure that this significant area will provide a valuable national recreational resource for present and future generations.

#### IV. The Planning Process

The work program for the Comprehensive Management Plan for the Pinelands is the result of a cooperative effort between the Commission, its staff, representatives of the Department of Interior, state and local agencies, and interested members of the public.

A basic outline of a proposed work program was devised by the Commission's staff in late July, 1979. This was presented to the public at a well attended work shop in early August. Work shop participants were broken into interest group units to devise additions to the work program outline, and to suggest specific areas to be investigated within each plan component. Participants reported their suggestions in a general session. Agreed upon additions to the work plan were incorporated into later drafts.

In late August, a group of distinguished planners, environmentalists; land management experts, and policy makers was assembled to review the work program outline with Commission staff. Brought together under the Chairmanship of Dr. Paul N. Ylvisaker, former New Jersey Commissioner of Community Affairs and currently Dean of the Harvard Graduate School of Education; the panel consisted of:

- Mr. Richard Sullivan - New Jersey's first Commissioner of Environmental Protection and now an environmental consultant
- Mr. Richard Babcock, noted land use attorney and author
- Mr. Richard Loeks, environmental planner and consultant
- Mr. Scott McVay, Executive Director of the Geraldine R. Dodge Foundation
- Mr. Lewis Winnick, Deputy Vice President for National Affairs, the Ford Foundation
- Mr. Robert McIntosh, Regional Director, Heritage Conservation and Recreation Service, U.S. Department of Interior
- Mr. Clifford Goldman, first Executive Director of the Hackensack Meadowlands Development Commission, and now Treasurer of the State of New Jersey.

The panel's comments, based upon their extensive experience in land use issues, were important to the final delineation of the Commission's work program.

Additional meetings were conducted with representatives of county planning boards, national environmental organizations, and interested individuals during the course of developing the work program. A first "draft for discussion" was presented to the public in September. Comments generated by this draft have

also been incorporated into the work program. Written comments have been received from agencies, organizations, and individuals up to the time of filing of this application. The Department of Interior has also circulated various drafts of the work program to interested agencies and individuals.

The work program for the Comprehensive Management Plan for the Pinelands National Reserve consists of a series of interrelated plan components. These lead, systematically, to the formulation of policies and programs for the future preservation and protection of this national resource. The planning process also provides for a unique partnership between the professional, the technician, and the public-at-large. This is accomplished through a plan of public awareness, involvement and decision-making.

The first four components of the work program, i.e., natural resources, historic and archaeological resources; socio-cultural factors; and physical resources; consists of the gathering of pertinent data, assessment and analysis, identification of issues requiring attention in the Plan, and identification of areas requiring further investigation beyond the planning period.

The growth factor analysis examines existing and future development pressures in the Pinelands and depends heavily on data generated in the natural, physical and socio-cultural components.

All of the above generate issues to be resolved in the Land Management techniques component, and methods for implementation through the Inter-governmental coordination component. A financial component will assess costs and potential revenue sources. The delineation of policies and programs, representing the Comprehensive Management Plan, will be the final work component prior to preparing the document.

#### A. Plan Components

##### 1. Natural Resource Assessment

The Pinelands has been recognized through national and state policy as a significant ecological resource. Its value is associated with a wilderness-like expanse, unique flora and fauna, and a relatively untapped, pure water resource. Protection and intelligent management of the natural resources of the Pinelands are at the heart of federal and state legislation.

To develop a truly comprehensive management plan, an understanding of the natural resources of the Pinelands is of necessity a primary task in the work program.

Both staff and consultants will undertake a detailed assessment of the natural resources including data generation, analysis, composite mapping, and issue identification. The Pinelands Commission, staff, consultants, and the public will determine criteria for the selection of critical and environmentally sensitive areas based upon the findings of the resource assessment. Issues identified during the assessment will be

programmed into the Land Management techniques component. Natural constraints identified will be programmed into the Growth Factors Analysis.

The objectives of the Natural Resource Assessment are:

- a. identification and analysis of existing natural characteristics of the Pinelands;
- b. determination of critical and environmentally sensitive areas;
- c. definition of land carrying capacity based upon natural constraints.

The Natural Resource Assessment will require a two and one-half month period to complete. Areas necessitating additional study beyond the planning period will also be identified.

## 2. Historic and Archaeological Resources Assessment

The historic and archaeological resources of the Pinelands Reserve contribute to its national significance. A short encounter with the area and its people makes one acutely aware of the Pinelands human experience, past and present.

Although a comprehensive survey of the area's prehistoric archaeology has not been completed to date, sufficient data exists to indicate that human occupation in the region is greater than that which has previously been documented. The full range of North American prehistory may exist, undisturbed, within the Pinelands, increasing the region's heritage value.

European settlement of the Pinelands began in the 17th century. Sites, structures, and objects from this and each successive period are still well represented in the region. Recognition of sites, objects, structures, and events associated with the diverse groups which have inhabited the Pinelands and the development of strategies for their preservation are tasks which the Commission must actively pursue.

This assessment will be undertaken by knowledgeable local groups and individuals, consultants, and Commission staff. The assessment will include data generation, analysis, mapping, and issue identification. A Pinelands Conference will provide the vehicle for public decision-making in the delineation of criteria for determining preservation and protection strategies. Issues identified during the assessment will be programmed into the Land Management techniques component, and the Socio-Cultural Factors Assessment.

The objectives of this assessment are:

- a. identify and analyze historical and archaeological characteristics and values of the Pinelands;

- b. plan and undertake a Pinelands conference on historic and archaeological resources;
- c. determine priorities and responsibilities for preservation and protection of resources.

The Historic and Archaeological Resources Assessment will require a two and one-half month period to complete. Areas necessitating additional study beyond the planning period will also be identified.

### 3. Socio-Cultural Factors Assessment

The future character of the Pinelands National Reserve will be influenced considerably by the policies of the Comprehensive Management Plan. An awareness of socio-economic characteristics and attitudes of Pinelands residents is necessary for the development of a management plan which is sensitive to social, as well as environmental conditions in the area. This assessment will provide insights regarding the nature of the people who live in, work in, and utilize the Pinelands; cultural sub-groups in the Pinelands, residents' attitudes toward the Pinelands; and alternative futures of the area.

Staff and consultants will undertake the assessment which will include data generation, interviewing and surveying, analysis, and issue identification. Issues identified during the assessment will be programmed into the Growth Factors Analysis, Land Management techniques component, and the Policies and Programs Component.

The objectives of the Socio-Cultural assessment are:

- a. identify and analyze socio-economic conditions in the Pinelands;
- b. establish profiles of past and present populations;
- c. establish basis for evaluation of plan impact on present and future populations of the Pinelands;
- d. determine attitudes towards Pinelands of residents.

The Socio-Cultural Assessment will require a two and one-half month period to complete. Areas necessitating additional study beyond the planning period will also be identified.

### 4. Physical Resource Assessment

The extent to which a region may be developed is determined by governmental regulations, environmental constraints, existing land use, and the capacity of existing and proposed facilities to accommodate new development. The latter two factors constitute the man made environment, or the physical resource of the region. The success of any plan depends in part, on an accurate assessment of the land's carrying capacity based upon physical resources, and strategies for incorporation or revision of existing resources.

The physical resource assessment, conducted primarily by Commission staff will include the collection and analysis of data concerning existing planning, land use, infrastructure, and ancillary facilities. Data and issues identified in this analysis will form the basis for the Growth Factors Analysis Component. Additional issues regarding conflicts between natural and physical resources will be programmed into the Land Management techniques component.

The objectives of the Physical Resource Assessment are:

- a. identification and analysis of the physical characteristics of the Pinelands;
- b. determination of land carrying capacity based upon existing and proposed physical resources;
- c. identification of natural and physical resource conflicts in the Pinelands.

The Physical Resource Analysis will require a two and one-half month period to be completed. Areas necessitating additional study beyond the planning period will also be identified.

#### 5. Growth Factors Analysis

The rate and manner in which an area develops is a function of numerous growth factors which include governmental planning and regulatory programs, natural resource constraints, availability of infrastructure, and economic conditions, both within and outside the study area. An awareness of those factors which may influence the growth of the Pinelands Reserve is essential in developing the policies which will form the basis of the Comprehensive Management Plan.

The growth factor analysis to be undertaken will consist of the identification of past and present development trends, identification of future growth pressure areas, and an analysis of land marketability and transactions throughout the Pinelands region. The growth factors analysis will be used to select those areas within the Pinelands where future development is appropriate in terms of meeting the objectives of the State and Federal Acts. This analysis may also serve as the basis for determining what techniques are appropriate for specific areas as well as the cost of acquiring lands for public use.

Consultants and staff of the Commission will undertake this analysis relying heavily on data generated by the Physical Resource Assessment. Growth pressure areas in the Pinelands will be identified and alternative growth scenarios developed. Issues defined in the analysis will be programmed into the Land Management techniques component, the Financial Component, and the Programs and Policies Component.

The objectives of the Growth Factors Analysis are:

- a. identification and analysis of present and future growth pressures on the Pinelands;
- b. identification of alternative growth futures;
- c. identification of land ownership and land marketability in the Pinelands;
- d. identification of factors promoting or inhibiting growth in the Pinelands.

The Growth Factors Analysis will be completed in two phases. The first phase will be completed in one month and the second by March 15. Areas requiring further study beyond the planning period will also be identified.

#### 6. Land Management Techniques

The importance of this component in the planning process for the Comprehensive Management Plan is realized when one considers that all issues identified in previous components are programmed here for resolution through an appropriate management technique, land use control, or performance standard. It is the key component for successful delineation of the Comprehensive Management Plan.

This component will begin with an analysis of land management techniques, legislation and other programs presently being utilized throughout the world. These techniques will be evaluated in terms of their applicability to the Pinelands. This analysis will serve as a first step in determining techniques presently available, their advantages and disadvantages, and the necessity for developing new techniques expressly for the Pinelands.

The second step is a refinement of the above analysis, and involves the design of land management techniques suited to identified land management issues in the Pinelands. Specific growth issues will have been formulated throughout the planning process and the various techniques will be identified in terms of their suitability in dealing with these issues. An assessment will also be made to determine if alternative techniques are workable and defensible.

The third step identifies potential parties who will be responsible for implementing the alternative techniques, their specific roles, interrelationships, etc. One precept of the Federal Act is to foster intergovernmental coordination in the management of the Reserve and this analysis will outline the structure for such cooperation.

The public, subcommittees of the Pinelands Commission, Commission staff, and consultants involved in previous work components will interact with a special Land Management Task Force to complete this component. The Task Force, made up of distinguished practitioners in the fields of environmental planning, law, and related professions will analyze all proposed resolutions to the issues identified during the planning activity. The Task Force will recommend alternative policies and programs to the Pinelands Commission.

The objectives of the Land Management Techniques Component are:

- a. identification and analysis of land use controls and land management techniques;
- b. determination of alternative strategies and mechanisms for the preservation and environmentally sensitive use of the Pinelands resources;
- c. delineation of alternative policies and programs for plan implementation.

#### 7. Intergovernmental Coordination

Intergovernmental coordination is viewed as an essential ingredient in the success of the management plan, both during the formulation of the plan and on an ongoing basis. Coordination of existing federal, state and local planning efforts and programs is necessary to avoid duplication of effort, as well as to insure that agencies are not working at cross purposes. While the Pinelands Commission will serve as the lead agency in plan preparation and implementation, the Commission will encourage a substantive role for the various levels of government regarding the development planning policies and the identification of alternative conformance strategies.

The staff will survey various agencies for data necessary to complete the plan components. Staff and consultants will undertake a survey and analysis of existing plans and programs affecting the Pinelands. The Pinelands Commission, staff, consultants, the Municipal Council established in the State Act, and various government agency representatives will identify inconsistencies among the numerous plan and programs, and will discuss alternative methods for insuring consistency of these plans with the CMP. Issues identified during the assessment of existing programs and discussion of proposed implementation techniques will be factored into the land management section. The selected intergovernmental coordination techniques will become part of the Commission's programs and policies.

The objectives of the Intergovernmental Coordination component are:

- a. identification and evaluation of the plans, policies and programs of federal, state and local governments;
- b. determination of strategies to ensure consistence and continuing involvement in plan implementation.

The Intergovernmental Coordination component will require a five and one-half month period to complete. However, the guidelines which evolve from the Comprehensive Management Plan will be implemented by various levels of government, in particular local government. In this manner, intergovernmental coordination will continue beyond the adoption of the plan.

## 8. Financial Component

The federal and state legislation mandates that the Commission develop a management plan which will preserve, protect and enhance the Pinelands resources. The means to attain this goal include but are not limited to fee simple acquisition, easement purchase, development of land use standards and regulatory techniques.

The techniques which are ultimately selected to implement the plan will be evaluated according to their suitability for attaining the goals, and by the financial resources available. Costs which must be considered include monies for acquisition, in lieu payments to municipalities, compensation guarantees to individual landowners, financial incentives to municipal and county governments for their part in plan implementation and the future administrative costs of the Pinelands Commission.

Consultants with the assistance and advice of staff, will complete the financial component. The consultants will interact with staff and other consultants, especially those responsible for the natural and physical assessments and growth factor analysis. The land management task force will draw on the financial assessment when developing its recommendations for appropriate land management techniques.

The objectives for the financial component are:

- a. identification of the total costs associated with plan implementation, and
- b. identification and analysis of revenue sources which can be used to offset the costs of plan implementation.

The financial component will be completed within six months. Future revenue sources will be identified and alternative strategies for meeting future implementation costs will be suggested during this period. Study of these possible alternatives will continue beyond the planning period.

## 9. Policies and Programs

The final outcome of all components which have been previously identified is the Comprehensive Management Plan. This last section, the Policies and Programs component, will outline the strategies the Pinelands Commission will pursue in order to meet the goals of the federal and state legislation.

Both staff and consultants will develop alternative policies and programs to resolve issues identified throughout the planning period. The Pinelands Commission, staff, public, and the several task forces will discuss these alternatives. The Commission, after evaluating the statements of these many groups, will be responsible for determining which strategies will be implemented.

The objectives of the Policies and Programs component are:

- a. analysis of data and issues identified in all previous components;
- b. evaluation of options presented by staff, consultants and interested individuals and agencies; and
- c. selection of policies and programs to resolve designated issues.

Policy and program development will occur throughout the planning period. As issues are identified and discussed, policies to resolve these issues will be discussed. Products of all components will be factored into the selection of policies and programs. The final outcome of such selection will be the Comprehensive Management Plan.

#### IV. B. Public Information and Participation

As a regional planning agency the Pinelands Commission must address issues which are as varied as the people who live in the municipalities and counties which they represent. It is because of the diversity and complexity of the planning issues, coupled with the restrictive time limits, that the public must be involved in the development of the plan. Effective planning cannot be done in isolation from the public which is affected. In addition these publics--which range from organized groups to individual interests--can serve as an information gathering and disseminating network which is crucial to a successful planning process. In turn the Commission must clarify and communicate issues to the public so that solutions can be developed. The objectives for the public participation process are:

- A. To foster an aggressive program of public involvement in determining the Comprehensive Management Plan for the Pinelands.
- B. To provide the public with an awareness of and sensitivity to, the natural and cultural resources of the Pinelands.
- C. To insure that the key issues are identified and acceptable solutions included in the plan.
- D. To gain the assistance of the public in preparing the plan, disseminating information and implementing the plan when completed.

The public involvement process is an integral element of the planning process. A system will be established to inform the public as key planning points are reached. The Commission will assemble a public involvement task force which, working with Commissioners and staff, will inform the public as key planning points are reached. This group will also keep the public generally aware of the Commission's goals, activities and deadlines. The task force will involve the public-at-large in identifying issues and clarifying them, as well as in developing solutions and choosing the most acceptable alternatives.

