

PUBLIC HEARING
before
ASSEMBLY AGRICULTURE AND ENVIRONMENT COMMITTEE
on
ASSEMBLY BILL # 1259

(Pinelands Development Credit Bank Act)

Held:
December 9, 1982
10:00 a.m.
Buena Vista Municipal Bldg.
Buena Vista, New Jersey

COMMITTEE MEMBERS PRESENT:

Assemblyman Anthony S. Marsella (Vice Chairman)
Assemblyman Elliott F. Smith
Assemblyman John O. Bennett
Assemblywoman Delores Cooper

ALSO PRESENT:

Mark O. Smith, Research Associate
Office of Legislative Services
Aide, Assembly Agriculture and Environment Committee

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New Jersey State Library

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ASSEMBLY, No. 1259

STATE OF NEW JERSEY

INTRODUCED MAY 13, 1982

By Assemblyman LFSNIAK, Assemblywoman KALIK, Assemblyman
PANKOK, Assemblywoman COSTA, Assemblymen MARSELLA
and HERMAN

A SUPPLEMENT to the "Pinelands Protection Act," approved June
28, 1979 (P. L. 1979, c. 111; C. 13:18A-1 et seq.), and making an
appropriation.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Pinelands
2 Development Credit Bank Act."

1 2. The Legislature finds and declares that, pursuant to the
2 provisions of P. L. 1979, c. 111 (C. 13:18A-1 et seq.), the compre-
3 hensive management plan for the pinelands area has been adopted
4 and is now being implemented; that this plan quite properly in-
5 cludes a program for the allocation and transfer of pinelands
6 development credits; and that the pinelands development credit
7 program will provide a mechanism to facilitate both the preserva-
8 tion of the resources of this area and the accommodation of regional
9 growth influences in an orderly fashion.

10 The Legislature further finds and declares that the concept of
11 transferable development credits is innovative and, as yet, un-
12 precedented on a regional scale; that in order to realize the full
13 measure of the benefits of such a program, steps must be taken
14 to assure the marketability of these credits; and that the best means
15 of providing this assurance is through the establishment of a Pine-
16 lands Development Credit Bank empowered to purchase and sell
17 pinelands development credits and to guarantee loans secured
18 thereby, all as hereinafter provided.

1 3. As used in this act:

2 a. "Applicant" means a person applying for, or in receipt of, a
3 loan secured pursuant to the provisions of this act;

4 b. "Bank" means the Pinelands Development Credit Bank estab-
5 lished pursuant to section 4 of this act;

6 c. "Board" means the Board of Directors of the Pinelands
7 Development Credit Bank;

8 d. "County bank" means a county development credit bank estab-
9 lished pursuant to section 14 of this act;

10 e. "County board" means the board of directors of the county
11 development credit bank;

12 f. "Lender" means any bank or trust company, savings bank,
13 national banking association, savings and loan association, or build-
14 ing and loan association maintaining an office in the State, or any
15 insurance company authorized to transact business in the State;

16 g. "Pinelands development credit guarantee" means a guarantee
17 extended pursuant to section 9 of this act;

18 h. "Pinelands development credit" means a transferable develop-
19 ment right created pursuant to the comprehensive management
20 plan.

1 4. a. There is established in the Executive Branch of the State
2 Government a public body corporate and politic, with corporate
3 succession, to be known as the Pinelands Development Credit Bank.
4 For the purpose of complying with the provisions of Article V,
5 Section IV, paragraph 1 of the New Jersey Constitution, the bank
6 is allocated with the Department of Banking, but notwithstanding
7 that allocation, the bank shall be independent of any supervision
8 or control by the department or by an officer or employee thereof,
9 except as otherwise expressly provided in this act. The bank is
10 constituted as an instrumentality of the State exercising public
11 and essential governmental functions, and the exercise by the bank
12 of the powers conferred by this act shall be deemed and held to
13 be an essential governmental function of the State.

14 b. The bank shall be governed by a board of directors consisting
15 of five ex officio members, or the designees thereof, as follows: the
16 Commissioner of Banking, who shall serve as chairman; the Secre-
17 tary of Agriculture; the Attorney General; the Commissioner of
18 Environmental Protection; and the Chairman of the Pinelands
19 Commission. Designees of members shall have the power to vote
20 in the absence of members.

1 5. The board shall have the following powers:

2 a. To adopt and, from time to time, amend and repeal suitable
3 bylaws for the management of its affairs;

- 4 b. To adopt and use an official seal and alter the same at its
5 pleasure;
- 6 c. To apply for, receive, and accept, from any federal, State, or
7 other public or private source, grants or loans for, or in aid of,
8 the board's authorized purposes;
- 9 d. To enter into any agreement or contract, execute any instru-
10 ment, and perform any act or thing necessary, convenient, or
11 desirable for the purposes of the board or to carry out any power
12 expressly given in this act;
- 13 e. To adopt, pursuant to the "Administrative Procedure Act,"
14 P. L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations
15 necessary to implement the provisions of this act;
- 16 f. To call to its assistance and avail itself of the services of the
17 employees of any State, county or municipal department, board,
18 commission or agency as may be required and made available for
19 these purposes;
- 20 g. To purchase pinelands development credits when necessary
21 to alleviate hardship, as determined pursuant to rules and regula-
22 tions adopted by the board. The purchase price in these cases shall
23 be \$10,000.00 per credit, or a fraction of that amount which reflects
24 that portion of a pinelands development credit allocated to the
25 applicant pursuant to the provisions of the comprehensive manage-
26 ment plan.
- 1 6. The board shall, upon application of the appropriate land-
2 owner, and certification by the commission, issue Pinelands De-
3 velopment Credit Certificates for all pinelands development credits
4 allocated pursuant to the comprehensive management plan. These
5 certificates shall be issued to the current owner of record of the
6 land, as indicated in the index of deeds recorded in the office of the
7 recording officer of the appropriate county, subsequent to the
8 recording of restrictions imposed on the use of that land pursuant
9 to the comprehensive management plan.
- 1 7. a. The board shall establish and maintain a Registry of
2 Pinelands Development Credits, which shall include:
- 3 (1) The name and address of every owner to whom a pinelands
4 development credit certificate is issued pursuant to section 6 of this
5 act, and the date of its issuance;
- 6 (2) The name and address of every person to whom a pinelands
7 development credit is sold or otherwise conveyed, the date of the
8 conveyance, and the consideration, if any, received therefor;
- 9 (3) The name and address of any person who has pledged a
10 pinelands development credit as security on any loan or other obli-
11 gation, the name and address of the lender, and the date, amount
12 and term of the loan or obligation;

13 (4) The name and address of any person who has redeemed a
14 pinelands development credit, the location of the land to which the
15 credit was transferred, and the date this redemption was made.

16 b. No person shall purchase or otherwise acquire, encumber, or
17 redeem any pinelands development credit without recording that
18 fact, within 10 business days thereof, with the bank.

19 c. The board shall make available the information included in
20 the registry to each county and municipality located in whole or in
21 part in the pinelands area, and, upon request, pertinent information
22 to any other person.

1 8. Any person desiring to secure a loan using a pinelands develop-
2 ment credit as collateral may apply to the board for determination
3 of eligibility for a pinelands development credit guarantee. The
4 board shall notify the applicant of its decision within 30 days of its
5 receipt of the application.

1 9. a. The board may extend a pinelands development credit
2 guarantee with respect to any loan secured pursuant to the pro-
3 visions of this act if:

4 (1) Adequate funds are available in reserve to fulfill the guar-
5 antee in the event of a default; and

6 (2) The applicant can demonstrate that he holds marketable
7 title to the property and that the property has been certified by
8 the commission as eligible for issuance of pinelands development
9 credit certificates pursuant to the provisions of this act, that this
10 credit has not been otherwise encumbered, transferred or redeemed,
11 and that the credit shall be pledged as security for the guarantee.

12 b. If the applicant is denied, the board shall return it to the
13 applicant with a written statement of the reasons for denial.

14 c. If the application is approved, the board shall retain the
15 original and transmit copies of the application to the applicant
16 and the lender. The applicant and the lender may then complete
17 the transaction for the loan. Nothing herein contained shall be
18 construed to require a lender to approve or deny any loan applied
19 for pursuant to this act, regardless of the approval or disapproval
20 by the board of any application for a pinelands development credit
21 guarantee.

1 10. The bank is authorized to guarantee the value of a pinelands
2 development credit in the amount of \$10,000.00, or a fraction of
3 that amount which reflects that portion of a pinelands development
4 credit allocated to the applicant pursuant to the provisions of this
5 act. Nothing herein contained shall be construed to establish or
6 limit fair market value of any pinelands development credit or to
7 preclude the extension of a pinelands development credit guarantee
8 for any loan of less than \$10,000.00.

1 11. a. Following the thirty-first day of a default on any loan
2 secured, in whole or in part, by a pinelands development credit
3 guarantee, the lender shall send notice by certified mail to the
4 applicant and the board, stating the consequences of this default.
5 The applicant and the lender may, within 90 days of the initial de-
6 fault, agree to take any reasonable steps to assure the fulfillment
7 of the loan obligation.

8 b. In the event the applicant and the lender have not made
9 arrangements for the continuation of the loan obligation within 90
10 days of the initial default, the lender shall file a claim with the
11 board, identifying the loan and the nature of the default and shall:
12 (1) assign the security interest in the pinelands development credit
13 to the board in exchange for payment according to the terms of
14 pinelands development credit guarantee; or, (2) retain the security
15 interest in the pinelands development credit and waive any claim to
16 payment pursuant to the terms of the pinelands development credit
17 guarantee.

1 12. In the event a default occurs on any loan secured, in whole or
2 in part, by a pinelands development credit guarantee and the
3 lender has assigned the security interest in the pinelands develop-
4 ment credit to the board, the board shall authorize payment to the
5 lender up to the limits of the pinelands development credit guar-
6 antee, and shall notify the defaulting party. The board shall, in
7 these cases, commence foreclosure proceedings in the manner
8 provided by law.

1 13. The board may sell, exchange, or otherwise convey any pine-
2 lands development credit which is purchased or otherwise acquired
3 pursuant to the provisions of this act. All sales or conveyances
4 shall be made prior to the expiration of this act. The provisions of
5 any other law to the contrary notwithstanding, no such sale, ex-
6 change or conveyance shall be subject to approval of the State
7 House Commission.

1 14. a. The governing body of any county located in whole or in
2 part within the pinelands area may, by resolution duly adopted,
3 create a public body under the name and style of "The
4 County Development Credit Bank," with all or any significant part
5 of the name of the county inserted. The county bank shall be
6 governed by a board of directors consisting of five members, ap-
7 pointed by the board of chosen freeholders, or, in the counties
8 operating under the county executive plan or county supervisor
9 plan pursuant to the provisions of the "Optional County Charter
10 Law," P. L. 1972, c. 154 (C. 40:41A-1 et seq.), by the county execu-
11 tive, or the county supervisor, as the case may be, with the advice
12 and consent of the board of chosen freeholders.

13 b. The members of the county board shall be appointed from
 14 among residents of the county with substantive experience in
 15 agriculture, banking and finance, land use regulation, and the law.

1 15. The board may delegate any authority granted it by this act
 2 to any county which creates a county board pursuant to the pro-
 3 visions of this act if:

4 a. The commission has approved the master plan for the county;

5 b. The governing body of the county has requested that this
 6 delegation be made; and

7 c. The governing body of the county can demonstrate that it has
 8 the financial resources necessary to meet the obligations of this
 9 delegation.

1 16. If the board has delegated its authority pursuant to the
 2 provisions of section 15 of this act, it shall provide, upon application
 3 therefor and approval thereof, matching grants to the county bank
 4 for the purpose of meeting the obligation of this delegation.

1 17. The county board shall exercise the authority delegated to
 2 it by the board in a manner prescribed by rules and regulations
 3 adopted by the board.

1 18. a. There is appropriated to the bank, from the State Recrea-
 2 tion and Conservation Land Acquisition and Development Fund
 3 created pursuant to the "New Jersey Green Acres and Recreation
 4 Opportunities Bond Act of 1974" (P. L. 1974, c. 102), the sum of
 5 \$3,000,000.00. This sum shall be used for the purchase of pinelands
 6 development credits, as herein provided.

7 b. There is appropriated to the bank, from the General State
 8 Fund, the sum of \$2,000,000.00. This sum shall be used to extend
 9 pinelands development credit guarantees, as herein provided.

10 c. The appropriations made pursuant to this section shall be
 11 repaid by the bank, in whole or in part, as soon as may be prac-
 12 ticable, from the proceeds of the sale of pinelands development
 13 credits pursuant to section 13 of this act.

1 19. Notwithstanding any other provisions of this act:

2 a. No pinelands development credit guarantee shall be extended
 3 for a period of time in excess of 5 years;

4 b. No pinelands development credit guarantee shall be extended
 5 after December 31 in the fifth year next following enactment of
 6 this act;

7 c. No pinelands development credit shall be purchased by the
 8 bank after December 31 in the fifth year next following enactment
 9 of this act.

1 20. This act shall take effect immediately and shall expire on
 2 December 31 in the tenth year next following enactment.

STATEMENT

The purpose of this bill is to guarantee the value of development credits allocated by the Pinelands Commission pursuant to the comprehensive management plan. To this end, the bill establishes the Pinelands Development Credit Bank, governed by a board of directors consisting of the following members: the Commissioner of Banking, who shall serve as chairman; the Secretary of Agriculture; the State Attorney General; the Commissioner of Environmental Protection; and, the chairman of the Pinelands Commission. The board is authorized to guarantee \$10,000.00 of the value of a pinelands development credit used to secure a loan for any purpose. The board is further authorized to act as a buyer of last resort in the event of economic hardship, as determined by rules and regulations to be adopted by the board.

If there is a default on a loan guaranteed pursuant to this act and the lender and the applicant do not make arrangements for the continuation of the loan within the prescribed time, the bank may either assign security interest in the credit to the board in exchange for payment, or retain security interest and waive claim to payment pursuant to the terms of the guarantee. If the bank makes this assignment, the board would then foreclose on the credit.

The bill provides for the establishment of County Development Credit Banks and for the delegation by the Pinelands Development Credit Bank of its authority to the county bank under certain conditions. The bill appropriates \$5,000,000.00 to the Pinelands Development Credit Bank, which sum shall be repaid, in whole or in part, from the proceeds of the sale of credits.

The act expires 10 years after its effective date.



ASSEMBLYMAN ANTHONY S. MARSELLA (Vice Chairman): Okay, we would like to get started. We were supposed to start at 10 o'clock, but we are waiting for Assemblyman Bennett, who is enroute. A couple of people from staff are probably lost because of the detour.

This hearing today is on Assembly Bill 1259, Pinelands Development Credit Act. What, basically, this legislation does is, it establishes a board, made up of the Commissioner of Banking, Secretary of Agriculture, Attorney General, Commissioner of Environmental Protection, and Chairman of the Pinelands Commission. Basically, this legislation deals with the value of credit up to \$10,000. The term of the loan is for five years. The purchase, through the bill, will be through a hardship, in hardship cases of farmers and landowners in the Pinelands Preservation Area. It also deals with an appropriation of \$2 million out of the general fund, which we are all aware from the State Treasurer is in trouble, and approximately \$3 million from the Green Acres.

Today, we have some 15 people who would like to testify about A-1259, so we will get started. Elliott, do you have anything that you would like to add?