The key to the success of any public involvement program is to make the public aware that it is being "heard." For this reason, a large part of the involvement process will center on the internal flow of pertinent information to and from the planning staff. The administrative and public involvement staff will be primarily responsible for monitoring the flow of information from the public, insuring that it is routinely considered in the planning process, and informing the public as to how that information is used.

## PUBLIC USE AND INVOLVEMENT

The objectives of this component are to foster an aggressive program of public involvement in the Comprehensive Management Plan for the Pinelands and to provide the public with an awareness of, and sensitivity to, the natural and cultural resources of the Pinelands. It will be developed and implemented by staff in coordination with consultants.

### I. Information Program

This program will enable the Commission to keep the public informed of the intent and progress of the Comprehensive Management Plan (C.M.P.). Those responsible will develop:

- A. a Pinelands Commission Newsletter.
- B. a Pinelands Information Hotline.
- C. a Speakers Bureau of Commissioners and staff.
- D. an aggressive media coverage and press release program.
- E. a brochure on the Pinelands Act, C.M.P. and Pinelands Commission.

### II. Public Involvement Program

The objective of this element is to foster an aggressive program of balanced public involvement in determining policies and programs for the Pinelands. Persons responsible for this objective will:

- A. Identify and develop a local, statewide and national Pinelands constituency.
- B. Develop outreach methods for staff, consultant and Commission interaction with the public including:
  1. programs for schools, public officials, and professional, civic and social organizations with opportunities for feedback.
  2. continued provision for public comment at bi-weekly Commission meetings.
  3. periodic workshops on regional, county and local levels at public request in addition to formal workshops identified in the plan schedule.
  4. on-site analysis work sessions with feedback for interested groups.
  5. conferences on Pinelands issues when deemed necessary.
- C. Formalize public involvement and expertise in the planning effort by:
  1. contracting for public consultants in the historic and cultural component, the social component and natural resource areas.
  2. organizing criteria workshops for the natural resource assessment, physical resource assessment, and cultural and historical components and task forces for determining criteria for decision-making as outlined in

the plan.

3. conducting written and oral surveys for specific study elements (refer to socio-cultural component).
- D. Assisting in design of innovative involvement techniques (juries, debates, etc.) at the local level.
- E. Providing for public hearings on aspects of the C.M.P. as required by New Jersey law.

### III. Public Use Program

The public use program will increase public awareness of the environmental sensitivity of the Pinelands and of the appropriate use of its resources. Those responsible will:

- A. Identify appropriate public uses of the Pinelands' resources based on findings in the C.M.P.
- B. Through public involvement, design an ongoing program to educate the public on appropriate uses of the Pinelands resource.

### IV. Products

Products of the public use and involvement component will include:

- A. Information program
  1. newsletter
  2. press releases
  3. speaking engagements
  4. brochures
- B. Involvement program
  1. workshops
  2. outreach methods
- C. Public awareness program

## V. NATURAL RESOURCE ASSESSMENT

The objectives of this component are to identify and analyze existing natural characteristics of the Pinelands, and to determine environmentally sensitive areas and land carrying capacity based upon these natural characteristics. It will be completed by consultants and Commission staff.

### I. Historic vs. Future Natural Environment of the Pinelands

Like all ecosystems, the Pinelands is a dynamic system, one which is constantly experiencing subtle changes. A major goal of the Commission is the preservation and maintenance of this region's natural environment. In order to accomplish this goal, it is necessary to understand the history of the ecosystem and to develop assumptions regarding the direction in which it is proceeding. This summary will be based on the data collected during the natural resources assessment. It will involve:

- A. A literature search to determine historical evolution of the Pinelands ecosystem.
- B. Development of assumptions regarding the direction in which the Pinelands ecosystem is proceeding, and identification of factors which may influence the rate and/or alter the process of natural successions.

### II. Slope

An analysis of slope is required to identify flood-prone areas and to determine the impact of human activities on erosion. Consultants will be responsible for the preparation of slope maps, and slope-related issues will be identified in consultation with staff. The tasks include:

- A. Use of U.S.G.S. and other available data to determine and map slopes.
- B. Determination of slope issues affecting impact of development on Pinelands ecology.

### III. Soils

The soils assessment will be used to determine land suitability for agriculture, forestry, conservation, recreation and development based on soils characteristics. The component will be completed by consultants in cooperation with staff, who will:

- A. Use S.C.S. reports, other available published data, and site specific information to identify and map soil types occurring within the Pinelands National Reserve, with narrative explanation.
- B. Based on soils data, develop maps of depth to seasonal high water table, erodibility, drainage characteristics, permeability, runoff potential, wetlands, and prime agricultural soils, with narrative explanation.
- C. Review current work being conducted on soils and effluent disposal and determine relationship between soils and septic suitability.
- D. Develop map of septic suitability based on drainage,

depth to seasonal high water table, permeability, nutrient renewal capacity and other factors identified in literature search. Include narrative explanation and justification.

- E. Develop composite soil maps for suitability for agriculture, forestry, conservation, recreation, and development, with narrative explanation and justification.
- F. Determine soils issues requiring land use controls and standards and identify land management techniques.
- G. Identify soils issues which require further analysis beyond planning period.

#### IV. Geology

An assessment of the geology of the Pinelands Reserve is related to economic, scientific, and cultural issues. These issues include aquifer recharge, extraction industries, and preservation of scenic and scientifically valuable areas. The mapping component will be completed by a consultant, using data from the New Jersey Department of Environmental Protection's Bureau of Geology as a major source. Analysis of data and identification of issues will be coordinated with staff. Those responsible will:

- A. Prepare map of geologic formations, based on existing published information and New Jersey State Geologist data, and including narrative explanation.
- B. Identify geological issues requiring land use controls and standards.
- C. Identify geological issues requiring further study beyond the planning period.

#### V. Vegetation

An important component of the vegetation assessment is the mapping of vegetation types. This information will be used to assist in the identification of potential rare, threatened, and endangered plant and animal habitats, unique vegetation, wetlands, wildlife habitats and fire hazard areas. The assessment will result in the selection of areas designated for preservation and identification of environmentally critical and sensitive areas and suitable land uses and management techniques. It will be completed by consultants in cooperation with staff, who will:

- A. Prepare vegetation maps based upon existing published data such as "The Pine Barrens: Vegetation Geography" (McCormick and Jones, 1973), and aerial photos. Include a report describing Pinelands plant communities.
- B. Based upon existing published and unpublished data, local sources and field inspections, map known and potential sites containing rare, threatened, and endangered plants, with a narrative explanation.
- C. Based upon existing data and aerial photos, map locations of unique vegetation including the plains, aged stands, and specimen trees. Include narrative explanation.
- D. Based upon existing data, describe characteristic Pinelands algae and their habitat requirements.
- E. Based upon vegetation and historical data, map potential

fire hazard and existing fire management areas. Include narrative explanation.

- F. Identify gaps in data and determine nature of further studies.
- G. Develop criteria for determining relative significance of sites and areas based upon diversity, extent of habitat, and density of populations, and map selected sites and areas. Include narrative explanation.
- H. Evaluate fire management practices, identify alternatives, and develop criteria for selecting future fire management areas.
- I. Evaluate existing timber removal and forestry practices and analyze forest management alternatives.
- J. Develop vegetation suitability maps for preservation, conservation, forestry, recreation, and development. Include narrative explanation and justification.
- K. Identify vegetation issues requiring land use controls and standards.
- L. Identify vegetation issues requiring further study beyond planning period.

#### VI. Fish and Wildlife

Preservation and maintenance of fish and wildlife in the Pinelands Reserve can be accomplished through wise management of their habitats. Identification of these habitats is a prerequisite for determining which areas are critical and environmentally sensitive. This assessment will affect decisions regarding protection of threatened and endangered species, hunting, trapping and fishing, and identification of areas which should be preserved or which require land use controls and standards. It will be completed by consultants in cooperation with staff and will be based on published and unpublished sources of information. The New Jersey Department of Environmental Protection's Division of Fish, Game and Shellfisheries will provide the major source of data. Game species and those included on the Federal or State threatened and endangered species list will be given special consideration. Those conducting the assessment will:

- A. Describe population status, condition, habitat requirements and distribution of Pinelands game and nongame species.
  - B. Describe characteristic aquatic invertebrate communities of Pinelands ponds and streams.
  - C. Develop a map of critical, game species habitats.
  - D. Map distribution of characteristic Pinelands fish and threatened and endangered reptiles, amphibian and birds.
  - E. Develop a map of critical, nongame species habitats.
  - F. Prepare a map of existing wildlife management areas and stocked game fish waters.
- 
- G. Evaluate present wildlife management practices, identify alternative wildlife management practices, and develop criteria for determining wildlife management areas.
  - H. Identify data gaps and conduct necessary field studies.

- I. Develop criteria for determining relative significance of wildlife sites and areas based upon population densities, and extent of habitat. Map selected sites and areas and include a narrative explanation and justification.
- J. Identify wildlife and wildlife habitat issues requiring land use controls and standards.
- K. Identify wildlife and wildlife habitat issues requiring further study beyond the planning period.

VII. Hydrology

The ground water and surface waters of the Pinelands Reserve are among its most valuable resources. In order to assess the impact of future activities and to develop land use controls and standards to preserve and maintain existing water quality, collection of base line data is needed. This assessment will require the collection and analysis of data from a number of sources, including the United States Geological Survey and the New Jersey Department of Environmental Protection, and will be completed by a consultant in cooperation with staff. Their tasks will be to:

- A. Prepare a map of surface hydrology including streams, lakes, wetlands, flood prone areas and watersheds, based upon United States Geological Survey and Soil Conservation Service data and other sources. Include a narrative explanation.
- B. Develop a map of FW1, FW2 and FW3 ( New Jersey Department of Environmental Protection surface water quality classification).
- C. Collect existing stream flow and surface water quality and quantity data, and develop a map of surface water quality by drainage area with narrative explanation.
- D. Review current studies being conducted regarding ground and surface hydrology in Pinelands, assess their applicability and utilize where appropriate.
- E. Analyze surface water quality data in relation to existing land uses. Identify point and non-point sources of pollution.
- F. Collect and analyze existing data regarding groundwater quantity and quality in relation to existing land use. Identify point and non-point sources of pollution.
- G. Develop map of aquifers, aquifer recharge, and potential aquifer recharge areas and determine sensitivity of aquifers to development.
- H. Based upon available information determine relationship of ground and surface water systems.
  - I. Determine and map existing public supply systems, with a narrative explanation.
  - J. Identify ground and surface water withdrawal strategies and determine maximum, environmentally sound yields.
  - K. Identify ground and surface water issues requiring land use controls and standards.
  - L. Identify ground and surface water issues requiring further study.

VIII. Climate

A summary of existing climatological data will assist in the

analysis of the other components of the natural resource assessment. State and federal government agencies will be the major source of information. This assessment will be completed by consultants in cooperation with staff. They will:

- A. Collect, map and analyze existing macro-and microclimatic data in relation to other natural resource components.
- B. Identify climatic issues requiring land use controls and standards.
- C. Identify climatic issues requiring further study beyond planning period.

IX. Air Quality and Noise Issues

Possible degradation of existing air quality due to future growth must be addressed by the Commission during the development of the comprehensive management plan. An assessment of available data by a consultant will provide the data base for identifying issues requiring land use controls and standards. Those working on this program will:

- A. Collect, analyze and map existing air quality data, including a narrative explanation.
- B. Identify and map: (1) air sheds affecting Pinelands Reserve and (2) significant pollution factors.
- C. Collect and analyze existing noise data.
- D. Identify and map major noise sources within the Pinelands area, with a narrative explanation.
- E. Identify air and noise issues requiring land use controls and standards.
- F. Identify air and noise issues requiring further study beyond the planning period.

X. Existing Open Space

Preserving and maintaining open space is essential to the survival of the Pinelands environment and the enhancement of recreation, among other activities. An inventory of this resource will be conducted by the staff who will:

- A. Select criteria to be used in defining open space.
- B. Identify and map existing publicly and privately owned open space. Include narrative explanation addressing issues such as special features and accessibility.
- C. Identify and map proposed open space acquisitions and reasons for them.
- D. Identify relationship between existing and proposed open space acquisition.
- E. Examine alternative criteria for evaluating open space.
- F. Identify areas with significant open space value, such as scenic vistas, scenic rivers and rural landscapes.
- G. Identify and analyze open space issues having policy and program implications and regarding land use controls and standards.

XI. Determination of Critical and Environmentally Sensitive Land and Land Carrying Capacity

Those assigned to this program will:

- A. Determine land suitability for preservation, conservation, agriculture, forestry, recreation, and development.
- B. Develop criteria for determining critical and environmentally sensitive lands, and carry out that determination.
- C. Develop criteria for acquisition of critical and environmentally sensitive lands.
- D. Based upon criteria developed, prepare schedule of lands to be acquired.
- E. Based upon criteria developed, select lands to be preserved or conserved through land management techniques.
- F. Develop criteria for determining land carrying capacity for conservation, agriculture, recreation, and development, (utilizing the physical resource inventory).
- G. Based upon criteria, determine land carrying capacity for conservation, agriculture, recreation and development.

XII. Natural Resource Assessment Products

Efforts stemming from this component of the work plan will yield:

- A. Data, maps, and overlays for slope, soils, geology, vegetation, wildlife and wildlife habitat, hydrology, climate, air and noise, and open space.
- B. Composite maps and narratives for suitability for conservation, agriculture, recreation, and development.
- C. Selection of fire management, forest management, and wildlife management areas.
- D. Issues for treatment in the land with environmentally sensitive characteristics needing controls and standards.
- E. Delineation of critical and environmentally sensitive lands.
- F. Schedule of lands to be acquired.
- G. Determination of land carrying capacity based upon natural and physical resource inventories.
- H. Areas requiring further study beyond planning period.

## Archaeological and Historical Resource Assessment

The objective of this assessment is to identify and analyze existing archaeological and historic characteristics of the Pinelands. It will be completed by local groups and individuals, consultants, and Commission staff. Public participation will play a major role in developing the final product. Elements of the assessment, and the related tasks, will include:

### I. Inventory

- A. In consultation with federal, state and academic sources, define the conceptual framework and study unit parameters for the archaeological and historic resources of the Pinelands Reserve.
- B. Using study units as a basis, compile and synthesize inventory data from published and unpublished sources, archives and knowledgeable local individuals.
- C. Determine adequacy of knowledge concerning individual resources and study units.
- D. Develop and test a predictive model for prehistoric archaeological resources.

### II. Evaluation

- A. Develop criteria for determining the relative significance of identified archaeological and historic resources.
- B. Determine eligibility of properties for national and state registers.
- C. Assess natural processes and land use impacts affecting identified resources.
- D. Identify those resources which are preservable, and assign priorities.

### III. Protection

- A. Identify appropriate public and private sector responsibilities for preservation of identified archaeological and historic resources.
- B. Establish preliminary criteria for determining impacts of the Pinelands Management Plan on archaeological and historic resources.
- C. Develop a program to increase the public's awareness of the importance of Pinelands resources of this type.
- D. Plan and stage a Pinelands conference on archaeological and historic resources to gain public input into resources identification and preservation needs.
- E. Identify issues requiring land use controls and standards.
- F. Identify issues requiring study beyond the planning period.

### IV. Archaeological and Historical Resource Assessment Products

The assessment will yield:

- A. A conceptual framework of linked concepts that describes the nature of archaeological and historic resources in the Pinelands.

- B. Maps and data on the region's known and potential archaeological and historic resources.
- C. Identification of priorities and responsibilities for resource preservation.
- D. A public awareness program.

## Socio-Cultural Assessment

The objectives of this component are to identify and analyze socio-cultural characteristics of the Pinelands, to establish profiles of the past and present populations, and to gauge the plan's impact on present and future populations. It will be completed by consultants, the local public, and staff.