ASSEMBLYMAN SMITH: No, I think-- My name is Assemblyman Elliott Smith. I am from the 16th legislative district, which is in the center of the State, Somerset County. We are very much concerned about the treatment of the Pinelands area - the evaluations that are being set + and the fairness of the Act in regard to the placing of value on farmland and on land in the Pinelands. I think it is very important that we hear from you, as to what you feel and how you feel about this because we have our own opinions and our own feelings, and we certainly want to hear from you people, the public, and the owners down here. This is something-- People tell me that farmland and land is just like a stock certificate. I cannot buy that, I cannot agree with that, and I cannot condone it. A lot of this land has been owned for two and three generations by families down here, and it is just not in the same ball park. That is my feeling, and I think we have to look at it from that standpoint. Thank you.

ASSEMBLYMAN MARSELLA: Thank you, Assemblyman Smith. Also, in keeping with the spirit of our Assembly Agriculture and Environment meetings, there will be no smoking in the court room. You may smoke in the hallways.

The first person who would like to testify is David Moore, Executive Director of the New Jersey Conservation Foundation. If you have written testimony, what we would like you to do is submit it to us, and then give us a synopsis, basically, of what your written testimony is.

D A V I D M O O R E: Thank you very much, Mr. Chairman. I am very glad to have the opportunity to present a statement to you. I have presented a short written statement.

My name is David Moore. I am the Executive Director of the New Jersey Conservation Foundation, which is a private, non-profit statewide membership group concerned with open space acquisition and environmental quality throughout the State.

We support A-1259. We feel that a bank is essential for two reasons: One, those that you have already stated, in terms of providing a hardship situation; and two, for the tracking of credits, the recording system.

We also feel that there are some minor technical points that should be raised. We will submit a list of those to the staff. I don't need to go into those now. For example -- I can give you one -- we feel there is the need for establishing the validity of title, of people who are given credits as part of the system. There is provision in the bill in one section for providing that validity, but not in another. There are things like that which I feel need attention.

So, we strongly support this legislation, and urge its release from your Committee for full Assembly action as soon as possible.

Credits are already being purchased by both public and private agencies. With more towns earning conformance each week, we feel it is essential that this enabling legislation be put into place as soon as possible. Thank you very much.

ASSEMBLYMAN MARSELLA: Thank you. Assemblyman Smith, do you have any questions?

ASSEMBLYMAN SMITH: No.

ASSEMBLYMAN MARSELLA: No questions? Thank you very much, Mr. Moore. Our next witness is Steven Joseph, Attorney from Atlantic County.

S T E V E N J O S E P H: Assemblyman Marsella, Assemblyman Smith, ladies and gentlemen: My name is Steven Joseph, and I am an Attorney with the firm of Sills, Beck, Cummis, Zuckerman, Radin and Tischman in Atlantic City.

I am here today on behalf of Mr. Lester Germanio, a lifetime New Jersey resident who has put his entire life savings into land, which is now covered by the Pinelands Protection Act.

On behalf of Mr. Germanio, I would like to make the following comments on Assembly Bill 1259:

Assembly Bill 1259, which establishes a Pinelands Development Credit Bank, is a major step in the right direction. Unfortunately, however, it does not go nearly far enough to alleviate the severe hardship which the Pinelands Protection Act has caused to many New Jersey citizens. The establishment of the Development Credit Program, and through Assembly Bill 1259, the establishment of the Pinelands Development Credit Bank is a clear recognition by our lawmakers that the Pinelands Protection Act has made property in the Preservation District, Special Agricultural Production Areas, and the Agricultural Production Areas virtually worthless from an economic standpoint.

By allocating development credits to owners of property in these areas, these property owners are at least getting some compensation in return for the restrictions on the use of their land.

The establishment of the Pinelands Development Credit Bank is a welcome and necessary improvement and should be cheered by all those property owners who are already entitled to receive development credits. Unfortunately, there are many property owners whose land is severely restricted, again, to the point of worthlessness, who are not eligible to receive development credits under the current state of the law.

A case in point is my client, Mr. Lester Germanio. Several years ago, Mr. Germanio purchased approximately 650 acres of land as investment property, planning for his retirement. All of his land is located within the Forest Area.

The Comprehensive Management Plan notes that Forest Areas, "exhibit many of the same critical ecological values as the Preservation Area." We ask why there is a difference in treatment between the Forest Areas and the Preservation Areas. In Section 5-303, the Comprehensive Master Plan sets forth the minimum standards governing the distribution and intensity of development and land use in Forest Areas. A reading of this Section clearly shows that the restrictions on the use of forest lands are, in substance, as onerous as the restrictions imposed on the use of lands in the Preservation Area District, the Special Agricultural Production Areas, and the Agricultural Production Areas.

Notwithstanding these severe restrictions in the forest areas, the State has failed to provide for a mechanism by which property owners in Forest Areas may be compensated for the restrictions placed on their land. We implore the Legislature to amend the Pinelands Protection Act in order to provide development credits to owners of land in Forest Areas. Only when this additional step is taken, will fairness and equity prevail.

In sum, the creation of a Pinelands Development Credit Bank is the first step in the right direction. The time has come for the second step - the establishment of development credits for property owners of land in the severely restricted Forest Areas. Fairness demands that this second step be taken now. Thank you.

ASSEMBLYMAN MARSELLA: Thank you, Mr. Joseph. Assemblyman Smith, do you have any questions?

ASSEMBLYMAN SMITH: No, not at this time.

ASSEMBLYMAN MARSELLA: I don't have any questions. The next witness is Marvin Matlack, Chairman of the Pinelands Landowners Defense Fund, Incorporated.

M A R V I N M A T L A C K: Good morning, gentlemen. I heard Assemblyman Smith's remarks at the opening of this hearing, that he was concerned with the treatment of landowners in the Pinelands. My basic function, as the Chairman of this organization, is to try to get the government of New Jersey to look at this Pinelands Protection Act and see if this is really what the government wants to do with their citizens. Basically, Assembly Bill 1259 would allow \$10,000 for development credit, but I think there is a law that says -- in the Constitution of this State -- "just compensation." When government takes private property for public use without "just compensation," it is unconstitutional. If you look at the State Constitution, it says when the government takes private property for public use, it must make compensation to the landowner first, not three years later. I think if the State, right now, reversed its position on its Pinelands, that it is still guilty of an illegal taking. I think, to offer somebody \$10,000 for 39 acres, basically, in the Core Area of the Pinelands-- We are talking about a lot of small landowners, people who own an acre of land.

I have a law suit against my own county right now, for many of the same principles, that a man who has a one acre lot or a smaller lot gets \$2,500, a quarter of a credit. I think the requirements to sell this piece of property to the county, much the same principle as your A-1259 bill, is not fair. I think it is unconstitutional. I think there is a question of due process here, where the Federal Constitution says that you should not be deprived of life, liberty, or property without due process. I think you have three inseparables here.

Whenever the government can take your rights, your life, your liberty, or your property -- there are three inseparables here -- and the Pinelands Commission is not an elected board, it is not judicial. It is an administrative body-- I just want to show you people that where I come from, Woodland Township, this is a big hardship. My taxes in 1979 went from \$951.00 to \$3,700 on my house, because of the Pinelands. Any of these development credits which would be sold-- I doubt very much that the people who end up with the property after the development rights are sold off of it, have any incentive to pay taxes to the municipalities. We have several cases where the county has come into our township under their PDC program and has purchased land, conservation easements, development rights, and the land, to me, right now, is going to be questionable whether the landowner will continue to pay taxes on his land.

I think if you went back to the Constitution of this country and this State, and paid "just compensation" -- That is the big problem with Burlington County, right now. They keep telling me they are trying to compensate the people. But, the law says, "just compensation," not \$250.00 an acre, and not \$10,000 for 39 acres. I think your problems will be over. This Pinelands Protection Act, I think, ultimately went out on this thing. You are just trying to get around a situation that is insurmountable. People do have private property rights guaranteed to them in the Constitution of the State and Federal government. That is the only thing I can say. We are talking just compensation here.

ASSEMBLYMAN MARSELLA: Let me ask you a question. It is true that they come up with a figure of \$10,000 credit. What is the land assessed at in your given area, per acre? Assessment for taxes?

MR. MATLACK: Well, vacant land-- It varies. I would imagine that land that doesn't have a roadfront entrance, land locked or a swamp, it has, probably, very low assessments. But, then again, the people who own these properties, bought these properties, knew what they had. But, then again, you take properties with road frontage-- I bought five acres - that is all I own - in 1978, and I paid over \$2,000.00 an acre. It is in the Preservation Area. Now, the Pinelands Commission will have you to think that the land in the Pinelands is only worth \$200.00, \$400.00, or whatever it may be.

ASSEMBLYMAN MARSELLA: Per acre?

MR. MATLACK: Per acre, yes.

ASSEMBLYMAN MARSELLA: Is your assessment higher than what the Pinelands Commission is saying it is worth?

MR. MATLACK: Yes. My five acres was assessed at \$13,000.00. If I wanted to sell it-- If I was not fortunate enough to build a house on it when I did, and I came under the Pinelands restrictions-- If I tried to get a quarter of a credit for it, or a fraction thereof of the 39 acres, the \$10,000 thing, first of all, you have to prove a hardship. Since when in this country do your rights and my rights differ simply because I may be a millionaire and you may have nothing? You have to meet this hardship requirement, which, as far as I am concerned, is ridiculous. Either we have rights or we don't. I think this hardship thing has no bearing on it at all, if you want to look at your bill. If a man has land, he is a landowner. He bought this land and he played by the rules. If the land was zoned for five acres, three acres, or one acre when he bought it, he didn't do anything underhanded. I know the

environmental movement likes to call him a speculator. But, here is a guy, or a couple, who bought land playing by the rules. They are not trying to do anything underhanded; they are trying to use their land at what they call a reasonable use. They are not trying to build a nuclear plant or a gas station. We are talking about a dwelling, a home.

ASSEMBLYMAN MARSELLA: Yes, I understand what you are saying. You are talking about a dwelling. We are also talking about farmlands that are out there, timberlands that are out there in the Pinelands, and all of those types of things that come into existence with this.

MR. MATLACK: Well, Assemblyman, I will tell you--

ASSEMBLYMAN MARSELLA: A person who buys a five-acre tract of ground and puts a house on it is not in the same category as a farmer who owns two and three hundred acres that farms that piece of ground and tries to make a living off of it. Do you understand where we are coming from? The hardships are here for the farmer, or the landowner, who wants to borrow some money because he is in financial trouble because of the economic situation we are under now, or because of a freeze that may take place on his crops, to kind of guide him through to help him out for the following year. The problem is, the farmers have said to us that they can't borrow any money against the ground because it is relatively worthless. Basically, that is the intent of the hardship.

MR. MATLACK: Well, right now-- The solution to the whole problem is, first of all-- I'm not pointing fingers at you personally, Assemblyman, or Assemblyman Smith -- the whole problem started with the government. Now, this land had value. You took value away.

Let me give you a little background, for example. In the Core Area of the Pinelands, if you look at the 1980 census, we are talking about probably 360,000. But, basically, in my municipality, which is only 100 square miles, there was somewhere less than 100 homes built in ten years. Most of this land is vacant today, simply because it was not buildable. The deeds are all messed up. You have no road frontage. It would be very hard under the Water Quality Standards Act that was imposed on us, pretty much in the Core Area, back when Daniel O'Hern was the DEP Commissioner. But, if you let these people give them their land back, have somebody introduce a bill to amend this Pinelands thing, and give the people the value of their land back, the municipalities can go in and re-tax, we can get our revenue, and the farmers will have their equity back. But, I will tell you right now, Assemblyman, it is just like this Farmland Preservation Bond Issue they just passed, once a farmer would get hard-up for money and take these State agencies and government agencies up on the development credits, and so forth, on their property, as far as I can see it, they are slaves to their farm. I say once farming has been made profitable, they will tear houses down to farm. But today, it is simply the fact that farming is not profitable -- I mean most farming is not profitable. I think these farmers who would put deed restrictions on their land, take away their last option. At least they can get down the road 15 or 20 years, and if their kids don't want to farm and they aren't making money, they can at least say, "I think I ought to sell my land to developers." But, once they put a deed restriction on it for a measly \$10,000 for 39 acres, or whatever this bill is going to allocate them, I think then they are just worse than the slaves on the plantations, because they will never leave this land,

because if it is not profitable, too bad.

ASSEMBLYMAN MARSELLA: You know, the farming industry is the number two industry in the State of New Jersey, so, there has to be some profit in farming.

MR. MATLACK: Well, I'm just talking their argument. They say there is no-- Now, this berry agriculture is a different story. Cranberries and blueberries in New Jersey--

ASSEMBLYMAN MARSELLA: (interrupting) We are getting off the intent of the bill. I think we should stay with 1259. That is what this hearing is for. Now we are starting to talk in generalities.

MR. MATLACK: Well, I just want to give you the background. This whole Pinelands Protection Act has created this thing. I think you guys are just going off in directions. That is not going to cure the problem. I think when a government, a Senator, or an Assemblyman is going to stand up and say, "Look, we have restricted 22% of this State, we have taken people's rights away from them," it is unconstitutional, and I intend to challenge this thing in the courts. I have started in the courts, and I am not going to stop. You know it's wrong and he knows it's wrong. Thank you.

ASSEMBLYMAN MARSELLA: Thank you. (applause) Assemblyman Bennett just arrived. The next witness is Peter Hibbard, New Jersey Builders Association.

P E T E R H I B B A R D: Mr. Chairman, I am going to ask the Committee to hear Mr. Tom Paparone, representing the New Jersey Builders Association.

T O M P A P A R O N E: Good morning, gentlemen. I have a five-page presentation, which I will try to go through with you. I am representing the New Jersey Builders Association, which has over 2,000 members in the State of New Jersey.

We are opposed to the creation of the Pinelands Development Credit Bank as detailed in A-1259. We oppose the concept, in body, in the Pinelands Development Credits.

The theory of TDR's may very well work in an ideal world. We do not believe that the problems of implementation have been fully identified, and much less resolved. The lack of significant data and the lack of experience in TDR's - for this reason, we oppose the commitment of funds to the program. The Builders and its nine locals adopted a resolution in March, recommending its members not to participate because of the potential risk of a poorly developed plan. Among the specific criticisms are questions of the constitutional rights, the equity and fair treatment, which you have heard.

The Pinelands plan was passed with nine specific goals. The two that conflict the most are the need to preserve the unique ecosystem, and a need to promote growth where appropriate. But, these involve value judgments, and the makeup of the Commission in the past -- from our view -- has let the growth aspect become a second fiddle issue.

TDR was seen as a means of compensating owners of property in the Pinelands for loss of value due to restrictions placed by the Plan. The flaws are immense, and perhaps fatal, unless the Legislature and the Commission are willing to objectively and thoroughly examine all potential difficulties. Perhaps this hearing is about to.

The most significant problems that impact the building industry are as follows:

TDR's have not been successfully implemented on a long-term basis. The longest program in England was used from 1947 to 1971, before being abandoned as a failure. The literature and planning cites numerous reasons as to why. Secondly, the theory of TDR operates within the confines of a single jurisdictional boundary. This plan not only involves inter-municipal transfer, but also inter-county transfer, with the appropriate tax value effects. It attempts a means of compensating landowners for loss, due to zoning restrictions, and allowing growth to occur where desirable. This part of the theory involves two conflicts: First, the PDC program is not a compensation program, according to the authors, but a means of hardship relief. Second, the growth areas identified in the Pinelands Comprehensive Management Plan frequently cannot grow for reasons beyond the control of the Commission. In theory, the places to transfer the development have been identified, but may conflict with other State programs, namely, lack of adequate sewer, and other infrastructure, and the fact that certain municipal officials have adopted and stated a no-growth attitude where the growth areas have been identified.