### I. Past, Present and Projected Demographic Characteristics

This program involves developing socio-cultural profiles of the Pinelands population over time. It provides the basis for assessing the impact of alternative development futures. Necessary tasks include:

A. Using information from the New Jersey Department of Labor and Industry's Office of Demographic and Economic Analysis, and the United States Bureau of Census reports, identify municipal, county, and regional demographic characteristics and their changes since 1960. Consider the following factors:

1. Population
2. Family size
3. Age of population
4. Racial and ethnic characteristics
5. Length of residency
6. Median and average income
7. Employment/unemployment characteristics
8. Characteristics of homeownership and housing costs.

B. Identify cultural or ethnic subgroups within the Pinelands. Using information from the above program and historic component determine:

1. History of subgroup
2. Location of subgroup
3. Indication of group's status, i.e., expanding, stable or declining.

### C. Projected Demographic Characteristics

Using data prepared by the New Jersey Department of Labor and Industry, State Development Guide Plan, County planning boards, 208 agencies and others, identify a range of population projections for the Pinelands area.

1. Project future demographic characteristics based on extrapolation of present and historical trends.
2. Analyze and make adjustments to population projections in light of Commission growth policies concerning land carrying capacity, natural and physical constraints, etc.

## II. Cultural Resources

An assessment of the cultural resources of the Pinelands is necessary to determine the impact of development on the region and to develop strategies to protect it. The tasks are:

- A. Based upon local and university sources, identify cultural resources of the Pinelands.
- B. Identify the role of agriculture in Pinelands culture.
- C. Identify and map areas of cultural interest.
- D. Plan and implement Pinelands conference on cultural, archaeological and historic resources (see archaeological and historic resource assessment).

## III. Assessment of Alternative Development Futures

The identification of alternative development futures by a consultant will serve as the basis for assessing the management plan's social impact.

- A. Drawing upon alternative futures identified in the Growth Factors Analysis, those responsible will evaluate the impact of such futures on:
  1. housing demand
  2. housing and land costs and their impact on various income groups
  3. the need for additional services and facilities, such as schools, health care and infrastructural improvements
  4. continuation of cultural/ethnic groups

## IV. Attitudes Toward the Pinelands

A survey of the public's attitudes will contribute to an understanding of the Pinelands "character" as well as provide insights as to how the plan may alter the "character" in the eyes of Pinelands residents. This analysis area will be closely coordinated with the Public Use and Involvement component. Tasks are:

- A. Develop and implement survey techniques to identify residents' reasons for living in the Pinelands.
- B. Develop and implement techniques to identify residents' attitudes and opinions regarding the future of the Pinelands.
- C. Develop and implement techniques to identify residents' attitudes toward potential impact of the Comprehensive Management Plan.
- D. Analyze the results of the surveys to identify areas where inconsistencies exist between public opinion and Commission policies.
- E. Determine issues which must be addressed in Public Involvement component.

## V. Socio-Cultural Assessment Products

This component will yield:

- A. Profiles of past, present and projected Pinelands residents.
- B. Identification of cultural subgroups.

- C. Analysis of social needs of future population.
- D. Residents' assessment of Pinelands character and impact of plan on the Pinelands Reserve.
- E. A map of areas of cultural interest.
- F. Issues to be addressed in the public awareness program.
- G. Issues to be addressed during policy and program development.

## PHYSICAL RESOURCE ASSESSMENT

The objectives of this component are to identify and analyze physical characteristics of the Pinelands and to determine land carrying capacity based upon the physical resource base. It will be completed by consultants and staff. The component includes the following elements and associated tasks:

### I. Past and Present Land Use

The unique and environmentally sensitive characteristics of the Pinelands Reserve can be easily harmed by development and related pressures. Identification of land use trends and proposed developments will help locate areas of immediate and future growth pressure.

- A. Based on existing United States Geological Survey maps, aerial photos, Landsat, and state, county, and local data, map historic development of residential, commercial, industrial, agricultural and silvicultural land uses in the Pinelands Reserve. Include narrative explanation.
- B. Map current residential, commercial, industrial and silvicultural land uses. Map agricultural land uses by type. Include narrative explanation.
- C. Map major public and private recreational areas, with narrative explanation.
- D. Identify and map major commercial and employment centers in and adjacent to the Pinelands, with explanation.
- E. Prepare composite map of existing land uses in the Pinelands, with explanation.

### II. Infrastructure

Location of existing and proposed infrastructure will identify potential areas of concentrated growth pressures, thereby determining where more intense efforts to protect environmental integrity may be needed.

- A. Map with narrative explanation areas of existing and proposed Pinelands infrastructure including:
  1. Public sewer and water areas
  2. Federal, state, county and local highways
  3. Bus routes
  4. State, public and private utilities and franchise areas
  5. Railroad and air transportation facilities
  6. Community resources (colleges, hospitals, cultural centers, etc.)
  7. Federal, state and county facilities (military installations, State hospitals, correctional facilities).
- B. Develop sewer and water capacity map with narrative explanation to determine potential service population.
- C. Compare maps of existing and proposed infrastructures and analyze to determine secondary impacts and conflicts with

critical and environmentally sensitive areas.

### III. Solid Waste

The potential for groundwater contamination from solid waste disposal areas in the Pinelands is a problem which must be addressed by the Commission. The purpose of this element of the work plan is to identify abandoned, existing, and proposed landfills and solid waste facilities. The data will be used in the identification of issues and formulation of policies.

- A. Identify and map existing and abandoned landfills with narrative explanation. To the extent feasible, identify and map areas of toxic waste disposal with narrative explanation.
- B. Identify and map proposed landfills and solid waste facilities with narrative explanation.
- C. Identify and map existing and proposed sites for land application of sewage sludge, septage, compost and other organic waste material.
- D. Identify issues related to solid waste disposal.

### IV. Resource Extraction Areas

While resource extraction is a valuable economic activity, its negative impact on the flora, fauna, and scenic value of an area may be significant. Identification of resource extraction areas is a necessary step in determining the relationship between resource extraction and economic and environmental issues.

- A. Identify and map existing and abandoned resource extraction areas with narrative explanation.
- B. Identify and map proposed areas with narrative explanation.

### V. Recreation

Because of its unique ecology and aesthetic appeal, the Pinelands Reserve has a high demand for recreational facilities. Recreational activities such as camping, hiking, biking, bird watching and photography, and their support facilities, may affect the environmental integrity which the Comprehensive Plan is designed to protect.

- A. Using available information, inventory and map recreational areas according to use, capacity, availability of services and access.
- B. Inventory and prepare a narrative comparing public and private recreational areas. Based on types of areas identified in section A, prepare an analysis of public and private areas, rate structures, and costs of operation and maintenance programs.

### VI. Physical Resource Issues

The physical resources of a parcel of land may accommodate a variety of uses which may or may not be compatible with each other and the Pinelands environment. The issues and conflicts identified will help indicate the safe level of land utilization while preserving environmental integrity.

- A. Identify areas of conflict between existing and proposed land uses and the existing and proposed physical resources.

Identify land use controls and land use standards which may be utilized to resolve these issues.

- B. Identify those areas of conflict which may require further study beyond the planning period.

VII. Physical Resource Products

This component will yield:

- A. Base information for the Growth Factors Analysis.
- B. Maps of historical trends, existing and proposed land uses and infrastructure.
- C. Identification of issues and areas of conflict between land use and physical resources.

## GROWTH FACTORS ANALYSIS

The objective of this component is to identify and analyze growth pressures and alternative futures of the Pinelands. It will be completed by consultants in cooperation with staff. Necessary elements and tasks include:

### I. Determination of Major Growth Factors

This element will identify factors having the greatest present and potential influence on development patterns in the Pinelands.

- A. Compile map data from physical, natural and social resource assessments.
- B. Compile data on trends from physical, natural and social assessments.
- C. Compile data from intergovernmental coordination component regarding policies which impact the Pinelands, e.g., regulatory programs, local zoning and planning.
- D. Review compiled data to determine which factors will be used in the growth factor analysis.

### II. Additional Areas of Analysis

This element will supplement the analytical factors identified within the physical, natural and social assessments, as well as in the intergovernmental coordination component.

- A. Identify historical, present and projected trends in land values, ownership, marketability and absorption rate.
- B. Based on sampling of land transaction data, identify and map major land transactions by size, use, frequency, changes in value, active agricultural vs. speculative, etc.
- C. Determine major land ownership patterns in the Pinelands.
- D. Compare land values in the Pinelands to land values outside the Pinelands, on state and regional levels.
- E. Analyze additional growth factors such as the general economy, energy considerations, viability of agricultural industry, external growth pressures, and additional factors associated with the Pinelands plan.

### III. Identification of Future Growth Pressure Areas

This element will provide a basis for scenarios related to alternative development futures of the Pinelands.

- A. Based upon identified regional and local growth factors, determine areas of the Pinelands which will undergo significant development pressures in the next three decades by area, type of growth and influencing factors.
- B. Project demographic changes due to future growth pressures, timing and probability of occurrence.

### IV. Alternative Growth Scenarios for the Pinelands

Alternative growth scenarios will be developed to provide the basis for evaluating the effect of growth pressures as identified above. Scenarios will include, but not be limited to:

- A. Continuation and expansion of historical trends.
- B. Impact of development pressures generated by Atlantic City casino gambling.
- C. Potential closing of Fort Dix.
- D. Continued public acquisition of private lands.

V. Growth Factor Analysis Products

This analysis will yield:

- A. Determination of factors promoting or inhibiting growth in the Pinelands.
- B. Identification of areas where growth pressures occur now or will in the future.
- C. Information about land ownership and marketability patterns in the Pinelands.
- D. Alternative growth scenarios for the Pinelands.

## LAND MANAGEMENT TECHNIQUES

The objectives of this component are to identify and analyze land use controls for, and to determine appropriate mechanisms for preservation and sensitive use of, the natural and cultural resources of the Pinelands. It will be completed by consultants in cooperation with staff, and will include the following elements and tasks:

### I. Comparative Analysis

Identification of land management techniques and legislation which are currently being used will provide the basis for selecting techniques appropriate for the Commission's management objectives.

- A. Identify and analyze land management techniques being utilized in the United States and other countries for applicability to the Pinelands.
- B. Identify and analyze legislation and programs in the United States and other countries for applicability to the Pinelands.
- C. Identify and analyze alternative institutional arrangements.

### II. Identification and Analysis of Land Management Issues

Potential land management issues and alternative land management techniques will be identified in light of the several resource assessments and growth factor analysis.

- A. Compile issues and analysis from natural and physical resource assessments, growth factors analysis, and historical and cultural assessments.
- B. Identify and analyze existing and potential land use, legislation, economic, administrative, and educational programs for their applicability to Pinelands issues.

### III. Design of Land Management Techniques

- A. Design land management technique alternatives including legislation, regulations and performance standards. Determine advantages and disadvantages.
- B. Develop alternative land management programs for the Comprehensive Plan, including greatest practicable use of state and local police power.
- C. Determine legislation needed to implement program.
- D. Test land use controls and standards for scientific and legal defensibility.

### IV. Intergovernmental Implementation and Roles of the Pinelands Commission

Effective implementation of the Comprehensive Management Plan requires that alternative strategies are explored and the best strategy selected.

- A. Analyze alternative intergovernmental implementation:

strategies for land use control.

- B. Analyze alternative roles of Pinelands Commission for continuing planning, implementation, and enforcement.

V. Products of Land Management Techniques

This component will yield:

- A. Alternative land management policies for Comprehensive Management Plan.
- B. Alternative land management techniques, controls, standards, implementation strategies and enforcement roles for preservation of the Pinelands.

## INTERGOVERNMENTAL COORDINATION

The objectives of the intergovernmental coordination component are to identify and evaluate the plans, policies, and programs of federal, state and local governments, and to determine strategies to ensure consistency and continuing involvement in plan implementation. Staff will be responsible for the design of this component. It will be completed by consultants and staff with responsibilities in the following categories:

- I. Plan Coordination
  - A. Survey federal, state and local agencies for data and assistance necessary for completion of plan components and the Comprehensive Management Plan.
  - B. Conduct ongoing discussions and coordination meetings with federal, state and local agencies.
- II. Planning Policies and Programs
  - A. Identify and evaluate state and federal plans, policies, and programs affecting the Pinelands.
  - B. Identify and evaluate regional agency plans, policies, and programs affecting the Pinelands.
  - C. Identify and evaluate county and local plans, policies, and programs affecting the Pinelands.
  - D. Identify existing and potential intergovernmental issues, conflicts, and joint planning opportunities.
- III. Governmental Consistency
  - A. Identify alternate methods for insuring consistency of other governmental programs with the Pinelands Comprehensive Management Plan.
  - B. Select strategies and procedures for insuring intergovernmental consistency.
  - C. Develop guidelines and standards for local implementation of Pinelands policies.
  - D. Develop guidelines and standards for state and federal implementation of Pinelands policies.
- IV. Continuing Intergovernmental Coordination
  - A. Identify and select strategies for continuing state, local and federal involvement in Pinelands planning and implementation program.

## FINANCIAL

The objectives of the financial component are to identify and analyze the costs associated with plan implementation, and the revenue sources which can be utilized to offset these costs. It will be completed by consultants.

### I. Cost Analysis

This analysis will identify the total costs associated with plan implementation. The consultants will:

- A. Identify alternative in-lieu-of-taxes payment programs and costs associated with each.
- B. Using data from growth factors analysis, develop cost projection of a 5-year acquisition program.
- C. Identify and analyze alternative compensation guarantee programs and costs associated with each.
- D. From intergovernmental coordination section, identify alternative programs to create municipal and county incentives for participation in Pinelands planning and implementation programs.
- E. Determine future administrative cost projection of Pinelands Commission, including costs of continued planning and enforcement.

### II. Revenue Analysis

The revenue analysis will identify and analyze revenue sources which can be utilized to offset the costs of plan implementation. Those assigned will:

- A. Identify existing federal, state, local and private revenue sources to offset costs; and identify additional revenue sources and necessary legislation to provide such revenues.
- B. Identify and project resource potential of the Pinelands Fund and other revenue sources.
- C. Identify sources of financing for compensation guarantees.
- D. Identify sources of funding for municipal and county incentive programs.
- E. Identify sources of financing for Commission's future administrative, planning and implementation costs.

### III. Products of Financial Component

The above tasks will yield:

- A. A determination of costs related to plan implementation including costs of acquisition, compensation guarantees, incentive programs and maintenance of the Pinelands Commission.
- B. A determination of existing and possible future revenue sources to offset identified costs.
- C. Identification of any disparity between costs and revenues, and impact of that disparity on selection of land management techniques.

## POLICIES AND PROGRAMS

The Comprehensive Management Plan will consist of data from all previously identified components. The Commission will make policy decisions based on the issues and options which have been outlined in those components. The policies will be implemented through programs developed from alternatives which have been identified throughout the planning process. An outline of the program selection process follows.

Alternative policies and programs will be developed by staff and consultants to resolve designated issues within the following categories. The Commission will be responsible for determining which strategies will be implemented.

### I. Land Management Techniques

- A. Based on assessments, identify future land uses within the Pinelands.
- B. Based on assessments, identify areas of the Pinelands where land management techniques, controls and standards will be applied.
- C. Identify, by priority, those areas within the Pinelands which will require fee simple or less than fee simple acquisition due to their natural, scenic, recreational, historical/cultural or other significance.
- D. Identify public and private roles in implementing the land acquisition program.
- E. Select appropriate techniques for preservation through acquisition, less than fee simple devices and regulation.
- F. Select appropriate techniques for protection through less than fee simple devices, regulation and performance standards.
- G. Draft legislation and land use controls and standards.