For example, Ocean Acres in Barnegat Township, which doesn't have sewers at this time, the growth can occur at one unit per 3.5 acres. A Capital Improvements Plan, required by the Commission, requires only that the municipality plan discussions to solve the sewer problems. Facing facts, there are no Federal dollars for sewer expansions to help solve this problem. According to the Barnegat Township Deputy Clerk, the loss amounts to \$3.5 million in Barnegat alone in ratables each year.

ASSEMBLYMAN MARSELLA: Tom, can I stop you here for a second?

MR. PAPANONE: Please do.

ASSEMBLYMAN MARSELLA: In Barnegat, what did you say? It was 3.1 houses per, whatever it was?

MR. PAPANONE: One unit per 3.5 acres.

ASSEMBLYMAN MARSELLA: Do they allow you to cluster those houses into a given zone?

MR. PAPANONE: I would assume they would encourage that.

ASSEMBLYMAN MARSELLA: They would encourage that.

MR. PAPANONE: This is normally--

ASSEMBLYMAN MARSELLA: That's the density. Okay.

ASSEMBLYMAN SMITH: If that makes a difference, the density is still there.

MR. PAPANONE: Correct, but whether we put it in one spot and leave the rest open or spread it across.

ASSEMBLYMAN SMITH: Three and a half-acre density--

MR. PAPANONE: Agreed, .3. The theory of TDR involves a complicated formula, apparently not well understood by the Pinelands Commission, to determine the number of development credits assigned to each property. Land that could have been built on one-quarter acre zoning, before restrictions, should be assigned four credits per acre, instead of up to one credit per 40 acres. We know there is a multitude of values and effects.

The basis of establishing credits is the value of the land for development prior to restriction, compared to the total value of the land previously available for development, and treated by an anticipated population change.

The mechanism of assigning \$250.00 per acre is arbitrary, capricious and unreasonable. Hence, the PDC program is baseless and does not plan adequately for growth, fails to recognize difference in land value, fails to recognize that land has a market value and artificially sets a value.

The argument that this is a legitimate function of government, does not hold up under close scrutiny, and bordering it dangerously close to unconstitutionality, taking of property.

It is clear that what was once worth \$1,000 to \$5,000 per acre is not adequately compensated by \$250.00 per acre. Even at the low end, land without development potential is not worth \$750.00 per acre. Tax appeals have placed it at \$200.00 or less.

The argument that sale of rights is voluntary is not necessarily to hold water. Economic pressure is a real force for movement. We can get into whether beekeeping is needed in the Pinelands, if it is a major industry or not.

However, we want to recognize that the arbitrary value has been assigned to Wetlands of .2 credits per 40 acres, unless it is a farm for berries. Then, it is assigned an arbitrary value of twice the development credits of Upland, developable land. Certainly the cranberry and blueberry production is valuable to New Jersey. I won't argue that. It should be supported, but not on the backs of economically distressed landowners with legitimate claims. Again, this is an arbitrary decision that provides a windfall, in this particular case, that is not justified during a period of our stressed budgets.

Purchase of rights must be on a fair basis, a fair market value basis, as determined by sales prior to restriction. This was not required for the Pinelands acquisition of Green Acres, which recently paid an average of \$1,800 an acre for several areas in the Pinelands, not \$250.00.

It is conceded that the New Jersey State Budget cannot afford the kind of equitable compensation that provides just treatment in every case, but that does not provide justification for the State to pay less than the fair market value.

We don't disagree with the need to preserve the Core, but conservation has a price.

Our last two points relate to-- Zoning actions are not clear regarding the practice of down zoning and the subsequent costs to the homeowner, builder, and developer. Tax values are apt to go haywire, which I think we are seeing.

If the credits are transferred from one township to another, the tax bases are seriously affected.

There are so many things to cover. We really want to see that a full study is made of the effects before going and spending the money. I appreciate your time.

ASSEMBLYMAN MARSELLA: Assemblyman Bennett, do you have any questions of Mr. Papparone?

ASSEMBLYMAN BENNETT: No. I don't have any questions at this time.

ASSEMBLYMAN MARSELLA: Assemblyman Smith?

ASSEMBLYMAN SMITH: I would just like to mention something. By changing these values from place to place, what is that going to do to the equalized valuation in the account, as a whole? Has anybody looked at that at all? I think that is something we ought to look at, because it is going to have to shift the county tax.

MR. PAPARONE: I agree. It has an affect. I have been involved in this for five years, when the Pinelands plan first came out. We argued the same questions we are arguing today. Bring the professionals in and let's discuss and define those answers. We are prepared to help support that. These hearings are good for that reason.

ASSEMBLYMAN MARSELLA: Thank you.

ASSEMBLYMAN SMITH: I have another comment. I was one of the 19 in the Legislature who voted against the Pinelands Act. I did it because many of the things we are hearing today, we have heard throughout the advent of the Pinelands Development Act. We brought these things to the attention-- There could have been amendments at that time, but nobody wanted to hear them. Now we have to think of practicality, and here we are. We are going to have to go through the same thing again, when we could have done it then.

MR. PAPARONE: And we fought til 3 o'clock in morning on the vote.

ASSEMBLYMAN SMITH: It was 4 o'clock.

MR. PAPARONE: Four o'clock. I can appreciate the time. It is an immense problem, and we should work to solve it. I don't know if this quite does it.

ASSEMBLYMAN MARSELLA: No, this is just a start.

MR. PAPARONE: Thank you.

ASSEMBLYMAN MARSELLA: Thank you. We also have with us today, Assemblywoman Cooper, also a Freeholder in Atlantic County. This is her home county. Welcome.

ASSEMBLYWOMAN COOPER: Thank you.

ASSEMBLYMAN MARSELLA: Our next witness is a Freeholder from Burlington County, Robert Shinn.

R O B E R T S H I N N: Thank you. I don't have a prepared statement. I basically want to give you a little history of where Burlington County has been in this Pinelands effort.

I served on the Pinelands Environmental Council in the beginning of 1977, and our county adopted a positive plan of action at that time, which called for a \$76.5 million bond issue to finance the Pinelands, primarily the acquisition and conservation easement in the Core Area, which at that time was defined at 320,000 acres. That was endorsed by the South Jersey Association of Freeholders and the State Association of Freeholders. Shortly thereafter, a great deal of discussion came about the Pinelands review. Council was making recommendations for land area for the State Act, and the Federal Act passed in 1970, National Parks and Recreation Act, and alluded to a large area of over a million acres, and then the State Act was adopted.

We had a moratorium that was ongoing at the beginning of 1979. So, really, restrictions on land use have been in effect for more than three years.

The Plan was adopted in 1980, and it has been in effect more than two years. The problem that our county, and I, personally, have with the Plan

is, we have three areas of financial aspect, relative to implementation, and one is the credit bank itself; two is the full in-lieu-of-tax payment program that is recommended in the plan; and three is the municipal fund that is in the financial section which addresses individual municipality financial hardship provided for in the plan.

It is very difficult, from where I sit, to have a plan that is in effect that carries with it pretty stringent restrictions, particularly the Preservation Area. Our county has a maximum amount of Preservation Area.

I started trying to get a PDC bill implemented with Senator Yates. He withdrew his bill in lieu of Senator Perskie's bill. Senator Perskie's bill did not pass, wasn't signed by the Governor, and that left us with a great deal of hardship, particularly in the Preservation Area.

The Freeholders in Burlington County were implementing a conservation easement project under a \$2 million bond issue. We have purchase conservation easements by appraisal. We have purchase easements by the purchase of PDC's.

On September 23rd of 1981, we adopted a resolution which created a Pinelands Development Credit, Pinelands Conservation Easement Exchange, which set up a five-member commission and utilized our bond issue to provide an economic benefit for people who wanted to sell their credits. We were restricted because we have, basically, 4,200 credits in our county, which would take \$42 million to purchase, and we had \$1.5 million to work with under our bond issue. So, we had to develop a hardship criteria, which I agree with Marvin on, that shouldn't be there. That is one of the difficulties I have with lack of money, to implement a plan.

I have testified on the Pinelands Protection Act, relative to the responsibility that that carries with it financially to implement this plan, because early on, we decided that the State was going to be responsible for implementation of this plan, not the landowners in the area. I think that is a significant part of what we are talking about today. We are two years beyond the adoption of the plan. We haven't implemented any part of the financial program. I think it is just a growing hardship without implementation. It is by private property owners, small lot owners, and it is by people who are affected by restriction. I am here today, to try to get some part of this program passed, some funds appropriated to at least match what we are doing in our county, but this is really a beginning. We need the full in-lieu-of-tax payment, we need the whole financial program implemented to bring some fairness and equity into the planning process. I think we are long overdue, and I urge you to follow through with the legislation and follow through with some funding so that we can address the financial part of this plan. Thank you very much.

ASSEMBLYMAN MARSELLA: Thank you. Freeholder, how effective is that bond to the Pinelands in Burlington County? How much--

MR. SHINN: Five-eighths of our county. We are the largest county in the State. Five-eighths of our county is in the Pinelands.

ASSEMBLYMAN MARSELLA: I thought it was the largest county in the State that was affected.

MR. SHINN: We have more land in the Pinelands than any county in the State. We have identified specific hardship relative to a specific municipality

in which the county has taken some action to try to alleviate some of that impact. However, we also got into the legal defense of the plan. Inadvertently, the resolution that created the Pinelands Development Credit Bank to try to-- Our bank functions for two years. I think your bank functions for five years and then it has a five-year phase-out.

ASSEMBLYMAN MARSELLA: Right.

MR. SHINN: What the Freeholders' intention with our bank was, to try to get the PDC program up, relieve some hardship, and have a common place of PDC's to be available. If a builder wanted to purchase something, he would know where to go and he would know what the process was for purchase. So, though we had great intentions, we immediately ended up in litigation relative to the PDC program, the right of a county to, by resolution and our ordinance, make this program available. We are still in court on that. Our third session was just completed. However, we are still free to purchase credits; we are not free to sell credits. We have purchased-- Our last purchase was 4½ PDC's in Woodland Township. We have Purchase Conservation Easements by appraisal on 530 acres and 160 acres, and PDC's on 315 acres.

We are actively trying to make the program work, and we could use some help.

ASSEMBLYMAN MARSELLA: Okay, thank you. Are there any questions? Assemblyman Smith?

ASSEMBLYMAN SMITH: I would like to make a comment. As far as the money is concerned, we have so many priorities in this State, particularly in our infrastructure, our roads, our bridges, and our mass transportation. From where I sit, I don't see that this is going to be a high priority item for budgetary consideration. I say that with a great deal of remorse or regret, but, I just don't see where we are going to come up with where we are now and what we need in the long haul in this State. We knew when we went into this program that the money-- Go back to the blue-ribbon commission.

MR. SHINN: I would like to.

ASSEMBLYMAN SMITH: Yes. And see what we had there in the way of dollars, necessary dollars, to do these kinds of things. Everything has fallen down because of the money involved. I don't know how the rest of the people in the Legislature feel, but I just don't see where we are going to come up with those kinds of dollars in the very near future, and in the meantime, we have this plan implemented and we have a problem.

MR. SHINN: Yes. Precisely the reason that I am supportive of the PDC concept is, I don't think the dollars are there to buy conservation easements on all of the land that needs to be done in the Pinelands. So, what this does is it generates a free market exchange of PDC's, which does that without the need for State support. But, you have to get the program started to see if it is going to work, to adjust it to see where the fairness of this program lies, but without the free market exchange of credits, we are not going to get to the real value of a PDC. That has to happen in the free market. The \$10,000 figure is a low figure, it is a base figure of a PDC, and it is a starting place, but you can't have the system function and find out where it is going until you initiate it. It is new, it hasn't been known nationally, and I think we ought to give it a chance to work, get out of the courts, get it funded, at least seed money to

give it a chance, because I think when you made the farmland demonstration comment that that was a \$5 million program back in the mid 70's, a potential for part of this money is out of the money that was left over from that program, which I think was about \$4.5 million. That was a Burlington County program. We passed resolutions against that program being cancelled. We think that was a very excellent program that should continue. However, I think those dollars are, potentially, where some of this money may come from.

But, I think the financial programs, again, are just something-- You have adopted the Act, you have said, basically, Federally and from a State position, signed by the Governor, Secretary of Interior, that you adopt this plan. And to leave the financial components begging is not fair to the area residents.

ASSEMBLYMAN BENNETT: When you talk about seed money, have you exploited what you would feel would be an adequate startup for seed money in terms of dollars for the bank?

MR. SHINN: In the original bill, it was \$5 million. I think, realistically, we all know, with the State financial situation, that \$5 million is not available. I would say as an absolute minimum, we would like to match the dollars that Burlington County has come up with, which is \$1.5 million. Anything above that would obviously be welcome. We would like to maximize the dollars that we have by at least making \$3 million available. If you made \$1.5 million available, potentially, we could buy \$3 million worth of PDC's as the Growth Districts become-- As those municipal plans come into conformance, you generate your Growth Districts, and the builders know exactly where the densities can be increased. We are just starting to get those municipalities to conform to the plan. Then you will see some market profit. Prior to that, you do not have a market for the credit. The bank concept is that interim area between plan adoption and actually where they can be used, so a builder can analyze the finances of what a PDC is going to do for him, build his units, and find out what it is worth to him. Only the free market is going to determine that. In the interim, the hardship that is generated goes unaddressed.

A problem that I have with the bank is, I think there should be much less attention of hardship, and it should be a freer exchange. But, without the dollars, you can't do that. You have to put the hardship criteria in place to make sure your money is going to the people who need it the most.

ASSEMBLYMAN BENNETT: The million and a half, do you have any difficulty, if that was appropriated out of the balance of the money that is available now in the Green Acres dollars?

MR. SHINN: I have been doing everything I can to make sure that happens.

ASSEMBLYMAN BENNETT: The bill is now with the Revenue and Finance Committee, the bill I am sponsoring, on the Green Acres appropriation. It is being considered as to whether or not that specific piece of legislation, which would clear out all of the old Green Acres monies, should be amended to provide for the specific funding for here. That is what is being worked on right now.

MR. SHINN: I think we need two things. We need a bill and we need money. I think one without the other-- There's not too much available. I appreciate your time.

ASSEMBLYMAN MARSELLA: Thank you. Our next witness is Chuck Newcomb, on behalf of the Gloucester County Freeholder Board.

C H U C K N E W C O M B: On behalf of the Gloucester County Board of Chosen Freeholders and the County Planning Board, I want to thank you for the opportunity today to address you on Assembly Bill 1259.

Both the Gloucester County Board of Chosen Freeholders and its Planning Board support and urge the passage of Assembly Bill 1259 in its present form. Both bodies feel that the bill, as Freeholder Shinn has noted, is needed to implement the financial aspects of the Comprehensive Management Plan.

We feel that a single entity on a regional scale is much needed to assure the marketability of PDC's. I think this is especially important in light of a very sluggish economy, which we are experiencing right now.

Secondly, both bodies are concerned that many small property owners cannot wait for an arms length transaction in the private sector to take place. Thus, they feel that a State bank is needed to remedy this situation.

Finally, if I may take liberty, I have been asked by Freeholder Director, Donald Wagner to testify this morning, and would like to read a letter which he has addressed to Assemblyman Marsella.

(reads from Donald Wagner's letter)

"Unfortunately, I am unable to attend today's hearing on Assembly Bill 1259 - the Pinelands Development Credit Bank Act. I have, therefore, asked Mr. Charles Newcomb of the Gloucester County Planning Department to present the County's views regarding this legislation.

"As a member of the Pinelands Commission during the difficult period of drafting the New Jersey Pinelands Comprehensive Management Plan, I continually sought the establishment of programs to ease the impact of the regulatory portions of the Plan on small property owners and farmers. My concerns were shared by the majority of the Commission and resulted in such initiatives as the granting of certain exemptions where undue hardship could be determined. One such initiative is the Pinelands Development Credit Program which went into effect on January 14, 1981. This program provides for certain financial benefits to those who own land in the Preservation Area and within Agricultural Production Areas. A number of the latter, of course, are found within Gloucester County.

"As a supplement to the PDC program, the Commission, during my tenure, recommended the establishment of a bank to provide for the purchase of credits where hardships exist which would be exacerbated by a delay in a private transaction. This particular provision is included in Assembly Bill 1259.

"It is my belief that the Pinelands Development Credit Bank will do much to assist property owners where a sale of credits is necessitated by hardship, and ultimately, through the establishment of a guaranteed loan program. It is particularly important that such a bank be established at this early stage, until such time as private sales of the credits are numerous enough to provide a record of comparable sales for the purpose of valuation.

"May I request that the Committee support the enactment of the Pinelands Development Credit Bank Act. Sincerely, Donald H. Wagner, Director of the Gloucester County Board of Chosen Freeholders."

ASSEMBLYMAN MARSELLA: Chuck, how much of Gloucester County is affected by the Pinelands?

MR. NEWCOMB: We have a very small portion of the Pinelands Management Area, affecting Gloucester County. We have 65% of Monroe Township, and we have approximately 35% of Franklin Township covered under the jurisdiction of the Management Act. Within those two areas, approximately 2,000 acres of Monroe is under the agricultural production, and I would say a similar portion or amount of acreage in Franklin Township falls into that category.

ASSEMBLYMAN MARSELLA: Okay. Does anyone have any questions of Mr. Newcomb? (no response)

MR. NEWCOMB: Thank you very much.

ASSEMBLYMAN MARSELLA: Thank you, Chuck. Our next witness is Brian McFadden, Chairman of the Cumberland County Planning Board.

B R I A N M c F A D D E N: Good morning. Thank you for the opportunity to come here today to speak to you. My comments will be short and sweet. I have no prepared statement here. Perhaps what I can do is have this prepared and sent to you, Assemblyman.

ASSEMBLYMAN MARSELLA: Fine.

MR. McFADDEN: I am Brian McFadden. I am Chairman of the Cumberland County Planning Board, and I am a member of the Pinelands Commission. I am here today to urge the quick passage of Assembly Bill 1259, also known as the Pinelands Development Credit Bank bill. The passage of such a bill is far past due. It seems, to me, that support for this bill will come from people who are dedicated to the preservation of our natural resources, not the least of which is farmland.

Development Credit Transfers are not completely new, as you have heard testified to earlier this morning. Other parts of the world have them. Opponents of the plan point with some account, of some amount of satisfaction to other programs that have no major success stories to tell. But, innovation is always the enemy of tradition. It is understandable that there would be resistance against change in something new. When a proposal is as innovative as the Credit Transfer Program of the Comprehensive Management Plan is, it will require broad-based support to make it work. I think if enough people want it to work, it will work.

A key element in that support, of course, is the encouragement and leadership of our Legislature. I believe that this bill -- it appears, anyway -- in this bill, that that element of support has been met. The timely passage of this bill will go far in reassuring those who doubt the State's commitment to farmland preservation and the Comprehensive Management Plan.

A message of good faith, such as the passage of this bill, will, I hope, restore to some degree a measure of trust for those who have doubts about the Plan and how it is going to work.

It also says that here is some money to go along with all of these regulations that have been passed down to South Jersey for the past ten or 15 years. I think that is important, also.

So, again, I urge you to pass this bill as quickly as possible, and let's start to solve some of these economic problems that are obviously occurring. Thank you.

ASSEMBLYMAN MARSELLA: Thank you. Are there any questions?
Assemblyman Bennett?

ASSEMBLYMAN BENNETT: No.

ASSEMBLYMAN MARSELLA: Assemblyman Smith?

ASSEMBLYMAN SMITH: No.

ASSEMBLYMAN MARSELLA: Thank you.

MR. McFADDEN: Thank you.

ASSEMBLYMAN MARSELLA: Our next witness is Janet Jackson, Audubon Society.

MEMBER OF AUDIENCE: Janet Jackson is not going to appear. She has already submitted her written statement which is part of your record.

ASSEMBLYMAN MARSELLA: Thank you. The next witness is Elmer Rowley, citizen of Medford.

ELMER ROWLEY: Mr. Chairman, Committee members, I appreciate the opportunity to come before you this morning. I speak as an individual. I have been a resident of the Pine Barrens for these last 20 years. I live in the lower part of Medford Township, in the Pines, and while we are up there on the fringes of the Pines, we are "Pineys" 100%. I am only within a mile or two of the Wharton State Forest.

I am also representing this morning, the Pine Barrens Coalition, a group of some 40 to 50 local, statewide and national organizations which have been supporting the efforts from the very beginning to protect our resources in the Pine Barrens, or Pinelands, as they are more commonly called now.

It has been often said that the longest journey begins with the first step. The Comprehensive Management Plan has been adopted and is in effect, but there has been recognized this morning some limitations, areas requiring attention. I would submit that this represents this legislation, or proposed legislation, a first step in meeting some of these problems.

Accordingly, we strongly urge your Committee action. We strongly urge this Committee to approve the legislation and do all it can to get the Assembly and the Legislature on its way.

It occurs to me, in reading the proposed legislation, the bill, that the findings in Paragraph two and three could be strengthened. The proposed legislation says, "this plan quite properly includes a program for the allocation and transfer of Pinelands development credits - 'quite properly.' We feel that language ought to be strengthened. Actually, both the Federal legislation back in 1978, and the Pinelands Protection Act itself creates, I think, a mandate -- I don't think the word, "mandate" is any too strong -- that the Comprehensive Management Plan be innovative, instead of just solving the problems of resource protection in the Pine Barrens by going out and purchasing property in fee simple for which we all know there is not enough money -- it would cost billions to do it.

The legislation, both the Federal and the State legislation -- which are almost identical -- mandates that in the Comprehensive Management Plan and the policies of the Commission, various techniques be employed to solve the problem of protection. Let me just read from the legislation:

"The Comprehensive Management Plan and the policies of the Commission should include a comprehensive statement of policies for planning and managing the development and use of land in the Pinelands Area which policy shall: Consider and detail the application of a variety of land and water protection and management

techniques, including but not limited to, zoning and regulation derived from State and police powers, development and use standards, permit systems, acquisition of conservation easements and other interests, purchase of land for resale and lease-back, fee acquisition of public recreation sites and ecologically sensitive areas, and any other appropriate method of land and water protection and management which will help meet the goals and carry out the policies of the Management Plan."

What we are really talking about here isn't as innovative as it might appear at first. The whole program of Transfer Credits, Development Credits, is, in fact, a form of the purchase of conservation easements. This is not a new idea. This is something that has been in practice in many jurisdictions for a long time.

I think that the statement of findings should be strengthened to reflect the fact that in both the Federal and the State legislation, this type of program is what was in mind from the very beginning. It was manifest to our Congress, it was manifest to the Legislature that in an area of 1,000,000 acres, actual protection through purchase of property through fee simple was impractical, and that all devices necessary, such as transferred credits, conservation easements, purchase and lease-back, all of these devices should be used so that the limited funds could be applied in the very, most important and critical areas. That is what is being done.

This is important legislation. I think it is that first step, and we urge you to take the earliest possible, favorable action. Thank you.

ASSEMBLYMAN MARSELLA: Thank you. Are there any questions?

(no response) Okay, our next witness is Robert Langlois, Cooperative Extension Services, Gloucester County, I presume.

R O B E R T L A N G L O I S: Good morning.

ASSEMBLYMAN MARSELLA: Good morning.

MR. LANGLOIS: I am the Gloucester County Agent. I don't have a written statement. I represent farming in Gloucester County, the most intensive agricultural county in this State, as Chuck Newcomb stated earlier.

We have two townships where the farms are in the Pinelands Area. I am quite concerned because since we have had this Pinelands Act, the attitude of the farmers have not been good. In fact, I can count the number of farmers from my county on one hand today.

I represent farming and not the farmers, so I don't think I have the right to do that. However, the County Board of Agriculture has written you a letter, and their views are very, very similar to mine. I went through this before, when I was the County Agent in New York State. There was a proposal that an airport be built in the largest muck area in the United States, about 10,000 acres. I watched the attitude of the people, and it is very, very similar to what is happening in Monroe and Franklin Townships. The farmers threw up their hands and said, "Well, we will continue farming," but they didn't want to participate in the public arena the way we are here, today. I feel that they should, and I am kind of disappointed that they are not more active today in your hearing.

The way I see it, the farmers in the area are entitled to "just compensation" for the development rights. I am not sure whether your bill has

tackled this problem exactly, and I don't even want to comment on that. I do feel that the farmers not here today should be here telling you this. There will be other groups related to farmers who will probably tell you this, but I think this is an important consideration.

I would be willing to answer any question that you might have about the agriculture in this part of my county.

ASSEMBLYMAN MARSELLA: Assemblyman Bennett, do you have any questions?

ASSEMBLYMAN BENNETT: The approximately 4,000 acres contained in your county, in that 4,000 acres, there is only five or less working farms? Is that what you said?

MR. LANGLOIS: No, that's not true. I didn't say that.

ASSEMBLYMAN BENNETT: The number of farmers that you can count?

MR. LANGLOIS: Well, there are only five farmers here, or less.

ASSEMBLYMAN BENNETT: Oh, here.

MR. LANGLOIS: At this hearing.

ASSEMBLYMAN BENNETT: That is what has thrown me.

MR. LANGLOIS: Oh, we have lots of farms here. Many of them are quite small. The average farm in Gloucester County is about 92 acres. Most of these farms are quite small. I'm not sure what the \$10,000 development credit would do for these people.

ASSEMBLYMAN MARSELLA: Well, the land in our county is assessed really high, I would assume. We are talking \$10,000 for 39 acres. I don't know where you could buy that in Gloucester County at all.

MR. LANGLOIS: You couldn't. Our land value is at least ten more times that, I would say, the average.

ASSEMBLYMAN SMITH: If I may, Mr. Chairman, I think that you hit on a very sensitive point. We go through condemnation proceedings, the government will, to take a -- a taking, for instance, and it is a very defined set of rules and regulations, reappraisals and court, and so forth, that is all involved in this. Eventually you do come up with a compromise, if you will, but you do come up with some sort of just compensation. I think what you are asking here is not unreasonable, if we had that precedent set already in government.

ASSEMBLYMAN MARSELLA: That is very true. When the county or the State takes up easement rights for the widening of highways or drainage easements, or whatever it may be, the fees are lot higher than what we are saying here. Okay. Bob, thank you for coming down.

MR. LANGLOIS: Thank you.

ASSEMBLYMAN MARSELLA: Next we will hear from Owen Pool, Treasurer of the New Jersey Farm Bureau, and Peter Furey, Staff of the New Jersey Farm Bureau.

O W E N P O O L: Assemblymen and Assemblywoman, thank you for the opportunity to appear today. I am appearing on behalf of our President, who has another commitment out of state.

We would like to comment on Assembly Bill 1259, the Pinelands Development Credit Bank Act.

In summary, the Farm Bureau is very interested in the concept of Pinelands Development Credits and any legislative proposal related thereto, inasmuch as the Pinelands program is a major issue for New Jersey farmers. The Pinelands

Plan represents a significant change in land use regulation with respect to farmland, which has prompted our ongoing concern about the loss of equity in land value, borrowing capacity, increased taxes in certain areas, and other related questions.

The PDC's could, if properly structured, address some of the questions we have raised for more than two years, regarding a more equitable sharing of the costs of Pinelands preservation. This bill represents a start, but needs revision in a few key areas as well as a thorough examination of the entire PDC program and its components by this Committee prior to final consideration. There are many questions about the PDC program and the proposal for the PDC bank that need answers up front in the legislative process. That can only be accomplished by a detailed review under the auspices of this Committee. Some of the reasons for this request are listed below.

Policy on Compensation - It is very much unclear as to whether the Pinelands Commission considers the PDC's as "just compensation" for landowners. In March of 1980, the Commission defeated a proposed resolution for a policy on this issue. In November of 1980, the minutes of a Commission meeting contain a statement of a legal consultant which clearly answers in the negative to this question. We have seen other indications from the Commission, which leads us to believe that the underlying presumption for the PDC's is regulation and not fair compensation. These doubts about the purpose and intent of the PDC's as they are presently structured in the Plan have contributed greatly to the apprehension farmers feel about the Pinelands program. It also has led to a feeling that the PDC system as currently drafted camouflages the impact of the Plan on the market value of newly-regulated land. This is a key area that needs clarification.

Another issue relating to the compensation for farmland owners in the Pinelands deals with the recent statewide farmland bond issue and accompanying agriculture retention legislation. The "Grassroots Report" from which this legislation is derived, states very plainly in several places that substantial changes in land use regulation for the purpose of "preserving" farmland must carry with it the need to compensate affected landowners. We question whether the policy in the Pinelands is in keeping with the emerging statewide farmland preservation program.

Uncertainties about the PDC System - There is a substantial question that the PDC System will achieve minimum performance levels, if in fact such has even been determined. Since this legislation gives legal sanction to the program, the following questions and circumstances should be considered prior to final legislative consideration of the bill:

How was the \$10,000 minimum value established? How was the allocation of PDC's achieved and does it correlate to individual property value loss? Were there any studies done to approximate this value loss?

What is the attitude of the home building community to this idea? Is there a substantial chance of a private market developing for the purchase of PDC's? At what price?

What is the attitude of farm lending institutions to the loan guarantee aspect of this proposal? We are aware of a communication to the Commission from the largest farm lending agency for Pinelands area farmers which states in part: "Credit, or a guarantee of credit, is not an acceptable substitute for the loss of farmer equity".

Is the infrastructure -- sewers, water, etc. -- readily available in the growth areas? Have there been substantial changes made with municipalities -- Hamilton Township, Atlantic County -- during the compliance period that will substantially affect the receiving areas? Will the reluctance of certain municipalities to come into conformance with the Plan, especially where these municipalities occupy large areas zoned for high density growth, inhibit the achievement of growth levels necessary to sustain a viable PDC market?

Will development pressure avoid the Pinelands because of the perception of over-regulation and seek surrounding areas to develop, thus diminishing the potential need of PDC's by home builders and undermining their potential market? Are there enough building units finally approved, without utilizing the PDC density bonus to dilute builders' interest in buying PDC's from landowners? Will the optional nature of the PDC's -- builders may develop in the Growth Areas without redeeming PDC's -- lessen the chances of a successful private market for PDC's?

There are other questions on the bill, such as the powers given to the five-person bank board, the legality of using Green Acres funds, and the availability of such funds, that should be looked into.

Review of the Bill - We would like to call attention to the following elements of the bill itself for the Committee's consideration:

Section 2, Line 4, states in part, "this plan quite properly includes a program for the allocation and transfer of Pinelands development credits".

The Pinelands Protection Act is much less definitive on this point. This section of the bill creating a PDC bank actually should trigger a thorough legislative review of the PDC system itself, something which should have occurred prior to its incorporation into the Plan.

Section 5, Line 20, states that the bank may purchase PDC's "when necessary to alleviate hardship" as determined by the PDC bank directors. Shouldn't such a responsibility be subject at least to legislative oversight, since state funds will be involved? Also, shouldn't this determination be included as part of this bill?