### II. Intergovernmental Coordination

- A. Select those existing state and federal programs which will be utilized to protect, preserve and enhance Pinelands values, and specific agency roles and responsibilities in carrying out the programs.
- B. Develop modifications to existing government programs and policies which will be necessary to ensure intergovernmental consistency with Pinelands goals and objectives.
- C. Select the roles and responsibilities of local government in managing the Pinelands Reserve and in implementing the Commission's policies and overall program.
- D. Select the means by which intergovernmental coordination will be carried out.

### III. Public Use and Involvement

- A. Select the strategies to be used to ensure active public participation in the development of the Comprehensive Management Plan.
- B. Select the means by which the public will be educated concerning appropriate recreational and land uses within the

Pinelands.

- C. Select the roles of the public and private sectors in implementing the public education program.

IV. Financial

- A. Identify the costs of, and revenue sources for, implementation of the Pinelands program, including a cash flow timetable.
- B. Identify financial incentives which will be used to encourage appropriate land uses.
- C. Determine cost of 5-year acquisition program.

V. Products

Selection of policies and programs will yield:

- A. Land management policies for the Comprehensive Management Plan.
- B. Land management techniques, controls, and standards for preservation and protection of the Pinelands.
- C. Legislative initiatives.
- D. A public use and involvement program.
- E. A financial program.

ESTIMATED COSTS

PINELANDS WORK PLAN

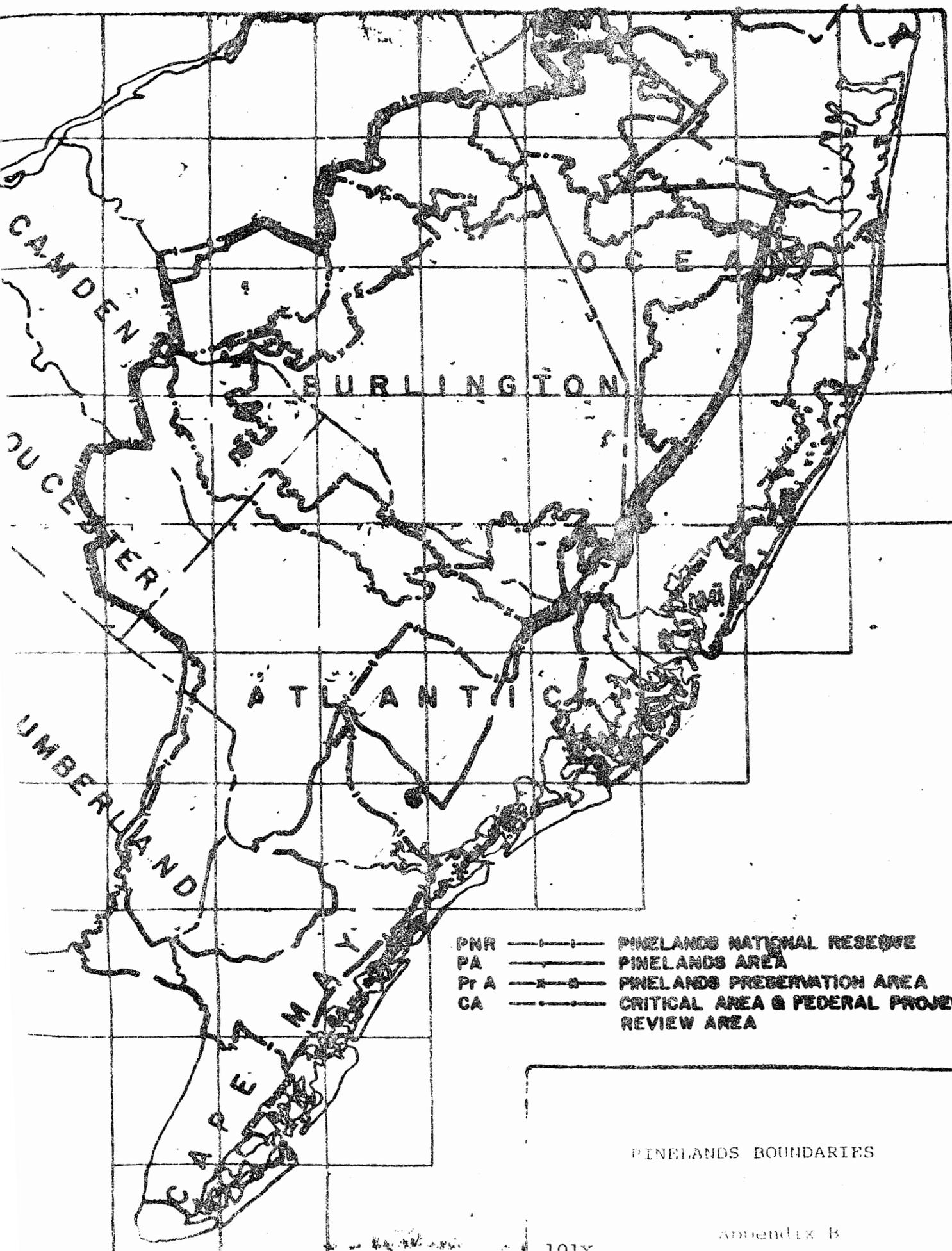
<u>Commission Operations:</u> *		\$ 500,00
I. Staff	\$400,000	
II. Materials & Supplies	15,000	
III. Vehicles & Office Equipment	40,000	
IV. Other Services (Include rent, travel, telephone, etc.)	<u>45,000</u>	
	\$500,000	

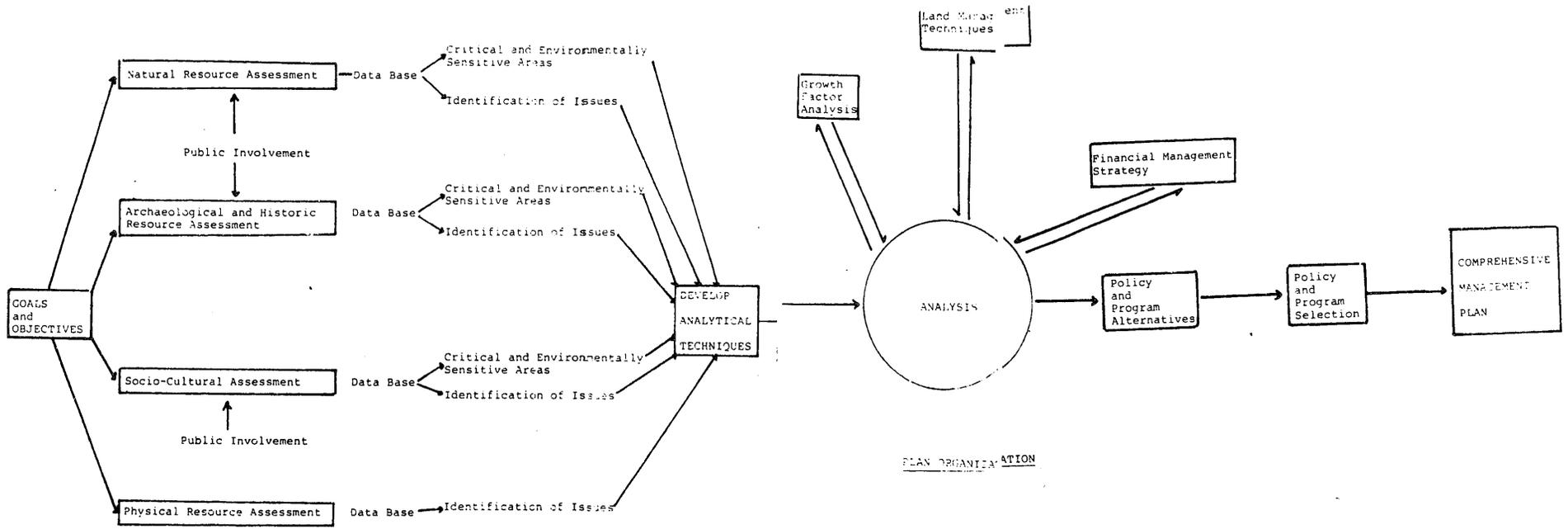
\* These costs do not include any activities related to Development Review and are strictly limited to planning related functions.

<u>Consultant Services:</u>		\$ 500,00
Public Use and Involvement		\$ 20,000
I. Information	\$ 7,000	
II. Public Involvement	8,000	
III. Public Use	<u>5,000</u>	
Natural Resource Assessment		\$260,000
I. Historic vs Future Natural Environment	\$ 4,000	
II. Slope	1,000	
III. Soils	69,000	
IV. Geology	5,000	
V. Vegetation	34,000	
VI. Fish and Wildlife	38,000	
VII. Hydrology	85,000	
VIII. Climate	2,000	
IX. Air Quality / Noise Issues	10,000	
X. Existing Open Space	2,000	
XI. Determination of Critical and Environmental, Sensitive Land and Land Carrying Capacity.	<u>10,000</u>	
Intergovernmental Coordination		\$ 20,000
I. Plan Coordination	\$ 3,000	
II. Planning Policies and Programs	9,000	
III. Governmental Consistency	4,500	
IV. Continuing Governmental Consistency	<u>3,500</u>	
Financial Component		\$ 20,000
I. Cost Analysis		
A. Payment & Compensation	\$ 8,000	
B. Acquisition and Admini- stration Cost Projection	2,000	

II. Revenue Analysis	\$ 10,000	
Archaeological and Historic Resource Component		\$ 25,000
I. Inventory	\$ 17,000	
II. Evaluation	4,000	
III. Protection	<u>4,000</u>	
Socio-Cultural Assessment		\$ 35,000
I. Past, Present and Projected Demographic Characteristics	\$ 6,000	
II. Cultural Resources	8,000	
III. Assessment of Alternative Development Futures	10,000	
IV. Attitudes Towards the Pine- lands	<u>11,000</u>	
Physical Resource Assessment		\$ 20,000
I. Map Reproduction	\$ 5,000	
II. Information Transfer	5,000	
III. Technical Assistance	<u>10,000</u>	
Growth Factors Analysis		\$ 50,000
I. Determination of Major Growth Factors	\$ 6,000	
II. Identify Additional Areas of Analysis	21,000	
III. Identification of Future Growth Pressure Areas	10,000	
IV. Develop Alternative Growth Scenarios	<u>13,000</u>	
Land Management Techniques		\$ 50,000
I. Comparative Analysis	\$ 4,000	
II. Identification and Analysis of Land Management Issues and Design of Land Management Techniques.		
A. Identification	5,000	
B. Analysis	9,000	
C. Design	18,000	
III. Intergovernmental Implemen- tation	7,000	
IV. Task Force (Travel & Fees)	<u>7,000</u>	
		<u>\$500,000</u>
<u>Total</u>		<u>\$1,000,000</u>

\* It is the Commission's intention to supplement this budget by an additional \$1,000,000 with added state and Federal assistance.





Pinelands Commission Work Plan Schedule

	1979					1980					September-February			
	July-September	October	November	December	January	February	March	April	May	June	July	August	September-February	
Public Use and Involvement		:Ongoing Program Development and Implementation												
Natural Resource Assessment		:Data Collection, Identification of Critical :Analysis of: :and Env. Sensitive Areas, and Identification:Issues :of Issues.												
Archaeological and Historic Resource Assessment		:Data Collection, Identification of Critical :Analysis of: :and Env. Sensitive Areas, and Identification:Issues :of Issues.						Adopt Programs and Policies	Comprehensive Management Plan Review Period					:Refine Plan:
Socio-Cultural Assessment		:Data Collection, Identification of Critical :Analysis of: :and Env. Sensitive Areas, and Identification:Issues :of Issues.												
Physical Resource Assessment		:Data Collection, Identification of Critical :Analysis of: :and Env. Sensitive Areas, and Identification:Issues :of Issues.												
Growth Factors Analysis		:Analysis of Growth Factors												
Land Management Techniques		:Analysis of Land Management Techniques		:Design Alternative Land Management Techniques										
Intergovernmental Coordination		:Plan Coordination, Planning Policies and Programs, and Governmental Consistency			:Develop Alternative Programs and Policies									
Financial Component		:Conduct Cost and Revenue Analysis and Identify Alternative Strategies												
Policy and Program Development		:Ongoing												

Pre-Planning Period  
Data Collection and Organization

Present Plan to Governor and Legislature

Present Plan to Secretary of Interior

## PINELANDS COMMISSION MEMBERS

FRANKLIN E. PARKER, CHAIRMAN

### :: COUNTY ::

#### ATLANTIC

NEW APPOINTMENT PENDING

#### BURLINGTON

HON. ROBERT SHINN, JR.

#### CAMDEN

JOAN BATORY

#### CAPE MAY

LESTER GERMANIO

#### CUMBERLAND

HON. PATRICK FIORILLI

#### GLOUCESTER

HON. DONALD WAGNER

#### OCEAN

JOSEPH PORTASH

### :: STATE ::

CANDACE MCKEE ASHMUN

PETER J. BURKE, JR.

B. BUDD CHAVOOSHIAN

THOMAS B. DARLINGTON

GARY PATTERSON

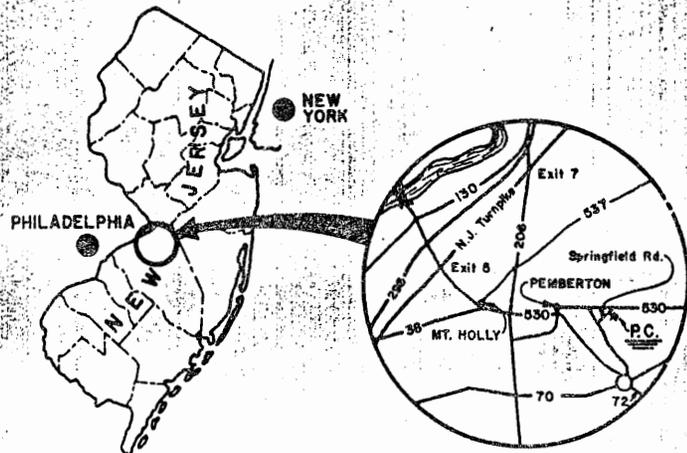
HON. FLOYD V. WEST

### :: FEDERAL ::

DONALD KENNARD

## LOCATION

STATE OF NEW JERSEY  
PINELANDS COMMISSION, SPRINGFIELD ROAD  
P.O. BOX 7, NEW LISBON, N.J. 08064



# YOU CAN HELP

# PLAN THE N.J. PINELANDS' FUTURE





## HAVE TIME AND IDEAS

- \*\* MAKE AN APPOINTMENT WITH A STAFF MEMBER TO TALK ABOUT YOUR IDEAS
- \*\* ATTEND REGULAR COMMISSION MEETINGS, SUB-COMMITTEE MEETINGS OR WORKSHOPS
- \*\* INVITE A STAFF MEMBER TO MEET WITH YOU, YOUR FRIENDS OR YOUR ORGANIZATION TO SEE HOW YOU CAN HELP TO PLAN
- \*\* VOLUNTEER FOR SPECIAL PROJECTS

## INTERESTED BUT NO TIME

- \*\* WRITE TO US WITH SPECIFIC QUESTIONS OR IDEAS
- \*\* TELEPHONE FOR INFORMATION - 609-894-9342
- \*\* HAVE YOUR NAME PLACED ON OUR MAILING LIST FOR "THE PINELANDER" NEWSLETTER AND OTHER INFORMATION

## SEND FOR INFORMATION

- \*\* "ANSWER TO QUESTIONS" ABOUT DEVELOPMENT AND PUBLIC LAND ACQUISITION IN THE NEW JERSEY PINELANDS
- \*\* "INTERIM RULES AND REGULATIONS FOR REVIEW AND APPROVAL OF APPLICATIONS FOR DEVELOPMENT OR CONSTRUCTION UNDER THE PINELANDS PROTECTION ACT" (INCLUDES 12 STANDARDS USED IN REVIEW PROCFS5)
- \*\* OFFICIAL PINELAND MAP (\$2.00 PER COPY)
- \*\* "HOW YOU CAN HELP PLAN THE N.J. PINELANDS FUTURE" (BROCHURE)