Section 10, Line 1 states that "the bank is authorized to guarantee the value of a Pinelands development credit in the amount of \$10,000...". Given the hardship requirement of Section 5g, can the bank even accomplish this? For example, if a landowner holding PDC's does not meet the hardship requirement and there is no private market for PDC's -- or a market at less than \$10,000 per PDC -- how is this person assured that the PDC has such a value as an asset?

Preliminary Recommendations - The Farm Bureau has previously testified on the PDC bank proposal and has participated in the preparation of the Agricultural Task Force paper -- dated September, 1981 -- submitted by former Secretary Alampi to the Commission. Consistent with the positions previously expressed, we offer the following modifications on this bill:

Add a sentence to the findings section of the bill which would provide for the PDC's as representing compensation for the affected landowners.

Change the "hardship only" status for potential bank purchase of PDC's to be a "standby" or "on demand" status.

Reevaluate the funding requirements for the bank in light of the previous suggestion. This should be accomplished during the legislative consideration of this bill.

In conclusion - Like most TDR programs, this proposal sounds good in theory, but may encounter serious problems in having its assumptions fall apart when implemented in the real world. Farmers and farmland owners have a great stake in this program and are very interested in obtaining needed assurances before the program is legislatively authorized. In its present form, the bill and the PDC program it confirms, is only a weak offering that needs to be modified if restricted landowners are to receive a satisfactory measure of "just compensation." Thank you.

ASSEMBLYMAN MARSELLA: I want to ask you a question. In lieu of the Farmland Preservation Act that the voters voted on in the past, do you feel this will have any bearing on the values of the lands in the Pinelands? For instance, the State of New Jersey is talking about buying farms at values. What happens when they go into the Pinelands area? Do you feel that those farmers may not get the proper value of their land? It is a question-- I think it relates to the credit and also some new legislation that is coming up with this farmland preservation.

MR. POOL: Well, the Farmland Preservation only deals with the development rights of the farms in the rest of the State. The farmers in the Agricultural Area of the Pinelands are not going to have very much-- I don't even know whether they would be considered in that or not. Pete, you could address that, Pete.

P E T E R F U R E Y: DEP acquisition in the Pinelands already has a policy where they instruct their appraisers to value the property as of the date of the moratorium, and before. In other words, any conditions that would, in fact, happen afterward, appraisers appraising property for a fee acquisition in the Pinelands were told to ignore that. So, I would assume if you went into the Pinelands to buy an easement on the farmland, you would have to value it as of the date of February, 1979.

ASSEMBLYMAN MARSELLA: Of 1979?

MR. FUREY: Yes. Then you can compare the farm value and make the difference in value of the easement that way.

ASSEMBLYMAN MARSELLA: Assemblyman Bennett, any questions?

ASSEMBLYMAN BENNETT: No.

ASSEMBLYMAN MARSELLA: Assemblyman Smith?

ASSEMBLYMAN SMITH: Well, you bring up a lot of good points, but I think this legislation needs a lot of work, if you are going to satisfy everyone concerned here. I made a statement before, that I was against the Pinelands Act. I was against the Pinelands Act. I would like to clarify that from a standpoint of the things we are hearing here today. It is not that I am not in favor of preservation and ecological concerns and the like, but we knew, some of us, at the time that piece of legislation was put into effect, that these kinds of problems would arrive. We had the foresight to look at those things and understand them. I think today is a good indication of some of these very major concerns by the agricultural community, particularly in the Pinelands Area and throughout the State.

ASSEMBLYMAN MARSELLA: Thank you, both.

MR. POOL: Thank you.

MR. FUREY: Thank you.

ASSEMBLYMAN MARSELLA: Next, we will hear from Terry Moore, Executive Director of the Pinelands Commission.

TERRENCE D. MOORE: Thank you, Assemblyman Marsella. First of all, if I might just pay attention to one point. Mr. Papparone and I have had discussions previously on the Pinelands Protection Act. But, I would like to correct an impression. The density assigned to Barnegat Township is 3.5 units per acre, not one unit to 3.5 acres. It is the reverse.

ASSEMBLYMAN MARSELLA: What is that again?

MR. MOORE: It is 3.5 units per acre.

Members of the Committee, my name is Terrence Moore, and I am the Executive Director of the Pinelands Commission. I have a prepared statement, but I think I will forgo that and hand it in. There have been some issues raised which I would like to address, if I may.

One, certainly, is the issue of how the \$10,000 figure has been arrived at. It was arrived at based upon studies that were done by the Commission at the time the plan was being drafted. It represents a range of figures from \$10,000 to approximately \$45,000 or so of potential worth of the credits. The \$10,000 figure in the bill, which I believe Assemblyman Lesniak has chosen, represents what we feel to be a reasonable figure in a hardship situation where there is no other place for a sale to occur. And, \$10,000 has been shown, I think, recently, particularly in the experience of the Burlington County exchange, to be not only reasonable, but somewhat attractive, based upon the number of applications that that particular bank has received during the course of its existence.

I would like to also point out to the Committee some very new information about the Pinelands Development Credit, and it is an innovative program. It is being closely watched across this nation as a new land use planning tool. It is also beginning to attract some very real private interest. I would like to share with the Committee the fact that Vice Chairman Shinn of the Commission, acting on behalf of the Chairman and myself, a couple of weeks ago signed documents relating to the enforcement of an easement because of the private transaction that is occurring with Pinelands Development Credits.

It is important to look at this particular transaction, and unfortunately because of the confidential nature of the transaction by the buyer and seller, I can't give you the exact figure of that sale. I can, however, state, very truthfully, and hopefully in a couple of weeks very publicly, that the dollar value being paid for the Pinelands Development Credits in that sale exceeds even the highest levels that the Pinelands Commission projected during the course of its studies.

I would also like to indicate that the program is well underway. The Pinelands Commission at its last meeting of December the 3rd, took action on creating a new Special Agricultural Production Area in Medford Township. Because of the circumstances of that particular action, we have a very firm belief that the Pinelands Development Credits from that property will be transferred to a Regional Growth Area to achieve the densities desired by the developer. So, the private market is beginning, slightly, to take hold with this credit program.

The intent of this bill is not to buy every development credit within the Pinelands Area. That has never been the intent of the program to begin with. It is to fill a gap, a gap between the public action which was taken in January of 1981, and the private market taking over. There is no doubt, and I think the Commission shares my opinion, that that gap creates problems, very human

problems, for individuals who own particularly small properties in the Preservation Area. It is not inconceivable, indeed, quite realistic, that individuals will find themselves within that gap of time between the public action and the private marketplace taking over, of having to get rid of something. We do that with property at times, we do that with personal belongings at times, we have a new item now called the Pinelands Development Credit.

When those situations arose, the Commission thought it would be wise to recommend that the State of New Jersey provide a place where that particular hardship could be addressed.

There has been testimony today on the agricultural issues of this bill. I would, first of all, like to offer to the Committee, if we could receive a copy of Mr. Pool's statement, to try to answer some of those questions for you in terms of some of the issues that are raised. Some of them, I think, are based upon misunderstandings of what the program really attempts to do.

But, the Commission thought there should be a place where individuals could go and get rid of credits quickly. Burlington County's program has achieved that on one county level. I have to say, and I think, again, the Commission would share my opinion, that Burlington County's program, which was set up on the initiative of that county, shows probably more clearly than anything else in the past three years, the spirit of partnership -- I must use that term -- that can be provided by the Pinelands Protection Act. The Commission created a program. A county responded quite clearly because there had not been State action. I think they filled the gap and should be very much congratulated for the type of activity that they did perform.

This program has agricultural components, but I think it is somewhat of a mistake to view this program as an agricultural bill. The Protection Area has approximately 85,000 acres in lands which we classify as Agricultural Production Areas. The Preservation Area of the Pinelands contains approximately 360,000 acres. Many of those acres are not in large land holdings; they are held by the Matlacks of Woodland Township, they are held by the Smiths of Tabernacle, they are held by just plain people who have an acre, two acres, five acres, or what have you.

I think it is quite important to understand that to preserve the Preservation Area of the Pinelands, this Commission, which administers the Pinelands Protection Act, was put very clearly in a position where it had to say no sometimes, and we do have to say no; otherwise, the Preservation Area goes away and it is not preserved. This program is to try to address a need and to have an opportunity for small property owners, particularly that need to get rid of them, can't go out and find a builder tomorrow to buy them, to do that through the auspices of the State of New Jersey.

But, I think as more communities come into conformance with the Comprehensive Management Plan -- to date, the Commission has taken action on 27 communities, in terms of revised master plans on zoning ordinances. As more of those towns are certified -- that is happening every month now in Pinelands Commission meetings -- the market for Pinelands Development Credits will grow steadily. I think it is very interesting, I think, to note the one sale that I have been referring to, is occurring within two to three weeks, after a municipality where we believe those credits will be transferred to, was certified by the Pinelands

Commission. I think the faith in this program has to be exhibited not only in the private marketplace, which is the great testing ground, I think, of the credit program, but in the State of New Jersey's support to fill a gap which we believe is very much needed.

I would like to thank you for the opportunity of testifying. I would also like to transmit to the Committee this morning a resolution of the Pinelands Commission which was adopted last summer, supporting Assembly Bill 1259 for your information. If you have any questions I would be very happy to answer them.

ASSEMBLYMAN MARSELLA: Are there any questions? (no response)
Thank you, Terry. Our next witness is Elwood Jarmer, Director of Planning, Cape May County.

E L W O O D J A R M E R: First, let me thank you for coming to South Jersey. It is nice to be able to come here, instead of having to go all the way to Trenton.

I am here to speak in two capacities this morning, first, as the Planning Director for Cape May County, and for the Camden County Planning Board, and secondly, as President of the New Jersey Chapter of the American Planning Association.

As the Planning Director for Camden County, I would say that we fully support this legislation. I will be repetitive. It is a first step to correct one of the problems with the Pinelands Plan. I could go off into a tangent here on other problems, but I won't. It is a first step to solve one of the problems, and we fully endorse it.

In my second capacity as President of the American Planning Association, New Jersey Chapter, I would like to comment briefly on the technicalities of transfer development rights.

It is tough. We have been involved in legislation in the past -- I don't think you were involved in it -- numbers of years ago, transfer development rights. We have planners and their pieces in it, the lawyers have their pieces in it. It was so complicated that it never went anywhere. Nobody understood it.

We have now taken a position -- our Chapter has -- that we are now going in the other direction. We are saying that the Municipal Land Use Law ought to define, very briefly, in two sentences, what transfer development rights are, and that they ought to really be permitted as a planning technique and let the details fall out in the process.

What I am suggesting this morning is, the more you tinker with this bill to answer all of the questions on TDR, the less chance there is of passing it. The more complicated you make it, the less chance there is of passing it. I think we think, as professionals and planners, that you put enough in here to get it started, then let's see what happens. My suggestion would be to avoid getting deeply into trying to answer all of those questions. How much is a TDR worth? I don't think you can answer that now. I think it is more important to move on, and we support the professionals, and the New Jersey Chapter of APA support the passage of this legislation as soon as possible.

I would be happy to answer any questions.

ASSEMBLYMAN MARSELLA: John, do you have anything?

ASSEMBLYMAN BENNETT: No.

ASSEMBLYMAN MARSELLA: Elliott, do you have anything?

ASSEMBLYMAN SMITH: No.

ASSEMBLYMAN MARSELLA: Okay. Thank you very much.

MR. JARMER: Thank you.

ASSEMBLYMAN MARSELLA: Our next witness is Sam Mazza, Atlantic County Board of Agriculture. (not present) We will hear from Adam Stern, Environmental Defense Fund.

A D A M S T E R N: My name is Adam Stern. I represent the Environmental Defense Fund, which is a national environmental group of 47,000 members of which 7,000 are in the State of New Jersey.

I have come from New York today, to announce our organization's support for this bill. As I have listened to some of the testimony that has been given today, I have been somewhat disturbed at the way people are using this time to attack the plan. That plan is something that took ten years of discussion and negotiation, and it is a compromise. It is not something that says there can be no growth in the Pinelands, it tries to establish a Preservation Area and it sets some Regional Growth Areas where growth can occur. I think we have to recognize that and keep the discussion today on this bill, which is what this hearing is for.

It should also be made clear that the PDC Program, as Mr. Moore has stated, is already underway. A number of municipalities have established ordinances which provide for additional growth above and beyond the permitted densities in Regional Growth Areas. There have been projects which are underway or being approved now that will develop with these additional PDC's. And, what we are trying here with this bill, is to establish a bank which will enhance that process. I think the eyes of the nation are very much on New Jersey in this case. This is one of the most innovative programs-- It is really unprecedented in this country. We would hope that the Committee would release this bill, and hope that the Legislature would pass it and have the Governor sign it.

I think institutions make ideas work. We have a very progressive idea here, and if we can establish this institution in the Pinelands Development Credit Bank, we will go a long way towards making this program work.

Thank you very much. I have a statement which I would like to submit for the record.

ASSEMBLYMAN MARSELLA: Okay. Thank you. Assemblyman Bennett, do you have any questions of Adam?

ASSEMBLYMAN BENNETT: No questions.

ASSEMBLYMAN MARSELLA: Assemblyman Smith?

ASSEMBLYMAN SMITH: No questions.

ASSEMBLYMAN MARSELLA: Or next witness is Betty Woodford.

E L I Z A B E T H W O O D F O R D: Thank you very much. I apologize for having left the room at the wrong time, but I have enjoyed everything that has gone on ahead of me. I do not have a written statement prepared for you, but I did make notes on a few things. If you would prefer a written statement, I would be glad to mail one in.

Having been almost, let's say a number of hours listening to this interesting testimony, I must say to each of you who have had something to do with preparing this bill, that I appreciate the fact that it was even proposed, planned, worked on, and carefully put together, I am sure. Assembly Bill 1259 is an excellent

way to begin the next step in our Pinelands preservation.

Farmers, small property owners, large property owners, whatever, I feel that each person has a step in this that is necessary for them to make, that is, to allow a bill such as this to get started; to allow this bill to become an enactment of what we originally planned to do years ago, when Pineland preservation was just a dream.

I, personally, am representing the Burlington County Natural Scientists Club, and, of course, representing myself, as well. I am Elizabeth Woodford. I assume that was said before I came. My husband and I run a wildlife refuge in southern Medford Township. We have over 150 acres of land which is dedicated to the rehabilitation and the preservation of wildlife.

It is a constant factor with me, as I realize the position that wildlife is in in this State and in this County, our largest county, Burlington County. I live in the one that has the greatest stake in the Pinelands decisions that you people are making.

It is with great concern that I wonder what is going to happen to many more things than just wildlife. But, I appreciate what has already gone on in the Committees who have worked, the men and women who have worked on this. I really appreciate what you have done. The chance to be here today is something else which matters to me. I worked under the efforts of Robert Shinn, Freeholder for Burlington County, for several years, while we found pieces of land that were equal to what we thought, was the place for our money to go. A million dollars was originally given to us by the billion people in Burlington County on a basis of three to one, and I think we are probably higher than that now, on the basis of approval.

I cannot help but feel that the various parts that I may disagree with the bill, or may have a concern, are almost meaningless. The basic feeling that I have, is that the bill has been put together and it is ready to be acted on.

I have enjoyed hearing the people's comments, their thoughtful concerns for the Transfer Development Credit proposal, which is not new. We know that many other states have had it - Florida, Connecticut, Massachusetts, California, Arizona as well. We know that we can be proud of what we have done in Burlington County, and I feel that when I used to go out and walk on the site plans, acreage that was proposed that we decided was the land worth putting our taxpayers' money into. I can recall the times when we have walked out in large groups and in small groups in all kinds of weather, going over this land wondering what the next step would be, to me. Having set aside land and money towards these purposes is one of the highest things that we can do at this point. Without it, we have not followed through with what was originally intended to be.