## WANT TO MEET WITH US BUT WORK

- \*\* CALL FOR A LATE AFTERNOON OR EVENING APPOINTMENT
- \*\* INVITE A REPRESENTATIVE TO SPEAK AT A MEETING OF YOUR CLUB OR SERVICE ORGANIZATION

## PINELANDS STAFF MEMBERS

### EXECUTIVE STAFF

TERRENCE D. MOORE EXECUTIVE DIRECTOR	SHIRLEY BANFER, SEC. DONNA FUES, SEC. SUZI MARTS, SEC. PATRICIA, MURPHY, RECPT.
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### PLANNING STAFF

MICHAEL BOLAN ANTHONY ESSER ROBERT KIRWAN	ROBERT ZAPPELLA BERNARDINE BEDELL, SEC.
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### PUBLIC INVOLVEMENT

WILLIAM F. LOWRY CHARLOTTE TOMASZEWSKI	SHARON GRIFFIN, SEC.
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### DEVELOPMENT REVIEW

WILLIAM HARRISON ASS'T DIRECTOR RICHARD BROWN SUSAN HULLINGS NANCY IMMESBERGER	DONNA MCBRIDE LYNN RILEY PETER YLVISAKER MAUREEN CATTAFE, SEC. CARMEN RODRIQUEZ, SEC.
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PINELANDS COMMISSION CONTRACTS AND AGREEMENTS

<u>JANUARY 15</u>	<u>JANUARY 31</u>	<u>FEBRUARY 15</u>	<u>MARCH 15</u>	<u>APRIL 1</u>	<u>APRIL 15</u>	<u>MAY 1</u>	<u>MAY 15</u>	<u>MAY 30</u>
draft report		final report						
draft report		final report						
final maps (1:24,000)								
		draft report	final report					
		draft report	final report					
		conference on drafts	final report					
draft report (final maps (1) set) 1:24,000		final report						
draft report/draft maps* (1 set) 1:24,000 draft map (1) 1:125,000		final report						
final report/draft map (1) 1:125,000								
final report								
final report/draft map (1) 1:125,000								
final report								
final report/draft maps* (1) set 1:24,000/draft map (1) 1:125,000		final report						
draft report								
technical memo.								
final report-assessment draft maps* (1 set) 1:24,000			final report-pred. survey/maps* (1 set) 1:24,000					
draft report distribution maps* (1 set) 1:24,000		final report						
draft report draft map (1) 1:125,000				final report				
draft report		final report						
	background reports		synthesis reports					
draft report draft maps* (1) set 1:24,000 draft composite map (1) 1:125,000		final report						
	survey/draft report			issue analysis/ design of tech.			final drafts	
							printed maps	
		draft report - critical areas	final report - critical areas					coordination function ends.

CONTRACTOR

SUBJECT

Betz, Converse, Murdoch

Geology/Hydrogeology/Slope

Geraghty and Miller  
(sub-contract with BCM)

Surface Hydrology

S.J. Resource, Conservation  
and Development Council

Soils Mapping

DSI Environmental Engineering

Soils As a Waste Treatment Medium

Kirt Brown, Ph.D.

Innovative and Alternative On-Site  
Waste Treatment Systems

Rutgers University, Center for  
Coastal and Environmental Studies

Conceptual Overview of Ecosystem

Andropogon Associates

Vegetation

Rutgers University, Center for  
Coastal and Environmental Studies

Threatened and Endangered Plants

Conservation and Environmental  
Studies Center, Inc.

Reptiles and Amphibians

New Jersey Audubon Society

Birds

NJ DEP )

Game Species/Small Mammals

NJ DEP )

Wildlife Management

NJ DEP )

NJ DEP ) Interagency

Forestry Management

NJ DEP )

NJ DEP ) Agreement

Fire Management

NJ DEP )

Air Quality

NJ DEP )

NJ DEP )

Noise

Monmouth College

Prehistoric Archaeology and  
Predictive Model

Barbara Liggett, Ph.D./  
Budd Wilson

Historic Archaeology and  
Architecture

John Sinton, Ph.D.

Cultural and Historic Factors

Jonathan Berger

Socio-Cultural Factors

Alan Mallach Associates

Growth Factor Analysis

T. Lloyd Associates

Aquatic Communities

Ross, Hardies, O'Keefe,  
Babcock and Parsons, Esqs.

Land Management Techniques

Rogers and Golden

Graphic Management

Rogers and Golden

Critical Area/Land Management  
Coordination (N.B. Coordination is  
an ongoing function)

106XA



INTERIM RULES AND REGULATIONS  
FOR  
REVIEW AND APPROVAL  
OF  
APPLICATIONS FOR DEVELOPMENT OR CONSTRUCTION  
UNDER THE  
PINELANDS PROTECTION ACT\*

State of New Jersey  
Pinelands Commission  
P.O. Box 7  
New Lisbon, New Jersey 08064

Adopted, July 27, 1979

\*Page 16-18 contain Standard #2 as  
amended and an additional Standard #12

INTERIM RULES AND REGULATIONS FOR REVIEW AND APPROVAL OF APPLICATIONS  
FOR DEVELOPMENT OR CONSTRUCTION UNDER THE PINELANDS PROTECTION ACT.

Until the adoption of the comprehensive management plan for the Pinelands as set forth in the Pinelands Protection Act, the following will apply to applications for development or construction within the Pinelands area as designated in Section 10 of the Pinelands Protection Act (S.3091). As provided in Section 13 of the Act:

- \* No state department or agency shall grant any approval, certificate, license, consent, permit or financial assistance for the construction of any structure or disturbance of any land within the Pinelands area, except for agricultural or horticultural purposes, until the application has been approved by the Pinelands Commission;
- \* No municipality or county or their departments or agencies, shall approve any application for a major development in the Protection Area until the application has been approved by the Pinelands Commission;<sup>1</sup>
- \* No municipality or county or their departments or agencies shall approve any application for development within the Preservation Area until the application has been approved by the Pinelands Commission.<sup>2</sup>

Any person aggrieved by any decision on an application rendered by the Commission may obtain judicial review by filing a petition in the Appellate Division of the Superior Court of New Jersey within 45 days after the issuance of such decision.

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<sup>1</sup>The Act defines "major development" as any subdivision of land into five or more parcels; construction or expansion of housing developments of five or more dwelling units; construction or expansion of commercial or industrial use or structure on a site of more than three acres; or clearing, grading or disturbance of land area in excess of 5,000 square feet for other than agricultural or horticultural purposes.

<sup>2</sup>The Act defines "application for development" as the application for any use, development or construction other than the improvement, expansion or reconstruction of any single-family dwelling unit or the improvement, expansion, construction, or reconstruction of any structure used exclusively for agricultural or horticultural purposes.

## Exemptions

The Pinelands Protection Act provides that the following uses be exempt from the Commission's application review process:

1. Construction of a single-family residence on a single lot where:
  - a. The lot upon which a residence is proposed to be built is located in the Protection Area; and
  - b. The lot has been owned by the applicant since February 7, 1979; and
  - c. The applicant intends to occupy the proposed residence; and
  - d. If the residence is to be sewerred, there must be sufficient capacity to service the residence; or if residence is not to be sewerred, the lot must be greater than one (1) acre (43,560 square feet).
2. Agricultural and horticultural purposes as defined in Section 3 (a) of the Act.
3. Developments which are not "major development(s)" as defined in Section 3 (g) of the Act which are located in the Protection Area and which do not require State permits.

The determination of whether an application falls within any of these three (3) categories rests with the municipal board or officer. The Commission will require these boards to transmit a monthly report indicating the applications which have been so certified.

The Executive Director may also certify that an application falls within any of these three categories.

## Applications in Pinelands Preservation Area

Applications for approval of development or construction within the Preservation Area will only be granted if the Commission finds that such approval is necessary to 1) alleviate extraordinary hardship OR 2) to satisfy a compelling public need AND the approval is consistent with the purposes and provisions of the Pinelands Protection Act and the federal act, AND would not result in substantial impairment of the natural resources of the Pinelands area.

## Applications in Pinelands Protection Area

Applications for approval of development or construction within the Protection Area will only be granted if the Commission finds that such approval is necessary 1) to alleviate extraordinary hardship OR 2) to satisfy a compelling public need OR 3) is consistent with the purposes and provisions of the Pinelands Protection Act and the federal act AND would not result in substantial impairment of the natural resources of the Pinelands area.

### Compliance with the Test of No Substantial Impairment

Compliance with the "no substantial impairment" sections of the Pinelands Protection Act will be required in all cases. All reviews will give detailed consideration to: the degrading effects of stormwater runoff; maintenance of air quality; protection of threatened plant and wildlife species and other plant and animal species indigenous to the Pinelands area; hazards of flood and fire; protection of the aesthetic integrity and value of critical and sensitive areas, cultural and recreational sites; the preservation of ground and surface waters; and the protection of all headwaters of all streams flowing within the Pinelands. Approvals may be conditioned to prevent such impairment by an otherwise eligible application.

### Applications in the CAFRA Zone

That portion of the CAFRA Zone which overlaps the Pinelands area outlined in the Pinelands Protection Act (S.3091), i.e., the Mullica River area west of the Garden State Parkway, is now under the authority of the Pinelands Commission.

## REQUIREMENTS FOR APPLICATION AND REVIEW

### Compelling Public Need

Applications for development or construction will be considered as meeting the requirements of compelling public need in cases where: applications are supported by proof from local, county and state agencies that construction is required prior to completion of the Pinelands Management Plan because of the public health, safety and welfare; where public benefits are demonstrated to outweigh public losses; and where no alternative means are available to meet the public need.

### Proof of Extraordinary Hardship

Applications for development or construction will be considered as meeting the requirements of extraordinary hardship in the following instances:

1. Applications where it may be demonstrated that a substantial commitment of monies or resources directly associated with physical improvements to the land were made in good faith reliance on local approval received prior to February 8, 1979; or
2. Applications where in good faith reliance on local approval received before February 8, 1979, it may be demonstrated that the applicant incurred financial obligations to a lending institution which, despite a thorough review of alternative solutions, the applicant cannot meet unless construction proceeds; or
3. Applications where the applicant is an individual who purchased a single lot or group of adjacent lots prior to February 8, 1979, for the purpose of constructing one single family dwelling for use of his or her family as its principal residence and delay in construction will result in a significant and demonstrable financial detriment to the applicant; or
4. Applications where the applicant, for demonstrated reasons of health or safety, must develop on property owned by the applicant prior to February 8, 1979; and
5. Applications where it may be demonstrated that no alternate means are available to alleviate the hardships as listed above during the planning period.

### General Requirement

Each applicant is required to provide the following information:

1. A written statement from the local boards demonstrating that the appropriate municipal and county agency is familiar with the application and said application is consistent with local land use regulations.
2. An analysis of alternatives in both design and land use to the proposed action which, if carried out, would avoid some or all of the adverse environmental effects of the project.
3. Proof of local, county, state and federal grant, permit, certificate, license, loan, and other approvals already granted and/or required to conform to all applicable state and federal regulations.

4. Other data which is determined by the staff as necessary to complete the application.

#### Consistency and Avoidance of Substantial Impairment

In all cases in the Preservation and Protection Areas, the Commission will grant approval for an application for development only when it finds that the development or construction will not result in substantial impairment to the resources of the Pinelands area. In the Preservation Area, the Commission must also determine that the proposed activity is consistent with all provisions of the Pinelands Protection Act. In granting approval in the Preservation and Protection Areas, the Commission may impose conditions including, but not limited to, design criteria.

Impact on water quality is a major consideration in determining the likelihood that the proposed development or construction will result in substantial impairment. During the interim period, it will be the applicant's responsibility to provide the Commission with the proofs necessary for the Commission to grant approval.

#### STANDARDS FOR DETERMINING CONSISTENCY AND AVOIDANCE OF SUBSTANTIAL IMPAIRMENT

Each application will be reviewed on its own merit and a determination will be made after analysis of the data and an on-site inspection. Applications for development and construction on sites or parts of sites falling into the following categories may not be approved:

##### Standard #1

Sites or parts of sites which are dependent on on-site waste disposal and have a seasonal high water table less than five feet below existing grade level.

##### Definitions

The seasonal high water table is the level below which the soil is seasonally saturated with water. The depth to seasonal high water table can be found in Soil Conservation Service (SCS) soil surveys, and/or by on-site soil logs.

On-site waste disposal refers to both conventional and non-conventional systems.

##### Rationale

Areas with seasonal high water tables have severe limitations for the use of on-site disposal systems. Harlukowicz (1978) concluded that

land areas in the Pine Barrens with water tables less than 5 feet below the land surface are not suitable for septic tank operation. Until the comprehensive plan is available, the Commission cannot determine which alternative systems and technologies will not result in the substantial impairment of the Pinelands ecology. Therefore the use of such systems and technologies are limited by this standard.

#### Standard #2

Sites or parts of sites which are dependent on on-site waste disposal systems where percolation tests conducted in accordance with procedures outlined in Chapter 199 indicate a percolation rate of less than the range of 5-8 minutes to the inch.

#### Definition

Percolation is defined as the on-site measurement of the horizontal and vertical movement of water, generally expressed in minutes to the inch, in a wet soil. In cases where the percolation rate tends to fall in the lower end of the range, i.e., 5 minutes, the potential impact of the proposed use will be analyzed with stricter scrutiny.

#### Rationale

Many of the Pinelands soils have a low potential for treatment and renewal of septic system effluents containing nitrogen and phosphates. Under these conditions too fast a percolation rate can be just as bad a problem as one which is too slow. The rapid percolation rate increases the susceptibility of the groundwater to contamination. In order to maintain the quality of the valuable groundwater and surface water resources of the Pinelands, a strict standard regarding percolation rate is necessary.

#### Standard #3

Sites or parts of sites the development of which will require new sewerage or water facilities which will result in the alteration of the hydrologic balance.

#### Definition

Sewerage and water facilities include pipelines which transport potable or waste water across watershed ridgelines.

#### Rationale

The intent of this standard is to control the depletion of groundwater reservoirs within each watershed in the Pinelands region.

#### Standard #4

Developments which will require off-tract improvements which may encourage additional development not consistent with the Pinelands Protection Act.

#### Definition

Improvements falling into this category include but are not limited to roads, water and sewer systems, and other utilities. The key factor in evaluating the proposed development rests in whether the off-tract improvements, by their existence, would stimulate additional development during the planning period.

#### Rationale

The intent of this standard is to concentrate, during the planning period, new development where it may be serviced by existing community facilities. A proposed development will only be allowed if it can be serviced in such a manner that additional development adjacent to or near the proposed site would not be accommodated by such improvements. This standard does not prevent an applicant from building necessary lines to connect with existing community services adjacent to the proposed development. The test of acceptability will be geared to the proximity of the proposed development to the existing services.

#### Standard #5

Sites or parts of sites which are in the process of acquisition for open space purposes by local, county, state or federal agencies, or which are on the State priority list for open space acquisition.

#### Definition

The DEP/Green Acres office maintains a map showing priority areas for public acquisition within the Pinelands. This standard pertains to any parcels identified on that map, as well as any lands which municipal or county agencies have designated for open space acquisition.

#### Rationale

The Pinelands Protection Act directs the Commission to identify all lands in which public acquisition is necessary or desirable to insure their preservation or to provide sites for public recreation. Until this task is accomplished and particularly during the planning period, the Commission will act to minimize the development of lands which are definite or potential acquisition sites.

## Standard #6

Sites or parts of sites which lie, a) within 1,000 feet of the center line or, b) within 900 feet from the mean high water line at the bank, whichever is greater, of a river which is nominated or designated for study for inclusion in the state's Wild and Scenic Rivers System or portions thereof within the Pinelands area, or rivers listed on the final list of potential national wild or scenic rivers or portions thereof within the Pinelands area. Impacts on such areas will be judged after a site specific analysis.

### Definition

Rivers which are designated or nominated as potential components of the state or national Wild and Scenic Rivers Systems are those rivers listed in the New Jersey Wild and Scenic Rivers Act, the "Statewide Comprehensive Outdoor Recreation Plan-1977" (the New Jersey DEP Green Acres Program), local interest groups and governing bodies and the "Final List of Potential Wild and Scenic Rivers" (HCRS, June 1979). The rivers referred to in this standard are those rivers or portions thereof, which lie within the Pinelands area which are identified in the above mentioned documents. Tributaries as well as the main stem of these rivers are included.

The DEP Green Acres Office is conducting assessments of those rivers which have been nominated for study for potential designation and classification under the New Jersey Wild and Scenic Rivers System.

The following rivers or portions thereof are designated for study and classification under the New Jersey Wild and Scenic Rivers Act to be included in the state's Wild and Scenic Rivers System, and lie in the Pinelands area. Tributaries as well as the main stem of the river are included as noted.

- a. Mullica River-from Atsion to Wharton State Forest, Burlington County to Route 542 crossing at Pleasant Mills.
- b. Cedar Creek-from the headwaters to the Garden State Parkway including its tributaries.

The following rivers and their tributaries are nominated\* for study for potential designation and classification as components of the state Wild and Scenic Rivers System, within the Pinelands area.

- a. Mullica River System and its tributaries.\*\*
- b. Great Egg Harbor River and its tributaries from headwaters to Mays Landing.

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\* The sources for nomination of the rivers are: the 1977 New Jersey Statewide Comprehensive Outdoor Recreation Plan, and local interest groups and governing bodies.

\*\* The Mullica River System includes: Mullica mainstream, Atsion, Batsto, Bass, Wading-Oswego complex, Meshecactauxin and Nescochague rivers.

- c. Tuckahoe River and its tributaries from headwaters to the Route 49 bridge south of Head of River.
- d. Toms River and its tributaries between Route 528 and the Central Railroad of New Jersey tracks.
- e. Rancocas Creek and its tributaries from headwaters to the Pinelands area boundary line.

The following rivers or portions thereof lying within the Pinelands area are on the HCRS "Final List of Potential Wild and Scenic Rivers."

- a. Cedar Creek - Bamber Lake to the Garden State Parkway.
- b. Great Egg Harbor River - Route 536 to Weymouth.
- c. Mullica River - headwaters to the Garden State Parkway.
- d. Wading River - from the confluence of the East and West Branch to the confluence with the Mullica River.
- e. Oswego River - Sim Place Reservoir to the confluence with the Wading River.
- f. West Branch Wading River - Route 563 near Speedwell to the confluence with the Oswego River.
- g. Batsto River - Hampton to the confluence with the Mullica River above Sweetwater.

### Rationale

The rivers designated for study for inclusion in the state's Wild and Scenic Rivers System, those nominated for study as state wild and scenic rivers, and those on the final list of potential federal wild and scenic rivers have been selected because, along with their adjacent land areas, they possess outstanding scenic, cultural, natural, historic, and recreational value. During the planning period, interim restrictions on construction and development on lands which are adjacent to these rivers are consistent with the intent of the Pinelands Protection Act which is to prevent "substantial impairment of the Pinelands area."

### Standard #7

Sites or parts of sites which are determined by field inspection to contain habitats which are essential to the survival of animals identified as "threatened" or "endangered" by New Jersey DEP/Division of Fish, Game, and Shellfisheries and plants identified as "rare" or "endangered" by Fairbrothers and Hough ("Rare or Endangered Vascular Plants of New Jersey," New Jersey State Museum).

### Definition

The New Jersey Department of Environmental Protection defines an endangered species as "one whose prospects for survival within the state

are in immediate danger due to one or many factors - a loss of or change in habitat, over-exploitation, predation, competition, disease. An endangered species requires immediate assistance or extinction will probably follow." A threatened species is one which "may become endangered if conditions surrounding the species continue to deteriorate."

Fairbrothers and Hough (1973) consider an endangered species as "one whose survival in New Jersey is in jeopardy. Its peril may result from destruction of habitat, change in habitat, over-exploitation by man, predation, adverse interspecific competition, disease, or because New Jersey is at the edge of its geographical range. An endangered species must receive protection, or extinction probably will follow."

"A rare species is not currently threatened with extinction, but it occurs in such small numbers in New Jersey that it may become endangered if its environment deteriorates further or other limiting factors are altered. Continued observation of its status is essential."

### Rationale

The goals of the comprehensive management plan, as stated in the Pinelands Act, include the preservation and maintenance of the existing Pinelands environment, including the indigenous plant and animal species and their habitat.

Because of the possibility of extinction of rare, threatened, and endangered plant and animal species, a major effort must be made to preserve the habitats necessary for their survival.

Classification of a wildlife species as endangered or threatened is based on the Department of the Interior's "List of Endangered and Threatened Wildlife and Plants" and the "Official List of Endangered, Threatened, Peripheral, Declining, Undetermined and Extirpated Wildlife Species in New Jersey," prepared by the Endangered and Non-Game Species Project, Division of Fish, Game and Shellfisheries, New Jersey Department of Environmental Protection. The Commission is adopting the list of rare and endangered plants prepared by David E. Fairbrothers and Mary Y. Hough entitled "Rare or Endangered Vascular Plants of New Jersey." (Science Notes No. 14, N.J. State Museum.)

### Standard #8

Sites or parts of sites located within a buffer area necessary to avoid adverse impacts on "specimen trees."

### Definition

A specimen tree is the largest known individual of each species in New Jersey as listed by the DEP, Bureau of Forestry (Porcella III, Santiago, 1977. "List of New Jersey's Biggest Trees," N.J. DEP, Bureau of Forestry, Trenton, N.J.)

The buffer zone will include the area directly beneath the crown, as well as any additional area necessary to prevent the potential impairment of the tree. Impairment will be considered as resulting from: a reduction in the amount of light reaching the crown, an alteration of drainage patterns which can adversely affect the tree, erosion or deposition of material in or directly adjacent to the tree, or any direct physical damage to the tree.

### Rationale

Specimen trees represent an important historical, cultural and natural resource of the Pinelands environment. Therefore measures are required to ensure their protection and preservation. This standard was based on an existing policy of the Office of Coastal Zone Management.

### Standard #9

Sites or parts of sites located on or within 300 feet of coastal wetlands or freshwater wetlands.

### Definition

Coastal wetlands are low-lying marsh, swamp, meadow and flat areas subject to tidal action as delineated by DEP on official maps at a scale of 1:2,400 (1 inch = 200 feet) listed in N.J.A.C. 7:7A-1.13.

"Freshwater wetlands" means land, other than coastal wetlands, which consists of any of the soil types designated as poorly drained, very poorly drained, and alluvial soils in SCS soils surveys and/or which contains Atlantic white cedar swamps, hardwood swamps, pitch pine lowlands, open bogs, savannas, ponds, or spongs.

Atlantic white cedar swamps are lowland sites dominated by Atlantic white cedars (*Chamaecyparis thyoides*) and containing, but not limited to, one or more of the following plants: trident red maple (*Acer rubrum* var. *trilobum*); sweetbay (*Magnolia virginiana*); black gum (*Nyssa sylvatica*); dangleberry (*Gaylussacia frondosa*); highbush blueberry (*Vaccinium corymbosum*); swamp azalea (*Rhododendron viscosum*); fetterbush (*Leucothoe racemosa*); sweet pepperbush (*Clethra alnifolia*); pitcher plant (*Sarracenia purpurea*); sundew (*Drosera* spp.); sheep laurel (*Kalmia augustifolia*); cinnamon fern (*Osmunda cinnamomea*); royal fern (*Osmunda regalis*); and sphagnum moss (*Sphagnum*).

Hardwood swamps are lowland sites dominated by trident red maple (*Acer rubrum* var. *trilobum*), black gum (*Nyssa sylvatica*) and/or sweetbay (*Magnolia glauca*) and including, but not limited to, one or more of the following species: gray birch (*Betula populifolia*); Atlantic white cedar (*Chamaecyparis thyoides*); sweet gum (*Liquidambar styraciflua*); sassafras (*Sassafras albidum*); sweet pepperbush (*Clethra alnifolia*); highbush blueberry (*Vaccinium corymbosum*); swamp azalea (*Rhododendron viscosum*); fetterbush (*Leucothoe racemosa*); sheep laurel (*Kalmia augustifolia*);

leatherleaf (*Chamaedaphne calyculata*); black huckleberry (*Gaylussacia baccata*); dangleberry (*Gaylussacia frondosa*); cinnamon fern (*Osmunda cinnamomea*); chain fern (*Woodwardia* spp.); Rushes (*Juncus* spp.); or other lowland forests composed of, but, not limited to one or more of the following plants: sweetgum (*Liquidambar styraciflua*); pin oak (*Quercus palustris*); willow oak (*Quercus phellos*); sassafras (*Sassafras albidum*); and tulip tree (*Liriodendron tulipifera*).

Pitch pine lowland forests are sites dominated by pitch pine (*Pinus rigida*) and including, but not limited to, one or more of the following species: trident red maple (*Acer rubrum* var. *trilobum*); black gum (*Nyssa sylvatica*); grey birch (*Betula populifolia*); leatherleaf (*Chamaedaphne calyculata*); black huckleberry (*Gaylussacia baccata*); dangleberry (*Gaylussacia frondosa*); sheep laurel (*Kalmia angustifolia*); bracken fern (*Pteridium aquilinum*); wintergreen (*Gaultheria procumbens*); and turkey beard (*Xerophyllum asphodeloides*).

Savannas are wet meadows or marshes located along streams and on abandoned cranberry bogs which support a vegetational community including, but not limited to, sedges (*Carex* spp.) and grasses (*Gramineae*).

Open Bogs are sites with the following characteristics: seasonal high water table at or above the surface; large amounts of organic matter, low fertility, and extreme water acidity; and where the vegetational community is made up of one or more, but not limited to, the following plants or groups of plants: sphagnum moss (*Sphagnum*); cranberry cover (*Vaccinium macrocarpon*); leatherleaf (*Chamaedaphne calyculata*); sheep laurel (*Kalmia angustifolia*); highbush blueberry (*Vaccinium corymbosum*); swamp azalea (*Rhododendron viscosum*); sweet pepperbush (*Clethra alnifolia*); sedges (*Carex* spp); pitcher plant (*Sarracenia purpurea*); sundew (*Drosera* spp); pipewort (*Eriocaulon* spp); Rose pogonia (*Pogonia ophioglossoides*); grass pink (*Calapogon pulchellus*); curly-grass fern (*Schizaea pusilla*).

Spunges are shrub thickets where the seasonal highwater table is at or near the surface and where the vegetation is dominated by leatherleaf (*Chamaedaphne calyculata*) and may include, among others, highbush blueberry (*Vaccinium corymbosum*).

Ponds are intermittent or permanent standing bodies of water supporting emergent vegetation, submergent vegetation, and/or rooted, floating-leaved vegetation composed of one or more of the following plants or groups of plants: fragrant white lily (*Nymphaea odorata*); spatterdock (*Nymphaea variegata*); bladderworts (*Utricularia* spp); pondweeds (*Potamogeton* spp); grasses (*Gramineae*); rushes (*Juncas* spp) and sedges (*Carex* spp).

### Rationale

Bogs, hardwood swamp forests, Atlantic white cedar stands, and other freshwater wetlands and coastal wetlands in the Pinelands play a significant role in the maintenance of environmental quality. These areas serve to retard runoff, purify water, and provide an important habitat for many plants and animals, including rare, threatened or endangered species. Atlantic white cedars, in addition to having great ecological and aesthetic value, are also a valuable timber species.

Alteration of these sites would result in substantial impairment of their many natural resources, e.g., water, endangered species, critical habitats, etc. Therefore, construction and development will not be permitted directly on the portion of a site which falls into this category. Additionally, to ensure that development on adjacent land areas does not affect the integrity of freshwater and coastal wetlands, a buffer zone of 300 feet will be required.

#### Standard #10

Sites or parts of site containing sites, structures and objects which are included in or eligible for inclusion in State and National Registers of Historic Places or determined by the State Historical Preservation Office to be potentially eligible for the register.

#### Definition

Historic resources include objects, structures, neighborhoods, districts and man-made or man-modified features of the landscape, including archaeological sites, which are on or eligible for inclusion on the State or National Register of Historic Places. The criteria for eligibility are defined by the U.S. Department of Interior, Heritage, Conservation and Recreation Service.

#### Rationale

The range of historic resources within the Pinelands is broad and diverse, ranging from the iron forges of Hanover and Batsto Furnaces, to colonial homes to Indian artifacts. The public interest requires the preservation of both representative and unique examples of historical, archaeological and cultural resources of the Pinelands, in order to provide present and future generations with a sense of the people who lived, worked and visited the Pinelands in the past. The DEP's Office of Historic Preservation maintains an up-to-date list of properties on the New Jersey Register of Historic Places (N.J.S.A. 13:1B-15.128 et seq.) and the National Register of Historic Places.

#### Standard #11

Sites or parts of sites where the implementation of the proposed action will curtail the use of fire in the maintenance of the Pinelands ecology, or where an extreme fire hazard condition exists, as determined by the Bureau of Forestry.

#### Definition

The N.J. Bureau of Forestry practices controlled burning in certain areas of the Pinelands. Information regarding fire hazard areas and the specific location of controlled burning areas is available at the Forestry offices.

## Rationale

The vegetation of the Pinelands is adapted to and in turn dependent on the periodic occurrence of fire for its maintenance. Plant succession would result in the development of forests dominated by oaks if fire were excluded from upland sites in the Pinelands. Prescribed burning, the setting of controlled fires as a forest management practice during the winter months, has been utilized to maximize the productivity of pine stands by reducing competition from oak species, creating a favorable environment for pine reproduction, and reducing the occurrence of intense wild fires by eliminating the long-term accumulation of forest litter.

Development and prescribed burning are not compatible in close proximity. Additionally certain locations in the Pinelands are particularly susceptible to fires and are extreme fire hazard areas. Therefore the development of properties which would, due to health, safety and practicable reason, interfere with the use of management techniques such as prescribed burning or which are identified as extreme fire hazard areas will not be allowed during the interim period.

REFERENCES CITED IN PROPOSED INTERIM STANDARDS

Fairbrothers, D.E. and M.Y. Hough, "Rare or Endangered Vascular Plants of New Jersey," New Jersey State Museum Science Notes, No. 14, 1973.

Harlukowicz, Thomas and R.C. Ahlert, "Effects of Septic Tank Effluent on Groundwater Quality in the New Jersey Pine Barrens - A Final Report to the Rockefeller Foundation," Rutgers, the State University, College of Engineering, Piscataway, N.J., 1978.

McCormick, Jack and Leslie Jones, "The Pine Barrens: Vegetation Geography," New Jersey State Museum Research Report No. 3, 1973.

N.J. DEP, Division of Fish, Game and Shellfisheries, "Endangered, Threatened, Peripheral, Declining, Undetermined and Extirpated Wildlife Species in New Jersey." March 29, 1979.

N.J. DEP, Office of Historic Preservation, "State and National Register of Historic Places," with addendum of December 31, 1978.

Porcella III, Santiago, "List of New Jersey's Biggest Trees," N.J. DEP, Bureau of Forestry, Trenton, N.J., 1977.

U.S. Department of Interior - Heritage, Conservation and Recreation Service, Northeast Regional Office Study Division, "Final List of Potential Wild and Scenic Rivers," June 1979.