I feel that the men and women who proposed this bill, and worked on this bill, deserve a great deal of appreciation from everyone, instead of thinking what am I going to get out of it. Let's consider what is going to be given to the State of New Jersey because of what we are doing.

Preserving land in a sensible way and giving the farmers or the landowners money for their land to keep it, without being turned into eventual housing, which, of course, as the story is known, again and again, the small townships are being eaten up with taxes because of the eventual need for more schools,

more roads, more residents' expenses for various facilities that they need and demand, have income from cities and towns where they were. They expect forest land to be treated almost as the same -- spray it, trim it, cut it down, change it, and it costs money to do those things, and we are also losing a precious resource in the meantime.

I believe that Assembly Bill 1259 is the most sensible and workable plan that I have heard of. I think it is a fine idea to protect the Pines for the future, and I believe that the State of New Jersey is doing the right and proper thing to protect our environment and to preserve the Pine Barrens.

I can see some of my friends' concerns. I can see the concern of the man who spoke of his piece of land, as to what was being paid for it. I do not expect to be paid for our land. We are in the Forest Zone. I do not expect to be paid for it. I consider it enough that the land is being preserved around us. It is my job to preserve what we have. I find that I can get very emotional about this whole thing. I get concerned when people call me and ask me about it, and I try to answer their questions the best I can. I usually say, "Get a hold of Bob Shinn, if you can, or, stand in the meeting with Elmer Rowley when he is talking about it, or, perhaps write a letter to your own Assemblyman or Assemblywoman and ask what they think."

I happen to be in a position where I support our wildlife refuge by lecturing, by writing, and in the main, I support it that way. I happen to be in a position where many, many people assume because I live in the Pines, I know all about it. I truly don't. A little bit of teaching and management of a piece of land, such as I have, has just been a short time in one life time. But, I would like to see the preservation in the Pine Barrens go on forever.

I truly appreciate being here. Thank you.

ASSEMBLYMAN MARSELLA: Thank you. Our next witness is Bill Smith, Friends of Warren Grove.

B I L L S M I T H: Good morning. My name is Bill Smith. I am the spokesperson for the Friends of Warren Grove. Warren Grove is a Pinelands village so designated, and also those who don't know, the home of the first wildcat exploration for gas and oil in New Jersey. I am sort of a person recently involved in the conservation movement in New Jersey and the Pinelands Commission work. They have done an awful lot for us. I am down here looking at this bill and responding to what seems to be the situation.

We support the Pinelands Comprehensive Management Plan, certainly, and any reasonable legislative acts that support it and promote the preservation of the New Jersey Pinelands.

This Pinelands Development Credit Bank Act seems to us a necessary and worthwhile step. To move along the Development Credit program is already proposed in the plan.

I am sympathetic to some of the things I have heard this morning, especially Bob Shinn's general opinion, that importantly, is to get this act going and bring some finances into the picture. Adjustments can and will follow, I think, after that.

Some of the other statements about-- I think you can endlessly amend, appoint committees, and redo things before they ever come into existence. One way to assure that things won't come into existence is to divide and conquer,

I think. Here you have a piece of those things which I think should be put forward, and I think those things will follow.

I am sympathetic to some of the things-- Most of our own members are small landowners who equally divide between the Preservation and Protection Areas. It would be interesting later on, I think, to see the credit consideration extended to the protection in Forest Areas. However, I would say most of our people really have made personal sacrifices. They have little sympathy for large investors in the Pinelands who may, and in some respects the berry farmers will do very well by this. I think there is no question about that.

The other thing is, Ocean Acres was mentioned by two people. We live in Stafford Township. We are in Stafford Township. That may be typical of a lot of situations in the State. The problem there is, there is development to be done, it has been appointed a Regional Growth Area, and from our analysis of our own township, there is a lot of foot dragging going on, mostly because of the fact that they would like a lot more development to be allowed in the Forest Area. So, the two towns there, for example, Barnegat and Stafford Township, and Manahawkin have not got their heads together and seem to be avoiding it. I think the problem could be solved and taken care, but it hasn't been.

I think the most important comment that other people have made is innovation. That is what we need and I think we can make it work, if everybody is interested and has the same goal in mind, which obviously, everybody doesn't. But, I think the preservation of the uniqueness of the New Jersey Pinelands is certainly a worthwhile goal. We certainly support that.

Studies can be made and probably should be made concerning other things, like these tax dislocations which might result, and also to include expansion of the credits program into the Forest Areas. But, without the Act and the money, these adjustments will not be done. In fact, nothing will be done.

So, in closing, I would like to say we fully support the Act.

Thank you.

ASSEMBLYMAN MARSELLA: Thank you. Are there any questions of Bill? (no response) Is there anyone else who would like to testify? Just come up. We will take you first, sir. Please state your name for the record.

HERBERT BERTINAZZI: Yes. I am Herbert Bertinazzi, and I am a farmer here in Atlantic County. I would like this Committee to know, Mr. Chairman, that I appreciate the opportunity to speak here. I am not a speaker. Farmers hate public relations. We hate to be doing what I am doing today, but somebody has to bring our points out. Few have been brought out.

You know, I'm for this bill, because you owed it to us when you passed that Act. You know, you go out and you buy a car, go out and buy a house, and you have to pay for it. Now, in my eyes, if you want to steal something, you don't want to pay for it. I know farmers speak to the point. We don't like to pull punches. I testified in Stockton. It's not that I haven't been out there putting my points across, but you, as legislators, have passed this Act that gave the Pinelands Commission this power. You owe it to us to get compensated. This is the first step that is coming through.

No matter what Mr. Moore and these other people tell you, you are looking at a man who had perfect credit before the Pinelands Act came in. For the past two years, I have been turned down by Federal Land Bank, which is our accepted

farmer cooperative loan agency. We pay five percent or ten percent. What do we borrow for stock to get into this organization? I have been turned down for two years. I have never been turned down before the Pinelands Commission came in.

If you were to put a highway through my farm, you would get it assessed. First you would talk it over with me, then if there was an argument, we would get an assessor to come in, get a true land value, and I would get a hell of a lot more than what you are going to give me for my farm today, through this Act, but still, I am for it, because it is a first step in the right direction.

The point I am trying to get to you is this: you passed this Act, now it is up to you to see that we are compensated. This is the first step. I hear some of you suggest that you don't have the money. Well, gentlemen, when you buy a house you pay for it. You find a way. And I say to you, you owe it to us. Find a way to pay it. I'm not asking for too much.

If I go to buy a new tractor, it costs me \$20,000 or \$30,000. I don't say to the man, "Hey, people have to eat. You owe it to me." I expect to pay for it. And I am not asking too much from you.

I know you have a hard job, but you are the first one who has made me feel good about the Pinelands Commission. This bill is a step in the right direction. I am for it. I don't like everything in it, but I feel that we can compensate it later.

To me, it is very simple. Look at the land value it is worth now. What was it worth before the Pinelands Commission came in? Some way, I should be compensated for the difference in my land value.

ASSEMBLYMAN MARSELLA: How many acres do you own?

MR. BERTINAZZI: I own 110 acres and I am farming on 80 acres. My gross income is over \$250,000 a year. I have eight to ten men working.

ASSEMBLYMAN MARSELLA: What type of farming do you do?

MR. BERTINAZZI: Vegetable farming.

ASSEMBLYMAN MARSELLA: Vegetable farming.

MR. BERTINAZZI: Vegetable farming, and I have six men working right today, picking spinach and parsley. It's cold out there, but they have insulated coveralls, don't worry.

Believe me, I'm not lying to you, I am telling you the truth. They are working right today, right now. My produce is going to the Vineland Auction, and it will hit Canada tonight, tomorrow morning, and some is going to the New York market Saturday, the order is in and it will go to Miami. We are viable.

I heard a remark that we are making money. We are sweating. Vegetable farmers are sweating. That's five years. We have made money.

The point I want to get to this Committee is, you owe us this bill. Someway along the line, it is up to you legislators up here in Trenton to see that we get our fair share. You formed the Pinelands Commission; you owe it to us. Maybe I am being blunt, farmers are that way, but I am not talking behind your back.

ASSEMBLYMAN MARSELLA: No. We know that.

MR. BERTINAZZI: I'm telling it to you right here, out in the open. You owe it to us. Mr. Moore has good ideas. Look, I think it is a wonderful idea. Now let's pay for this idea. It is up to you to find a way to do it. I would be happy to answer questions you would like to ask.

ASSEMBLYMAN MARSELLA: Assemblyman Bennett, do you have questions?

ASSEMBLYMAN BENNETT: I don't have any questions.

ASSEMBLYMAN MARSELLA: Assemblyman Smith?

ASSEMBLYMAN SMITH: I couldn't agree with you more.

ASSEMBLYWOMAN COOPER: What municipality are you from?

MR. BERTINAZZI: Right here in Buena Vista Township. Right in Atlantic County.

ASSEMBLYWOMAN COOPER: You are from Buena Vista Township.

MR. BERTINAZZI: My farm is five miles from here. I had to come out to testify here, leave somebody in charge, and I am suffering the price when I leave here. Anyone who works with men, they know what I am talking about.

ASSEMBLYMAN MARSELLA: Thank you very much.

MR. BERTINAZZI: Okay. I appreciate the Committee's time. (applause)

ASSEMBLYMAN MARSELLA: Is there anyone else who would like to testify?

Y A R D A B E T T S: My name is Yarda Betts. I am a private citizen who lives in a city Estell Manor City in Atlantic County. One thing I would like to say is, we own approximately 600 acres. About 250 or so of that is being farmed. One of the things that was brought up here by, I believe her name was Mrs. Woodward, is that she was saying what property she would like to buy by taxpayers to preserve. A farmer preserves the lands. This is why the Pinelands has the land now, in order to buy or to try to keep, because the farmers are the people in here enjoying this type of land, and they have preserved it. We enjoy this land, we enjoy seeing the animals. We go out and we feed the deer. We plant things to feed them. We preserve this land ourselves.

But, what I have come up here to say is, the City of Estell Manor is zoned completely as a forest area. We did go in towards the end of the plan and asked if they could change ours to the farming and land. They said that they could not. Now, this leaves us in a forest zone. We were zoned before to have our lots as 80,000 square feet. Now they have changed us to 20 acres as a lot. Now, I want to ask you, number one, with us being in the forest and not in the farming zone, what does this do to our land values, and, changing from 80,000 square feet to 20 acres for a lot, what does this do to our land values?

You are here by this land, you think you are going to be preserving it, you are going to have a little of it for yourself, and what do you end up with? You end up with nothing.

I suppose that your credits -- if you want to get to the testimony -- are a step in the right direction, but it is a very small amount.

ASSEMBLYMAN MARSELLA: Well, we are here taking testimony on Assembly Bill 1259, which doesn't deal with changing categories of forestry to protective or to agriculture. I would assume-- After we recess, we could sit down with Mr. Moore -- Mr. Moore is here -- and we can talk about that.

MS. BETTS: Well, like I said, I suppose that the credits are a step in the right direction. After all, when you take this land, we are left with nothing, actually. As far as our land value is concerned, what good is it whether you are in the forest or on the farm, or what? The Forest Area does not get any compensation for this. It is only if you were zoned as farming that you can get any compensation. So, we are really left with nothing.

So, like I said, I guess I would say this is a step in the right direction. Like the other man said, you do need to be paid for your land if these are the regulations you are going to have. Thank you.

ASSEMBLYMAN MARSELLA: Thank you. Is there anyone else?

J A M E S L A N A R D: Mr. Chairman, members of the Committee: My name is Jim Lanard. I am a lobbyist for the New Jersey Environmental Lobby, which is a statewide organization representing other environmental groups and individual citizens that advocate environmental protection laws for New Jersey.

We strongly support Assembly Bill 1259 for many of the reasons that have already been presented to you today. I would just like to comment a little about some of the comments that have been offered here in opposition to the bill, and suggest to the Committee that those comments were also offered by the same people two years ago, when they were testifying against the Pinelands Protection Act. I think what the Committee has to do, almost like a judge, is disregard evidence that isn't admissible. I don't believe that evidence which has been presented here today should be considered, because it goes to whether or not we should have a Pinelands Protection Act. We have the Act.

The next question that we have to ask is, how do we implement the Act that both the State Legislature and the Governor deemed was appropriate to sign into law? One way to do that is to establish development credits and provide for the purchase of those credits for future sale. I think Assembly Bill 1259 does just that. It doesn't create the concept of Pinelands Development Credits, that is already in the Act. Now, all it does is implement that concept. So, we are not doing anything that wasn't debated fully in the Legislature, as Mr. Smith said, until four o'clock in the morning, a couple of years ago. Now, we are being very innovative, however, Mr. Lesniak and the Committee and the Co-sponsors of this bill are, because the land that is involved here is so great. There are about a million acres involved in the Pinelands Protection Act.

There is no other development credit bank in the country that can address the magnitude that this bill does, A-1259. It is very true that the eyes of other states are on New Jersey now, to find out how this is going to work.

This is a small step. We are going to go much further, but we have to try something, especially since nothing in the country has been tried before.

I was impressed with Freeholder Shinn's testimony and his strong support for the bill, considering that five-eighths of his county is in the Pinelands and affected by the laws and the regulations that the Commission has implemented.

I do want to address the fiscal impact, because I think that is probably the question that you, as legislators, have to deal with concerning this bill.

Right now there is a proposal to spend \$5 million, appropriate \$5 million of the New Jersey budget. I think you are going to have a hard time justifying that expenditure with the budget crisis that we have now. But, there is one way to look at this. This is not a \$5 million expenditure, it is basically a \$5 million loan that is going to be repayed two or three times before this program is over. The credits that are purchased by the bank are sold at public auctions to developers who want to get the opportunity to build in the Regional Growth Areas, in addition to the growth that is already allowed under the Comprehensive

Management Plan. Those credits are going to be very valuable. Think about it. If a credit is going to yield four new houses in a Regional Growth Area, and each of those houses are going to earn a profit to a developer of, let's say, \$20,000, the profit to the developers for having those four houses is \$80,000. Obviously, when four or five developers see one credit for sale, knowing that their profit is going to be around \$80,000, they may start competing with each other to purchase that credit, and the value will clearly go above the \$10,000 that the bank originally purchased the credit for. So, there is the potential for a bidding war between developers in the Regional Growth Area that will earn the bank tremendous amounts of money. I think conservative estimates from people who I have spoken with, would be to double or possibly triple the amount of money in the bank as the program develops. It won't happen right away. I want you to understand that. I am not promising you that the first credit is going to sell for a lot more than \$10,000. But, as people become familiar with it and trust the concept and understand how it really works, you are going to be creating revenue for the bank and pay back.

So, when you have to go to your constituents and explain why you appropriated whatever money you did, I think you can show that you are really developing a tremendous investment here for New Jersey.

We support the law, the Pinelands Protection Act. You have heard a lot from people who have hardship and have suffered hardship as a result of the Act. When you think about it, we are now offering people \$10,000 that was conceived in concept when the Act was passed. It was put in the Act then, to make things a little bit easier for people who suffer that hardship. All you are doing with this bill is carrying out the intention of the drafters of the original bill, and that is, we have to make things a little easier and avoid some hardship. You are not doing anything else.

A vote for this bill is not a vote for the Pinelands, it doesn't indicate any change of philosophy of whatever your position is, but what it indicates is a human sensitivity to some people who have had some hardship, and the Legislature's willingness now to make things easier for them. Thank you very much.