U.S. Department of Interior, "List of Endangered and Threatened Wildlife and Plants," Federal Register, Vol. 44, No. 12, January 17, 1979, pp. 3636-3654.

U.S. Environmental Protection Agency, Office of Air, Land, and Water Use, "Manual for Evaluating Secondary Impacts of Wastewater Treatment Facilities," EPA-600/5-78-003, Washington, D.C., April 1977.

PLEASE NOTE: Standard #2 on page 6 was amended by the Pinelands Commission at its meeting on November 2, 1979. A new Standard #12 was added on that date.

N.J.A.C. 7:16-1.11(a) (2)

Standard #2

Developments which will result in the violation of New Jersey surface water quality standards or which will result in the degradation of existing water quality where no such standard has been established. Development which will result in the violation of New Jersey ground or potable water quality standards.

Definition

Water quality standards refer to those cited in the New Jersey Department of Environmental Protection, Division of Water Resources' Surface Water Quality Standards (N.J.A.C. 7:9-4 et seq.), Central Pine Barrens Critical Area Regulations (N.J.A.C. 7:9-10.1 et seq.) and Safe Drinking Water Act Regulations (N.J.A.C. 7:10.1-1 through 7:10-11.3 et seq.).

In applications for residential developments utilizing on-site waste-water disposal systems, impact on the ground water will be determined by the nitrate-nitrogen level in the groundwater at applicant's property line. The dilution model used by the DEP's Division of Water Resources will be utilized to determine the nitrate-nitrogen level. Other developments, i.e., non-residential and residential developments utilizing off-site sewage disposal systems, will be evaluated based on their overall impact on the ground water. All projects which will effect surface water quality will be evaluated based on their overall impact on the surface water.

Rationale

The quality and quantity of the Pinelands ground and surface waters are among the region's most valuable resources. Preventing significant degradation of this resource is a major goal of the Pinelands Act.

The New Jersey Department of Environmental Protection has promulgated rules and regulations to maintain the integrity of the State's waters to ensure the quality of drinking water. Special attention has been given to the Pinelands through N.J.A.C. 7:9-10.1 et seq.

N.J.A.C. 7:1G-1.11(a) (12)

Standard #12

Development which will contribute to a violation of existing State and Federal ambient air quality standards. No applicant for residential or commercial facilities need submit any information with respect to compliance with ambient air quality standards unless the Pinelands Commission or its staff requests such information on the basis that it is likely that the granting of the application will contribute to such a violation.

Definition

State standards refer to ambient air quality standards in N.J.A.C. 7:27-13.1 et seq. Federal standards refer to the National Ambient Air Quality Standards (NAAQS) cited in part 40 CFR Section 50.4:50.12.

Rationale

Under the federal Clean Air Act Amendments of 1977, the United States Environmental Protection Agency sets National Ambient Air Quality Standards (NAAQS) for specific pollutants. The New Jersey Department of Environmental Protection, Bureau of Air Pollution Control, is responsible for developing a plan to attain and maintain these standards. Its function includes the monitoring of pollutants and enforcement of emission regulations. The plan also calls for incorporation of air quality considerations into transportation planning.

PINELANDS COMMISSION PROCEDURES FOR  
PROCESSING APPLICATIONS FOR DEVELOPMENT

1. All applications for approvals by the Pinelands Commission pursuant to §13(a)-(c) of the Pinelands Protection Act shall be processed in accordance with the following rules.

2. In order to expedite the review of applications, potential applicants are encouraged to request an optional pre-application conference with the Commission staff. At the voluntary pre-application conference, a potential applicant may present a conceptual description of the proposed project, discuss the proposed project informally with the staff, and obtain guidance on the application process. The conference is not, however, a forum for preliminary approval or rejection of the proposed project.

3. Application forms shall be provided by the Executive Director. An application shall consist of a completed form plus any additional information necessary for the applicant to make the showing required by §13(a)-(c) of the Pinelands Protection Act and its implementing regulations.

4. (a) The Commission shall publish a report of the receipt of each new application and each final action on applications currently before it each week in the "DEP Weekly Bulletin." This publication is distributed free of charge to all municipalities, counties and other interested persons. Publication in the "DEP Weekly Bulletin" constitutes notice to all interested persons of pending applications and Commission actions thereon.

(b) The application status report shall include, but is not limited to:

1. The applicant's name;
2. The Commission application number;
3. The nature of the project;
4. The location of the project, including the name of the municipality and whether it is within the Protection area or the Preservation area.

(c) Simultaneously with the filing of an application with the Commission the applicant, unless no local approval is necessary or unless only one single family dwelling is involved in the application, shall:

1. File a copy of the application with the planning board in each municipality in which the proposed project is located, and

2. Publish notice of the filing of such application in each newspaper for the publication of legal notices in the municipality.

5. Upon receipt, the Executive Director with the assistance of the staff shall file the application, assign an application number, publish notice of filing in the "DEP Weekly Bulletin", and proceed to review the application in accordance with §13(a)-(c) of the Pinelands Protection Act and applicable implementing regulations.

6. The Executive Director shall consider all comments upon the application submitted by public agencies and other interested persons so long as such comments are received by him within 15 days of publication of the notice of filing of the application in the "DEP Weekly Bulletin."

7. Whenever he deems additional material reasonably necessary to assist him in his review, the Executive Director shall request the applicant to supplement his application by submitting appropriate additional information.

8. After completing his review of the application in accordance with § 13(a)-(c) of the Pinelands Protection Act and its implementing regulations, the Executive Director shall issue one of the following recommendations as appropriate:

- (a) recommend approval of the application;
- (b) recommend approval of the application with modifications or conditions;
- (c) recommend disapproval of the application.

Notice of such recommendation and a statement of reasons therefor shall be given in writing to the applicant. Notice of such recommendation shall promptly be published in the "DEP Weekly Bulletin", for each application.

9. Before an application and recommendation are transmitted to the Commission for final action, a hearing may be held on any application for which the Executive Director has recommended disapproval, or has recommended approval with conditions or modifications. No such hearing shall be held unless the applicant requests a hearing in writing and the request is received by the Executive Director within 15 days of the applicant's receipt of notice of the recommendation. In instances where the Executive Director has recommended approval with conditions or modifications, the scope of the hearing shall be limited to those conditions or modifications which the applicant objects to in the written request for a hearing.

10. (a) In all cases in which an applicant fails to timely request a hearing, or in which the Executive Director recommends approval of the application, the Executive Director shall transmit the application and supporting documentation, together with his recommendation and all public comments received, to the Commission for action.

(b) After consideration of the application and accompanying material, if the Commission ~~makes~~ the findings required by §13(a)-(c) of the Act, it shall grant the application. If the Commission determines that insufficient information exists upon which to make the findings required by §13(a)-(c) of the Act, it shall direct the Executive Director to obtain further information or that a hearing be held on the application. If the Commission determines that the findings required by §13(a)-(c) cannot be made, it shall deny the application. In no event, however, shall the Commission deny any application upon which the Executive Director has issued a recommendation of approval or approval with modifications or conditions unless the applicant is first provided an opportunity for a hearing.

(c) Notice of all final actions taken by the Commission on applications, including the date and description of the action, shall be published in the "DEP Weekly Bulletin."

11. (a) Hearings on applications pursuant to these regulations shall be conducted by an Administrative Law Judge under the rules, regulations and procedures of the Office of Administrative Law.

(b) The applicant shall have the burden of demonstrating that his application meets the requirements of §13(a)-(c) of the Act and the rules and regulations promulgated thereunder, as appropriate, and shall present his direct evidence first.

(c) Upon review of the entire record, including comments and exceptions filed by the parties to the report of the Administrative Law Judge, the Commission shall adopt, reject or modify the recommended report and decision of the Administrative Law Judge. The Commission's final decision may incorporate by reference any or all of the recommendations of the Administrative Law Judge..

(d) The applicant and the parties which participated at the hearing shall be provided with a copy of the Commission's final decision forthwith.

(e) Notice of the Commission's final decision shall be published in the "DEP Weekly Bulletin."

M E M O R A N D U M

TO: Municipal and County Planning Boards, Municipal  
Construction Code Officials and Municipal Planning  
Administrative Officers within the Pinelands Area

FROM: Pinelands Commission

SUBJECT: Interim Rules and Regulations for Development Proposals

Pursuant to Section 13 of the Pinelands Protection Act (P.L.1979, c.111), the Pinelands Commission on July 27, 1979 adopted the "Interim Rules and Regulations for the Review and Approval of Applications for Development or Construction under the Pinelands Protection Act." Enclosed is a copy of these rules.

The Interim Rules specify two areas of involvement for local boards. The first deals with the determination of whether an application falls within any of the three (3) categories which result in an automatic exemption, thereby releasing the applicant from applying to the Commission for approval. The second requires an applicant to provide the Commission with a written statement from the local boards indicating that the boards are familiar with the application and that said application is consistent with local land use regulations.

The Pinelands Protection Act provides for exemptions from the Commission review process. The three categories of exemptions include:

1. Construction of a single-family residence on a single lot where:
  - a. The lot upon which a residence is proposed to be built is located in the Protection Area; and
  - b. The lot has been owned by the applicant since February 7, 1979; and
  - c. The applicant intends to occupy the proposed residence; and
  - d. If the residence is to be sewerred, there must be sufficient capacity to service the residence; or if residence is not to be sewerred, the lot must be greater than one (1) acre (43,560 square feet).
2. Agricultural and horticultural purposes as defined in Section 3(a) of the Act;
3. Developments which are not "major development(s)" as defined in Section 3(g) of the Act, which are located in the Protection Area and which do not require State approvals, pursuant to Section 13(a).

The determination of whether an application falls within any of these three categories rests with the municipal construction code official. The attached memos provide specific information for purposes of establishing eligibility for exemption. To remain apprised of the quantity and location of development applications which have been certified as exempt, the Commission will require the construction code official to transmit a monthly report indicating the applications which have been certified in the three categories. The report should indicate the exemption category for each application, as well as information concerning the applicant's name, specific location of the parcel, land area and, in the case of residential uses, the number and type of units.

The second area where the Commission will require correspondence from the local officials concerns the board's position on development applications which come before the Commission. One of the general requirements for all applications is "A written statement from the local boards demonstrating that the appropriate municipal and county agency is familiar with the application and said application is consistent with local land use regulations." (General Requirement #1, p.4.) The applicant will be responsible for obtaining this "written statement" from the board and presenting it to the Commission. This statement from the local boards is among the several requirements which must be satisfied before the Commission will declare the application complete and begin its review. This "written statement" should be signed by the local zoning officer or planning administrative officer and, when county review is required, by the director of the county planning board.

The purpose of this requirement is to insure that the local boards are aware of the applications which will be considered by the Commission. The Pinelands Protection Act prohibits municipalities and counties from taking final action on certain applications until the Commission approves the application. Nevertheless the Commission wishes to be advised prior to beginning Commission review, that the proposed activity is consistent with local land use regulations.

Each board should establish what information it will require in order to make the determination of consistency. The Commission does not intend, however, that this review by the local boards will trigger the time period for preliminary approvals. If the Commission approves an application it will then be submitted to the local boards for their formal action.

The Commission encourages your cooperation in complying with these items. If you have any questions regarding the intent or applicability of these requirements, please feel free to contact the Pinelands Commission. Any suggestions you wish to make to streamline this process will be appreciated.

M E M O R A N D U M

TO: Municipal and County Planning Boards, Municipal  
Construction Code Officials and Municipal Planning  
Administrative Officers within the Pinelands Area

FROM: Pinelands Commission

SUBJECT: Single Family Dwelling Exemptions

The Pinelands Protection Act exempts certain single family dwellings from having to apply to the Pinelands Commission for authorization to build. Section 13(g) of the Statute provides:

"Nothing in this section shall prohibit the granting of any State, county or municipal approval, certificate, licenses, consent or permit for the construction of any single family residence upon any existing lot in the protection area, provided that (1) the lot upon which such residence would be constructed was owned as of February 7, 1979, by the person who would occupy such residence; and (2) that sewage treatment facilities, within the capacity of an existing sewage treatment plant, are available to service such residence, or, where no such facilities are available, that such residence would be constructed upon a lot greater than one acre."

The Pinelands Commission, in its Interim Rules and Regulations, has authorized local officials to certify that owners of residential lots qualify for the exemption. The local official must receive and retain all the information indicated on the attached checklist from the applicant. Once the information is provided, the local official can then issue the enclosed certification letter.

The Interim Rules and Regulations require that the local official transmit a monthly report to the Pinelands Commission as to which applications have been certified. The monthly report shall consist of a copy of all certification letters issued the previous month along with copies of the material indicated on the checklist. The first monthly report should be submitted by September 1, 1979, with subsequent report due the first of every month thereafter.

If you have any questions, please call William Harrison at (609) 292-2874.

Thank you for your cooperation.

Attachment

CERTIFICATE OF EXEMPTION

\_\_\_\_\_, the owner(s) of lot \_\_\_\_\_, Block \_\_\_\_\_  
is exempted from the provisions of the Pinelands Protection Act, pursuant  
to Section 13(g) of that Act. No action by the Pinelands Commission is  
required.

This certification is based on applicant having purchased property on  
\_\_\_\_\_ and applicant's stated intention to reside on  
the property. Applicant's proposed dwelling will be served by public  
sewers. OR Applicant's property consists of \_\_\_\_\_ acres.

This certification is valid for this applicant and only for the construc-  
tion of one single family dwelling on this property for applicant's own  
residence. This certification applies to the provisions of the Pinelands  
Protection Act. All other state and local reviews should be done as  
provided by law.

SINGLE FAMILY RESIDENCE  
DOCUMENTATION OF EXEMPTION

Exemption will be granted if an applicant demonstrates that:

1. The lot upon which a residence is proposed to be built is located in the Protection Area. A map depicting the location of the lot is sufficient proof, (copy to be submitted to the Pinelands Commission); and
2. The lot has been owned by the applicant since February 7, 1979. Such ownership shall be demonstrated by providing a copy of a filed deed, or other such document; and
3. The applicant intends to occupy the proposed residence. Proof of such intention shall be made by affidavit; and
4. (a) If the residence is to be sewerred, the applicant shall submit a letter from the appropriate sewerage authority indicating the sufficient capacity exists to service the residence, (copy to be submitted to the Pinelands Commission); or  
(b) If the residence is not to be sewerred, the applicant shall demonstrate by submission of a plot plan that the lot upon which the residence will be built is in excess of 43,560 square feet in area, (copy to be submitted to the Pinelands Commission).

M E M O R A N D U M

TO: Municipal and County Planning Boards, Municipal Construction Code Officials and Municipal Planning Administrative Officers within the Pinelands Area

FROM: Pinelands Commission

SUBJECT: Developments which are not "Major Developments"

The Pinelands Protection Act exempts certain developments in the Protection Area, from its provisions. This only applies to applications which do not require any state permits or approvals. The developments that are exempted are those which do not meet the definition of major development set forth in Section 3(g) of the Pinelands Protection Act:

"Major development" means any division or subdivision of land into five or more parcels, any construction or expansion of any housing development of five or more dwelling units; any construction or expansion of any commercial or industrial use or structure on a site of more than 3 acres; or any grading, clearing or disturbances of any area in excess of 5,000 square feet for other than agricultural or horticultural purposes."

The Pinelands Commission in its Interim Rules and Regulations has authorize local officials to certify that applicant's are proposing a use of their land which does not constitute a "major development" as defined above. The local official must receive a location map and plot plan and a written statement from the applicant detailing the proposed use of the land. The local official may request such other information as he deems necessary to determine whether an application qualifies for the exemption. Attached is a checklist of items that an applicant must show to qualify for the exemption. If all these requirements are met then the local official can then issue the enclosed certification letter.

The Interim Rules and Regulations require that the local official transmit a monthly report to the Pinelands Commission as to which applications have been certified. The monthly report shall consist of a copy of all certification letters issued the previous month along with a copy of the applicant's location map, plt plan and written statement. The first monthly report shall be submitted September 1, 1979 with subsequent reports due the first of every month thereafter.

If you have any questions, please call William Harrison at (609) 292-2874.

Thank you for your cooperation.

CERTIFICATION OF EXEMPTION

\_\_\_\_\_ owner(s) of Lot \_\_\_\_\_,  
Block \_\_\_\_\_, is exempted from the provisions of the  
Pinelands Protection Act. No action by the Pinelands Commission  
is required.

This certification is based on applicant's property being located  
in the Protection Area and that applicant does not require any  
state permits or approvals. Applicant's development is not a major  
development as defined in the Pinelands Protection Act. The certi-  
fication is for the following use of applicant's property:

This certification applies only to the provisions of the Pinelands  
Protection Act. All local reviews should be done as provided by

APPLICANT'S FOR NON-MAJOR DEVELOPMENTS

DOCUMENTATION OF EXEMPTION

1. Applicant's development does not involve a division or subdivision of land into five or more parcels, and
2. Applicant's development does not involve the construction or expansion of any housing development of five or more dwelling units, and
3. Applicant's development does not involve the construction or expansion of a commercial or industrial use or structure on a site of more than 3 acres, and
4. Applicant's development does not involve any grading, clearing or disturbance of any area in excess of 5,000 square feet for other than agricultural or horticultural purposes, and
5. Applicant's property is located in the Protection Area (copy of location maps and plot plan to be submitted to Pinelands Commission), and
6. Applicant does not require any state permits or approvals for his project.

M E M O R A N D U M

TO: Municipal and County Planning Boards, Municipal  
Construction Code Officials and Municipal Planning  
Administrative Offices within the Pinelands Area

FROM: Pinelands Commission

SUBJECT: Agricultural and Horticultural Uses

The Pinelands Protection Act exempts agricultural and horticultural uses from its provisions. Section 3(a) of the Act provides:

"Agricultural or horticulture purposes or agricultural or horticultural uses means any production of plants or animals useful to man, including but not limited to: forages or sod crops; grains and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, and including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral ornamental and greenhouse products; or any land devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agency of the Federal Government."

The Pinelands Commission in its Interim Rules and Regulations has authorized local officials to certify that individuals are proposing a use of their land which meets the definition. The local official must receive a location map and plot plan and a written statement from the individual detailing the proposed use of the land. If the written statement meets the definition, then the local official can then issue the enclosed certification letter.

The Interim Rules and Regulations require that the local official transmit a monthly report to the Pinelands Commission as to which applications have been certified. The monthly report shall consist of a copy of all certification letters issued the previous month along with a copy of the applicant's location map, plot plan and written statement. The first monthly report shall be submitted September 1, 1979 with subsequent reports due the first of every month thereafter.

If you have any questions, call William Harrison at (609) 292-2874.

Thank you for your cooperation.

CERTIFICATION OF EXEMPTION

\_\_\_\_\_, owner(s) of Lot \_\_\_\_\_,  
Block \_\_\_\_\_, is exempted from the provisions of the  
Pinelands Protection Act. This is based on applicant's proposed  
use of this property for either agricultural or horticultural  
purposes as defined in the Act.

Applicant's proposed use of the lot is as follows:

This certification is valid for this applicant and only for the use  
detailed above. This certification applies to the provisions of  
the Pinelands Protection Act. All other state and local reviews  
should be done as provided by law.

A N S W E R S   T O   Q U E S T I O N S

About Development and Public Land Acquisition  
in the New Jersey Pinelands

PINELANDS COMMISSION

November, 1979

The Pinelands Protection Act, signed by Governor Brendan T. Byrne on June 28, 1979, contains rules to guide development in the Pinelands while a management plan is being prepared for the region. As described in the Act, the Pinelands contains all or parts of 52 municipalities. The overall territory is divided into a "preservation area"---the core of the Pinelands where development rules are strictest---and an outlying "protection area." To determine whether a particular piece of property is located in the preservation area or the protection area, write to the Pinelands Commission at P. O. Box 7, New Lisbon, New Jersey 08064. Include a location map if possible. Copies of the Commission's official map showing the various Pinelands boundaries are available at no charge.

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Q. Why is the government moving to control development in the Pinelands?

A. As the largest remaining tract of near-wilderness in the urban Northeast, the Pinelands has been recognized as a natural resource of national significance. It is the home of several rare plants and animals which are part of a unique ecological system. The area is of major agricultural importance, and it provides a wealth of recreational opportunities. Beneath lies a vast reservoir of pure water, especially vulnerable to pollution because of the sandy soil. Controls on development have been judged necessary by both the U.S. Congress and the New Jersey Legislature to maintain the area's special features and to protect the water supply.

Q. What is the Pinelands Commission?

A. The National Parks and Recreation Act of 1978 authorized New Jersey to establish an agency that would develop and carry out a comprehensive management plan for a million-acre area called the Pinelands National Reserve. That agency became the Pinelands Commission, created by the state's Pinelands Protection Act. The Commission has 15 members: seven appointed by the governor, seven by the freeholder boards of each of the Pinelands counties, and one appointed by the United States Secretary of the Interior. It must complete the management plan by August 8, 1980. In the meantime, the state law bars development in the preservation and protection areas except that which is approved by the Commission in accordance with the law, or which is specifically exempted.

Q. What kind of development does the Commission regulate?

A. Any use, subdivision, or construction for which you would normally need local planning or zoning board approval, or a state permit, is subject to prior review by the Commission. But you do not need to apply to the Commission if you plan to improve an existing home, or to construct or improve a building used solely for farming or horticulture. You are also exempt if you want to build a house for your own use in the protection area on a lot you owned as of February 7, 1979, as long as that lot either has adequate sewer service or is larger than one acre. Finally, any development in the protection area not defined in the law as "major" does not need Commission approval unless it requires a separate state permit. Your local government may determine whether your project is exempt for one of these reasons.

Q. What is a "major" development?

A. According to the state law, it is any subdivision of land into five or more parcels; any construction or expansion of five or more existing housing units; any construction or expansion of a commercial or industrial use or structure on a site of more than three acres; or any disturbance of more than 5,000 square feet of land except for farming or horticulture.

Q. How do you get a development application started?

A. Contact the Commission's review staff at 609-894-4117 for guidance. The staff will be glad to discuss your project with you and supply you with application forms and explanatory documents. You must file a copy of your completed application with the planning board where the project is located. You also have to publish a notice in the appropriate newspaper that your application has been filed. (Those two requirements don't apply for single dwellings, or when no local approval is needed.) The Commission lists all applications it receives, and its final action on them, in the Department of Environmental Protection's weekly bulletin.

Q. What kind of information do you have to supply with your application?

A. Besides basic details describing the project, you must provide a statement verifying that local authorities know about your application and that it conforms to local land use regulations. If you know of any adverse environmental impact the project will have, you must furnish an analysis of design alternatives that would minimize the damage. And you have to furnish copies of any permits you have already obtained, and list those you still need to obtain.

Q. How do you comment on someone else's application?

A. You must submit your comments to the Commission's executive director within 15 days of publication, in the Department of Environmental Protection's weekly bulletin, of notice that the application has been filed.

Q. What kind of development is allowed in the preservation area?

A. The Commission can approve a project in the preservation area (the heart of the Pines) if it finds that the project is necessary to meet a "compelling public need" or to "alleviate extraordinary hardship." Furthermore, the project must be consistent with the purposes of the Pinelands Protection Act, and it must not result in "substantial impairment" of the Pinelands resources.

Q. Is the preservation area the same as the "critical area" designated by the state Department of Environmental Protection to protect water quality in the central Pinelands?

A. No, although they overlap. The Commission does use the critical area water quality standard for projects within that boundary. If you want to install a septic system in the critical area and you get the Commission's approval, you will have met the DEP standard, although you still have to get the department's customary permit. The Commission's rule is that projects should meet all prevailing water quality standards, and should not degrade existing water quality in situations where no standards apply.

Q. What kind of development is allowed in the protection area?

A. The rules are less strict here. You do not need the Commission's approval to build a house for your own use on property you owned as of February 7, 1979, provided you are connected to an adequate sewer system or your lot is larger than one acre. The Commission may approve other projects if it can be shown that there is a compelling public need, extraordinary hardship, or consistency with the purposes of the Act. However, there still must be no substantial impairment of Pinelands resources.

Q. What if you want to build a house on your own lot?

A. To sum up, there are certain situations in which you can build a house for your own use on your own property without having to apply to the Commission. This happens only in the protection area. If you owned the lot as of February 7, you are exempt as long as your lot meets certain requirements designed to minimize water pollution. The lot can either be serviced by a sewer system that has available capacity; or if you are going to use a septic tank, the lot must be larger than one acre to ensure adequate dilution of the septic discharge. If you bought the lot after February 7, you are still exempt if you do not plan to clear, grade or disturb more than 5,000 square feet and you don't need a separate state permit. If you do plan to disturb more than that amount of land, your house would be classified as a major development and you would have to get the Commission's approval. The Commission staff will provide general information about the rules that would apply to a particular lot before you buy it.

Q. How does the Commission decide whether a project would result in "substantial impairment" of the Pinelands?

A. The Commission has adopted interim standards to gauge a project's environmental impact. Protection of the Pinelands' water quality is the chief concern. Consideration is given to potential harm caused by sewage disposal, stormwater runoff, and proximity to surface water bodies. Other standards focus on threatened plant and animal species, air quality, impact on culturally significant sites, interference with public land acquisition, and compatibility with the frequent fires needed to maintain Pinelands vegetation. A document explaining these standards in detail will be given to you with your application.

Q. How do you show a "compelling public need" for a project?

A. Other government agencies must verify that the public health, safety and welfare require a project to go ahead before the Pinelands management plan is completed. Also, the project must be the only available means to meet the need, and public benefits must outweigh any public losses. Acceptable projects in this category might include a school needed to ease overcrowding, or a sewer line needed to correct a health problem. The Commission will decide which projects qualify.

- Q. How do you show that a project must be approved to relieve "extraordinary hardship"?
- A. You can qualify as a hardship case under these circumstances: 1) If you received local approval for your project prior to February 8, 1979, and made a substantial commitment of money or resources; 2) If you received local approval before February 8, and borrowed money which you can't repay unless you're allowed to build; 3) If you bought property before February 8 to build a house for your family and you can show that a delay will hurt you financially; or 4) If you need to develop property you owned prior to February 8 for health or safety reasons. In any situation, you have to show that going ahead with the project is the only way to solve your problem.
- Q. What rules apply if your property is located in the National Reserve created by the federal legislation, but outside the Pinelands area set up by the state law?
- A. The Reserve is slightly larger than the state-created Pinelands area. It extends east of the Garden State Parkway and dips a few miles farther south into Cape May County. The Commission's management plan will apply to the Reserve. Until that plan is adopted, however, the state's development rules apply only to the Pinelands area designated by the state Act (the preservation and protection areas). A general description of the Reserve is included on the Commission's official map.
- Q. How does the Pinelands Protection Act match up with the Coastal Area Facilities Review Act (CAFRA)?
- A. The zone in which certain projects require approval under CAFRA overlaps with the preservation area in one place---along the Mullica River west of the Garden State Parkway. Projects here are under the Commission's jurisdiction. Otherwise, the usual CAFRA permits must be obtained for projects along the coast, including those located in the Pinelands National Reserve.
- Q. How is an application evaluated?
- A. After the staff receives your paperwork, it makes a site inspection. If you want to install a septic system, the Division of Water Resource determines whether you meet water quality standards. Specialists study the impact your project may have on special Pinelands resources such as historical sites, endangered species, and cranberry bogs. The staff may develop conditions aimed at making a project which meets the other requirements environmentally acceptable. For example, you might be asked to limit removal of trees on your lot, take steps to minimize runoff, or plant only natural vegetation that would not have to be fertilized. The staff forwards its findings to the executive director.

Q. What happens after an application is reviewed?

A. The executive director recommends to the Commission that the application either be approved, approved with conditions, or denied. You will be notified of the recommendation before final action is taken. If the recommendation is for approval with conditions, you will be informed of the conditions and asked to agree to them. If you do agree, the application will be placed on the Commission's agenda. If you don't agree, the staff will consider design options you may propose. The Commission votes on the executive director's recommendations at its meetings every two weeks.

Q. How can you contest a recommendation of denial, or of conditions which you find unacceptable?

A. You can ask for a hearing by a state administrative law judge. The request must be made to the Commission within 15 days of your receipt of the recommendation. The Commission notifies the Office of Administrative Law, which schedules the hearing. After taking testimony and any written comments, the judge makes a report to the Commission, which can either adopt, modify, or reject the findings. The Commission then votes on your application.

Q. If the Commission finally turns you down, what further recourse do you have?

A. You can take the case to the Appellate Division of state Superior Court. Appeals must be filed within 45 days of the Commission's action.

Q. If the Commission upholds the staff's recommended approval, can you proceed with your project immediately?

A. No. You still must get permission from your local government, and obtain any other required permits.

Q. Can the Commission deny your application if the staff has recommended that it be approved?

A. Not unless you are first offered a hearing. However, the Commission may ask the staff to obtain more information about your project before it votes. It may also order a hearing to elicit more information.

- Q. Who enforces the conditions placed on an application, if there are any?
- A. The conditions are made part of your local building permit, and it is the building inspector's job to see that you follow them. However, the Commission staff does check on projects under construction to see if conditions are being observed.
- Q. What rules will govern development in the Pinelands after the Commission completes its management plan?
- A. One of the Commission's most important tasks as it drafts the plan will be to decide how to balance growth pressures with protection of the Pinelands resources. However, the specific methods it will choose to meet that objective are unclear at this time. Under the state law, local land use regulations will have to comply with the Commission's plan, and all development will therefore have to meet the Commission's standards. The Commission will still have the option of waiving "strict compliance" if it decides that a project is justified for reasons of hardship or public need, and that it would cause no substantial impairment.
- Q. What rules do you have to follow if you want to sell your property in the Pinelands?
- A. The state Act has no rules governing land sales in the protection area. In the preservation area, though, if you are selling more than 10 acres, you must give 60 days notice to the Department of Environmental Protection before you sign a contract. Otherwise, the contract can be declared void. (The same rule applies if you are selling only an option to buy the land, or an interest in it.) No notice has to be given if you are selling a structure located on less than 10 acres, or if the sale is between husband and wife, parent and child, brother and sister, or grandparent and grandchild.
- Q. Is the Pinelands Commission buying land?
- A. No. The law requires the Commission to identify land which the state should either buy outright or obtain easements on to preserve Pinelands features or to provide recreation sites. That information will be included in the management plan. In the meantime, the federal and state governments are making money available to buy, or obtain easements on, particularly sensitive parcels. Transactions are being handled by the Department of Environmental Protection.

Q. What kind of easements are being purchased?

A. The government's aim is to preserve enough of the Pinelands in its present undeveloped state so that the region's unique features will be maintained. By selling easements, landowners who agree not to use their land for ecologically harmful activities are compensated for the restricted use, and yet retain ownership. Easements may limit the use of a tract to farming or recreation, or simply prevent it from being developed. Burlington County has a separate Pinelands easement program.

Q. Who do you contact if you want to sell your Pinelands property to the state?

A. If you think your property is suited for public purchase, or if you want to enter into some agreement limiting use of your land in the spirit of the Pinelands Protection Act, contact the Department of Environmental Protection's Pinelands acquisition office. The office's address is Room 711, Labor and Industry Building, P.O.Box 1390, Trenton, New Jersey 08625. Top priority is being given to large undisturbed parcels near bodies of water, next to land already under public ownership, or containing some especially sensitive and valuable resource.

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