ASSEMBLYMAN MARSELLA: Thank you, Jim. Are there any questions?

ASSEMBLYMAN BENNETT: You are saying the bank conceivably will make a great deal of money, which I agree, that that conceptually can in fact occur. However, if I am a farmer who owns 39 acres, and I am entitled to two credits because of the location I am in, let's just say. Thirty-nine acres of it on farming. So, I would get, under the concept, that \$20,000, that the bank can purchase from me. Then, when the bank goes to sell the credits, and because of the demand, it goes at the auction, it goes for let's say \$80,000, just for the sake of argument. Is that fair to that farmer?

MR. LANARD: No. I thought about this. I thought about it in two ways. I tried to come up with an idea, that we could try to get some of the money back to the original seller of the credit, and also, possibly, to boost the price of future credits which may not be this same equity issue that you are thinking of.

ASSEMBLYMAN BENNETT: No. It is the second. It is another one. I am concerned with those people-- I am not concerned with the -- maybe I shouldn't even say this -- large builders who went in there and bought up large tracts of land as it was coming down the home stretch. I am concerned in one respect, but I am not as concerned with them as the people who have owned family farms, for perhaps

even generations, who have worked and have, in fact, preserved land. They didn't just sell them at the time and slap up houses. Now, they are the ones-- some of them have spoken today. Of course, the bill doesn't deal with compensation, or the word compensation at this point, and that is another concern of mine. But, if the \$10,000 that they are going to get for their credit, I am wondering if it is fair for the entity at the bank to then turn around and make more money on that original concept. That is a real problem I am having.

MR. LANARD: Okay. I just realized the answer. I want to disqualify my answer by saying that I am a novice in this issue, and that there clearly might be a better answer. But, the thought that comes to me is that there is nothing in the law now, in the existing Pinelands Protection Act, or this bill, that prohibits the private landowner from negotiating directly with the developer who wants to buy the credit. What this bill does is, it establishes an exchange process for those people who haven't been able to identify willing purchasers. Now, what Mr. Shinn talked about, and what Mr. Moore talked about with the sale, which I don't believe has been consummated yet, is that here we have a private developer and a private seller that clearly with selling land -- from what I understood, it sound like more than \$45,000 for one credit.

ASSEMBLYMAN BENNETT: That is the way I understood it. I agree.

MR. LANARD: So, with that in mind, what this bill does-- This introduces people to the concept of sale through a bank. What the farmers are going to say -- I asked my colleague here today. I said, "Doesn't that mean if I am a farmer who has 39 acres-- Maybe I don't want to take it to the bank right away. I want to see if I can get a better price on my own outside of the bank." The answer is "yes", that some people will hold back, if they are not in an extreme hardship situation trying to negotiate with somebody. If they are in extreme hardship, then they say, "I need the \$10,000 now, and I am going to make the deal." So, there is that balancing, and in that regard, I think we do have a fairness issue.

ASSEMBLYMAN BENNETT: It will not be as easy for -- or isn't as easy now -- the individual farmer or land holder to go and find the perspective purchaser as it will be for the bank to find them. The bank will be there and it will be a regional facility. I am troubled with how we are going to be able to define hardship, also. That gives me another problem. I don't know the answer to my question. I don't think there is an answer at this point, but I would like to be able to explore some sort of a possibility that it may be a fixed amount of dollars, but also a credit that if subsequently it gets sold, a percentage of the increase of that credit can go back to the original person who has sold it. Something along that idea.

MR. LANARD: I'll tell you what, and I apologize to the Pinelands Commission and to Mr. Lesniak if I propose something that is way out of line here. Maybe what you are looking at is some type of cooperative bank. I don't know if the State can do this without possibly a statewide referendum. Some type of cooperative bank where the profits of the bank are distributed among the shareholders who, in a sense, are those people who have sold the credits to the bank. It would be very difficult to trace the sale of one credit, from one private owner to one private developer.

ASSEMBLYMAN BENNETT: It would be. I agree with you.

MR. LANARD: But, if you treat it as a cooperative, and you lump all of those sellers in there, you might be able to do something about it.

ASSEMBLYMAN BENNETT: Well, it is a concept I want to explore a little bit as we are getting into this. That is my own personal feeling, anyway.

ASSEMBLYMAN MARSELLA: Assemblyman Smith, do you have any questions?

ASSEMBLYMAN SMITH: No, I don't have any questions.

ASSEMBLYMAN MARSELLA: Thank you, Jim. Next witness.

J O A N B A T O R Y: Given the time, I will make it a two-sentence testimony. My name is Joan Batory. I am the Camden County Representative of the Pinelands Commission.

Just a brief insight into why the Pinelands Development Bank was proposed in the first place. Three years ago, the second time the Pinelands Commissioners ever assembled, they sat around a table and there was a lot of frustration at that particular meeting, and it is probably the same one you have heard from many of the people here today. There was frustration because our chief concern was first, as human beings, that we would begin to affect the lives of the people in the areas that we were dealing with. To a person, as we went around the table, the chief concern that was expressed was that we "wouldn't hurt the little guy." After that, a lot of things happened in the course of the Pinelands Commission's planning and experiences, and finally, out of that statement that we all made, collectively, you saw in the Pinelands Plan, the proposal for the Pinelands Development Credit Bank. The whole concept of the credit bank was not full compensation for loss of value or for property value. We felt that we owed the people, especially the small landowners, the people who had owned property for several years or generations and wanted to build on it, and to the farmers. We were attempting to preserve agriculture. At the same time, we were preventing the farmers from selling their land for development. We felt that we needed something, at least in partial -- I can't use the word compensation, since that is not the correct term --

ASSEMBLYMAN BENNETT: (interrupting) Not yet, anyway.

MR. BATORY: At least not yet. (continuing)--to do something for them to help alleviate any problems that might have been created by the plan. By doing this, we are kind of passing the burden onto you. We formulated the plan, and we are earnestly hoping that after a year's time now, something will happen that will help us and help you implement that plan.

As a resident of Camden County and as a person who enjoys all of the counties of South Jersey, I would really like to see something happen that will promote that plan. We are not, again, compensating in full, but this is a first step in the planning process, as been said time and time again.

Again, to quote the gentleman farmer whose spinach is being harvested today, we felt that we owed it to them, and hopefully that same spirit will be passed on to the full Legislature, and this particular bill will become a reality. Thank you.

ASSEMBLYMAN MARSELLA: Thank you, Joan. Sir?

J O H N M c C L O U D: Assemblyman Marsella, Senator Smith, and the Committee: I appreciate the opportunity to make some comments today. My name is John McCloud. I am the Senior County Agricultural Agent of Cape May County, a member of the

Cape May County Planning Board, I am a citizen who lives in the Pinelands Area, and I have a very small part-time farm.

I would like to add my support, basically, to this legislation, Assembly Bill 1259, because I think it is a step in the right direction, although, I feel -- as you have already heard this morning -- there are some aspects of it that need to be honed down.

I would like to reenforce with you so that you are aware of it, that there were no agricultural districts designated in Cape May County in the three communities that are affected, that is Upper Township, Borough of Woodbine, and Dennis Township. There is farming that occurs in those townships, and I think one of our concerns is that if this legislation will make available the support for Pineland Development Credits, that these credits are clearly made available to those who wish to obtain them, and the only way you can do that from the Forest District is to volunteer your farm. While the Pinelands Commission itself has said time and time again that farmers will be welcomed in, there is some question in my mind that if in all cases the farmers would be accepted. If they are not accepted and they are real farmers, then they would not have available to them whatever benefits this bill would provide. That would be of some concern to me, and the fairness and equity to all farmers who farm in the Pinelands. I think we should look into some aspects of that.

I also want to bring out to you, that in the process of attempting to come to compliance in the communities and looking over their plans that, what is really happening is, when you consider the Pinelands villages, the Pinelands towns, often the lot sizes they are developing in the hither lands, which are primarily in the farming areas or the wooded areas, are not the original 17 point something acres that we all originally talked about in the Pinelands district, to winding up, as many people have testified this morning, as 20-acre lots, 25-acre lots, and would you believe, some at 30-acres. If you try to tell a property owner or a farmer, who formerly had one-acre zoning or three-acres zoning, who is now put into a 20-acre or 30-acre, that something hasn't happened to the value of his land, I think it is going to be very difficult to convince him of that. That is why, I think, this is a step in the right direction, and is, in part, compensation for obviously what that person has lost on the block for his property.

I thank you for the opportunity to talk with you.

ASSEMBLYMAN MARSELLA: Thank you. Is there anyone else who would like to testify?

W I L L I A M K E N N Y: Good afternoon, gentlemen. My name is William Kenny, Assistant Secretary of Agriculture. First, I would like to commend the Committee for coming and making this long trip. You came further than I did, and I think it shows your interest in agricultural problems, and I appreciate it very much.

During the development of the Comprehensive Management Plan, we had an agricultural task force that worked with the Commission, and many of the concerns expressed by the task force were recognized and adjusted in the Commission Plan. However, as pointed out here today, there is still continuing concern, and, I guess, they are understandable because the Commission has had an extremely difficult problem, I think, trying to manage what I consider competing objectives established in the Pinelands Act.

WILLIAM KENNY

But, the things that remain as continued concerns, of course, have been addressed here this morning - compensation. There is concern about the allotment of PDC's, under the Comprehensive Management Plan, whether they were equitable in the distribution, property devaluations, and the potential impact on taxes, which are going to directly affect even farmers under farmland assessment, because as property ratables are reduced in the community, it would seem that they are going to have to adjust the tax rate. That is going to affect the farmer because his farmland assessed values are not going to be adjusted, but the tax rate is going to impact on him.

Assembly Bill 1259, in our judgment, is a step in the right direction and merits a real try. We believe that PDC's or TDR's are a great theory. We also feel they have had very limited experience, so we are going to have to learn how they are going to work in New Jersey and elsewhere, in the long pull.

One of the problems we see in the bill is that it is an interim measure of five years. Maybe the private market will develop in five years, but we have to look at the availability of infrastructure to accommodate the increased density, we have to look at the overall economy, are building starts really going to turn around; municipal attitudes, are they going to accept increased density; and, are the builders going to accept them. All of these are outside of the domain or the province of the Pinelands Commission, but certainly have to be recognized, and we wonder if it is going to be turned around in five years. Assumably, you can adjust the Act later on, continue it if it is needed.

The \$5 million funding is another problem - three million for purchase under hardship -- again, it has been pointed out time and again, that hardship presents a real issue -- and \$2 million for loan guarantees.

Mr. Moore has stated, and rightly so, that the Pinelands Act and this credit program is not primarily for agriculture, but it is intended to help agriculture. Mr. Bertinazzi has already testified that he has been turned down on his loans because of the devaluation of his property. Now, farmers have to go to the bank every year to get operating capital, and depending on their collateral value that they can put up, it is going to mandate the terms of the loan, and if the collateral is down, they are probably going to end up paying higher interest rates for their operating capital. Two million dollars is certainly not going to go very far in New Jersey for operating loans.

The guarantee of \$10,000, again, we think is a good start. Briefly, to recap, the PDC's are obviously an attempt to adjust the windfall wipe-out potential in which property owners in the Regional Growth Districts might benefit at the expense of those property owners -- including farmers -- and the limited Growth Areas. And, two, it is also an attempt to respond to the financial dilemma confronting many residents in the Pinelands Area. So, I would like to endorse Assembly Bill 1259 as a positive effort, however, I would hope that maybe the Committee can do something about this hardship situation. And, if in fact we are talking about a loan here, despite the State's financial problems, that the \$5 million could be increased. I think that would be a big benefit to all and make the program work a little better.

ASSEMBLYMAN BENNETT: If you can find it for us--

MR. KENNY: I know, I know. Thank you very much.

ASSEMBLYMAN MARSELLA: Is there anyone else who would like to testify, for or against the bill? (no response)

ASSEMBLYMAN SMITH: I would like to make one comment, if I may,
Mr. Chairman.

ASSEMBLYMAN MARSELLA: Fine.

ASSEMBLYMAN SMITH: We talked a lot this morning about the development of this market for PDC's. I live in a community where almost ten years ago, we invoked a TDR policy. During that period of time, we had one taker. I live in an area that is very highly, intensively developed. We have a planned unit development area, which we have cut down the density, and still we had one taker in ten years. So, I am very, very cautious about how fast this market is going to develop. I just wanted to bring that to your attention, because I have, actually, first-hand experience with that.

ASSEMBLYMAN MARSELLA: Okay. Thank you. There are two things that we should enter into the record, the Burlington County Conservation Easement, which is this document here, and also, the Pinelands Development Credit Procedure. Assemblyman Bennett, do you have anything?

ASSEMBLYMAN BENNETT: No, I have nothing further at this time. I have enjoyed being here today. I don't have every opportunity to come down here. I am either from "NorthSouth Jersey, or "South North Jersey, coming from Monmouth County. But, I did enjoy hearing and having the input that we were able to have on this. I, for one, feel that-- Conceptually, I totally agree. I think it is time that we cannot afford to continue to wait on the concept of moving forward with Assembly Bill 1259. I would like to be able to spend some time with this, working on dealing with some of the questions that were raised today, primarily with, perhaps, the definition of hardship, and also on the concept with how we will work the amounts of monies in. But, we have a duty that has been given to us, not a duty to review the Comprehensive Act, as far as I am concerned, because that is a fact that we should move ahead, and we should move ahead with the concept that is contained in Assembly Bill 1259.

ASSEMBLYMAN MARSELLA: Very good. This concludes the hearing on Assembly Bill 1259 today. The only thing I would add is, it seemed that Assembly Bill 1259 is a step in the right direction, and the response today was basically for Assembly Bill 1259. We will take into consideration everything that was said in this testimony here today, and we will read the transcripts, and the I am sure the sponsor of the bill, Assemblyman Lesniak, will read the transcripts, and the other co-sponsors will take a look at the transcripts and hopefully, after the first of the year, we can move forward on A-1259 at our Committee meeting.

Thank you all for coming out today.

(Hearing Concluded)

New Jersey Conservation Foundation

300 Mendham Road, Morristown, N. J. 07960

201-539-7540

Statement on A-1259 in Public Hearing Held Before the Assembly
Agriculture and Environment Committee, December 9, 1982

Dear Chairman Marsella:

My name is David F. Moore, and I am executive director of the New Jersey Conservation Foundation, a private, nonprofit, statewide membership organization concerned with open space acquisition and environmental quality throughout the state.

NJCF supports A-1259. We feel that a bank is essential for the effective tracking of credits, as well as to assist landowners with hardships in the Pinelands.

We also feel that there is a need to determine validity of title in the case of credit issuance beyond the stipulation that the owner must be of record in the index of deeds. (note page 3, paragraph 6, line 5) There are some other technical points that we will submit to the committee staff.

We strongly support this legislation, and urge its release from your committee for full assembly action as soon as possible. Credits are already being purchased by both public and private agents. With more towns earning conformance each week, it's essential that this enabling legislation be put into place as soon as possible.

I thank you for the opportunity to take part in this meeting and present our views.

TESTIMONY OF TERRENCE D. MOORE, EXECUTIVE DIRECTOR
OF THE PINELANDS COMMISSION BEFORE THE ASSEMBLY
AGRICULTURE AND ENVIRONMENT COMMITTEE ON
DECEMBER 9, 1982
BUENA VISTA TOWNSHIP MUNICIPAL BUILDING

ASSEMBLYMAN MARSELLA AND MEMBERS OF THE COMMITTEE.

MY NAME IS TERRENCE D. MOORE AND I AM THE EXECUTIVE DIRECTOR OF
THE PINELANDS COMMISSION.

LET ME FIRST THANK YOU FOR THE OPPORTUNITY TO TESTIFY BEFORE
YOU IN SUPPORT OF ASSEMBLY BILL 1259 - THE PINELANDS DEVELOPMENT
CREDIT BANK ACT.

ON JANUARY 14, 1981 WHEN THE NEW JERSEY PINELANDS COMPREHENSIVE
MANAGEMENT PLAN WENT INTO EFFECT, LANDOWNERS WITHIN THE PRESERVATION
AREA AND AGRICULTURAL PRODUCTION AREAS OF THE PINELANDS RECEIVED
PINELANDS DEVELOPMENT CREDITS WHICH CAN BE TRANSFERRED TO REGIONAL
GROWTH AREAS RESULTING IN INCREASED DEVELOPMENT DENSITIES. THE
PROGRAM IS A RELATIVELY NEW INNOVATION OF THE TRANSFER OF DEVELOP-
MENT RIGHTS CONCEPT. INDEED, IT IS ATTRACTING THE ATTENTION OF,
AND BEING CLOSELY MONITORED, BY THOSE INTERESTED IN LAND USE
THROUGHOUT THIS NATION AND IN CANADA, AS WELL. THIS, OF COURSE,
IS NOT A STRANGE POSITION FOR NEW JERSEY. OUR STATE HAS A
REPUTATION FOR BEING AT THE CUTTING EDGE OF SO MANY ISSUES WHETHER
IT BE PLANNING, PROTECTION OF THE ENVIRONMENT, HOUSING, AND A HOST
OF OTHERS.

IN DESIGNING THE PINELANDS DEVELOPMENT CREDIT PROGRAM, THE PINELANDS COMMISSION RECOGNIZED, THAT AS WITH ANY NEW PROGRAM, CONFIDENCE OF THOSE WHO POSSESSED CREDITS AND THOSE WHO WOULD USE THEM WOULD REQUIRE A DEMONSTRATION OF PRIVATE TRANSACTIONS AND AN EVALUATION OF THE PROFITABILITY OF THIS NEW ELEMENT OF THE PLANNING PROCESS. IN THE INTERIM THE COMMISSION PROPOSED THE ESTABLISHMENT OF A STATE PINELANDS DEVELOPMENT CREDIT BANK TO ADDRESS THE NEED FOR A TEMPORARY STRUCTURE THAT WOULD ACQUIRE CREDITS PRIOR TO THE PRIVATE MARKETPLACE TAKING FULL HOLD OF THE PROGRAM WHERE HARDSHIPS EXISTED. BASED UPON A CONCERN OF THE AGRICULTURAL COMMUNITY THAT BORROWING POWER MIGHT BE REDUCED UNTIL SALES OF CREDITS BECAME COMMON PRACTICE, A PROPOSAL FOR A MINIMUM GUARANTEE OF THE COLLATERAL VALUE OF CREDITS WAS INCLUDED IN THE RECOMMENDATION.

ASSEMBLY BILL 1259 SPONSORED BY ASSEMBLYMAN LESNIAK, AND I AM PLEASED TO NOTE, BY A NUMBER OF LEGISLATORS FROM THE SOUTHERN PORTION OF OUR STATE IS AN IMPORTANT STEP IN ASSISTING PROPERTY OWNERS IN THE PINELANDS AREA. MOST IMPORTANTLY, IT PROVIDES THE TEMPORARY OUTLET FOR THE SALE OF CREDITS WHEN HUMAN SITUATIONS ARISE THAT CANNOT BE SOLVED BY AWAITING A PRIVATE SALE. A SALES PRICE OF \$10,000 IS SET AS A REASONABLE VALUE FOR SUCH ACQUISITION BASED UPON STUDIES UNDERTAKEN BY THE COMMISSION ON THE POTENTIAL RANGE OF VALUES OF CREDITS IN THE PRIVATE MARKETPLACE. IT WAS FELT AT THE TIME, AND IS TODAY, THAT THE BANK SHOULD NOT OFFER PRICES IN THE HIGHER RANGE BECAUSE THE PRIVATE MARKETPLACE WOULD NOT BE ABLE TO COMPETE IN THE EARLY STAGES OF THE PROGRAM.

BURLINGTON COUNTY, WHICH IS THE LOCATION OF THE PREPONDERANCE OF THE PRESERVATION AREA, HAS TAKEN A LEADERSHIP ROLE, AND I MUST ADD IN THE TRUEST SPIRIT OF THE PARTNERSHIP ROLE THAT THE PINELANDS PROTECTION ACT ENVISIONED, IN CREATING ITS OWN COUNTY BANK. IT HAS DEMONSTRATED CLEARLY, BASED UPON THE APPLICATIONS RECEIVED AND ITS PURCHASE OF CREDITS THAT THE \$10,000 FIGURE IS A VIABLE ONE. THE BILL BEFORE THIS COMMITTEE TODAY, WOULD ALSO ENCOURAGE OTHER COUNTIES TO PARTICIPATE IN THE CREDIT PROGRAM.

I AM PLEASED TO REPORT TO THE COMMITTEE THAT THE PRIVATE MARKET-PLACE IS TAKING ITS FIRST STEPS IN RESPONDING TO THE PINELANDS DEVELOPMENT CREDIT PROGRAM. VICE-CHAIRMAN SHINN, ACTING ON BEHALF OF CHAIRMAN PARKER, AND I RECENTLY SIGNED THE NECESSARY DOCUMENTS TO ENFORCE AN EASEMENT ON A PROPERTY WHERE CREDITS ARE BEING SOLD TO A DEVELOPER FOR USE IN A REGIONAL GROWTH AREA. WHILE I AM NOT ABLE BECAUSE OF THE CONFIDENTIAL NATURE OF THE SALE TO DISCLOSE THE PURCHASE PRICE OF THE CREDITS, I CAN STATE THAT IT EXCEEDS EVEN THE HIGH END OF THE PROJECTIONS OF VALUE ESTIMATED DURING OUR STUDIES OF THE PROGRAM.

AT THE COMMISSION'S MOST RECENT MEETING, ACTION WAS TAKEN UPON AN APPLICATION BY A PROPERTY OWNER FOR A NEW SPECIAL AGRICULTURAL AREA DESIGNATION. IT IS OUR FIRM BELIEF, BASED UPON THE CIRCUMSTANCES INVOLVED, THAT CREDITS FROM THIS PARTICULAR AREA WILL ALSO BE TRANSFERRED TO A PROPERTY IN A REGIONAL GROWTH AREA.

THE PINELANDS COMMISSION HAS ALREADY ISSUED RESPONSES TO TWO DOZEN APPLICATIONS REQUESTING A DETERMINATION OF THE SPECIFIC NUMBER OF CREDITS ALLOCATED TO PARCELS OF LAND IN THE PINELANDS AREA. WE HAVE ALSO ISSUED APPROVALS TO TEN DEVELOPMENT PROJECTS

IN REGIONAL GROWTH AREAS THAT WILL REQUIRE THE USE OF PINELANDS DEVELOPMENT CREDITS TO ACHIEVE THE DESIRED DEVELOPMENT DENSITIES. AS MORE COMMUNITIES HAVE THEIR REVISED MASTER PLANS AND ZONING ORDINANCES CERTIFIED BY THE COMMISSION (AND THE NUMBER GROWS EACH MONTH), THE MARKET WILL GROW STRONGER.

THAT IS NOT TO SAY, HOWEVER, THAT THE NEED FOR A STATE BANK HAS PASSED. THERE ARE THOSE, PARTICULARLY, SMALL PROPERTY OWNERS, FOR WHOM THE MARKETPLACE WILL NOT TAKE HOLD SOON ENOUGH. ASSISTANCE IS NEEDED. BURLINGTON COUNTY'S PROGRAM IS DEMONSTRATING THAT TO US EACH WEEK.

THE PINELANDS COMMISSION HAS HAD AN OPPORTUNITY TO REVIEW CAREFULLY, THE PROVISIONS OF A-1259. WE DO NOT VIEW THIS BILL AS AN AGRICULTURAL MEASURE, ALTHOUGH IT HAS AN AGRICULTURAL COMPONENT. WE VIEW IT AS A MEASURE TO ASSIST, WHEN ASSISTANCE IS NECESSARY, PROPERTY OWNERS IN THE PRESERVATION AREA, PARTICULARLY, WHO MAY WISH TO TAKE ADVANTAGE OF THE OPPORTUNITY THE BANK MAY OFFER TO THEM. IN THAT SPIRIT THE PINELANDS COMMISSION HAS ENDORSED A-1259 - THE PINELANDS DEVELOPMENT CREDIT BANK ACT AND I AM PLEASED TODAY, TO TRANSMIT COPIES OF THE COMMISSION'S RESOLUTION TO YOU. THIS BILL WOULD DO MUCH TO SUPPLEMENT THE ALREADY EXISTING PROGRAM THAT HAS BEEN IN EFFECT SINCE 1981.

LET ME THANK YOU AGAIN, FOR THE OPPORTUNITY TO TESTIFY AT THIS HEARING. I WILL, OF COURSE, REMAIN FOR THE REST OF THE HEARING SHOULD YOU HAVE QUESTIONS THAT I MAY RESPOND TO.



ENVIRONMENTAL DEFENSE FUND

STATEMENT OF
THE ENVIRONMENTAL DEFENSE FUND
ON ASSEMBLY BILL A 1259
BEFORE THE NEW JERSEY STATE ASSEMBLY
COMMITTEE ON AGRICULTURE AND ENVIRONMENT
By James T. B. Tripp and Adam Stern
December 9, 1982

Assembly Bill A 1259 provides for the establishment of a New Jersey Pinelands Development Credit Bank. EDF strongly endorses the establishment of such an institution with powers co-terminus with the boundaries of the Pinelands to facilitate the exchange of PDCs and their use as security for loans. EDF also endorses the authorization and appropriation of funds for this bank. The New Jersey Pinelands PDC Program is of a scope unprecedented in the country. It is important, not only for the New Jersey Pinelands, but for comparable regional planning efforts elsewhere in the country intended to protect critical ecosystems and water resources through rechannelizing development, that the Pinelands PDC Program work effectively. We therefore strongly support this Bill.

Development and Implementation
of the New Jersey Pinelands
Comprehensive Management Plan

With the passage of Section 502 of the 1978 National Parks and Recreation Act, 16 U.S.C. §471i (the "Federal Act"), the United States Congress established the one million-acre New Jersey Pinelands as the first National Reserve. In this Act, Congress recognized the national significance of the Pinelands' natural and cultural resources.

6X

In Section 502(a), 16 U.S.C. § 471i(a), Congress found as follows:

(1) the Pinelands area in New Jersey, containing approximately 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, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

The findings reflect Congress' design to protect the resources of the Pinelands and to foster cooperation among local, state and federal authorities to further that goal.

In June 1979, the New Jersey Legislature enacted the Pinelands Protection Act, 13 N.J. Stat. Ann. §18A-1 (the "State Act"). In Section 2, 13 N.J. Stat. Ann. §18A-2, the State Act provides, in pertinent part:

"The Legislature hereby finds and declares that the pinelands area comprises pine-oak forests, cedar swamps, and extensive surface and ground water resources of high quality which provide a unique habitat for a wide diversity of rare, threatened and endangered plant and animal species and contains many other significant and unique natural, ecological, agricultural, scenic, cultural and recreational resources; that the continued viability of such area and resources is threatened by pressures for residential, commercial and industrial development; . . ."

In addition, the State Act established the Pinelands Commission (the "Commission") and directed it to prepare a Comprehensive Management Plan ("CMP") for the area. The Plan was to include protection for a "Preservation Area," which was especially vulnerable to environmental degradation, and a "Protection Area," the remainder of the Pinelands. ^{1/}

The goals of the CMP with regard to the Protection and Preservation Areas are set out in Section 8 of the State Act. 13 N.J. Stat. Ann. § 18A-8. See also, pp. 193-195 of the CMP, Chapter 7, "Protecting the Pinelands," for a discussion of those resource goals and policies.

The Commission approved the Plan for the Preservation on August 8, 1980 and the entire CMP on November 21, 1980. On or about December 1, 1980, former Governor Byrne approved the CMP, and former Secretary of the Interior Cecil Andrus approved it on January 16, 1981. Since early 1981, the 52 municipalities and seven counties in the Pinelands have been engaged in revising their zoning ordinances and master plans to conform with the CMP.

Land Use Goals of the Federal and State Acts and CMP

The basic goals of the CMP are to protect the significant natural and cultural resources of the Pinelands -- pinelands vegetation, both wetland and non-wetland, and ground and surface water resources ^{2/} -- and to promote growth in and around existing population centers. The State Act specifically provided that the Plan should "discourage piecemeal and scattered development." 13 N.J. Stat. Ann. §18A(b)(4). Further, the Pinelands Protection Act required in 13 N.J. Stat. Ann §18A(b)(5) that the Plan

"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 thereof."

2+
See CMP, Chapter 2, "Natural Resources of the Pinelands," pp. 7-9 and Plates 2-8 and 10-12. Section 8(b)(2) of the State Act, 13 N.J. Stat. Ann. § 18A-8(b)(a).

In order to preserve the overall ecological integrity of the Pinelands and accommodate reasonable population growth, the CMP establishes eight "management areas" for the purpose of directing the distribution and intensities of land use; the Preservation Area District, Forest Area, Agricultural Production Area, Special Agricultural Production Area, Rural Development Area, Pinelands Villages and Towns, Regional Growth Area and Military and Federal Installation Area. They are graphically depicted on Page 28, the Plan's Land Capability Map.

Consistent with state and federal statutory requirements, the basic concept of the Pinelands CMP is, accordingly (1) the protection of critical ecological areas and cultural resources located in the most sensitive areas, including the core Preservation Area and Forest Areas; (2) the preservation of blueberry, cranberry and other prime agricultural lands in the Agricultural Production Area; and (3) the active promotion of residential and commercial development in existing communities, such as Pinelands Towns and Villages, and designated Regional Growth Areas situated primarily along the periphery of the Pinelands which can best accommodate growth (CMP, pp. 394-399), Pinelands municipalities located in the Regional Growth Area must provide for residential densities to accommodate Pineland development credits, which are use rights

issued by the Commission to owners of private land in the Preservation Area and Agricultural Production Area. If a Regional Growth Area becomes fully developed, a municipality may designate an adjacent portion of a Rural Development Area as a Municipal Growth Reserve. Finally, the Plan accommodates residential development by exempting from density requirements certain single lot owners in the Forest, Rural and Agricultural Production Areas who owned land on February 7, 1979 and subdivisions approved by that date (CMP, p. 401).

Role of the PDC Program

The CMP is designed to accommodate the same level of overall population growth to the year 2000 which the State of New Jersey has otherwise projected for its Pinelands (CMP, pp. 161-163, 178-181). The CMP seeks, however, to redirect this growth from the sensitive, large expanses

of forested lands to less sensitive areas within or near existing communities with supporting public facilities. Towards this objective, the CMP's Pinelands Development Credit Program described in the CMP at pp. 210-212 and CMP Article 5 "Minimum Standards for Land Uses and Intensities," Part 3, pp. 401-403, play a significant role. The purpose of the PDC Program is explained in Part 3 of the CMP, Section 5-401, p. 401 as follows:

"If land use and development of the Pinelands is concentrated in Regional Growth Areas, the Pinelands as a region can tolerate additional development without damaging the Pinelands environment. It is the purpose of this Part to facilitate such patterns of growth and development by providing landowners in the Preservation Area District, Special Agricultural Production Areas, and Agricultural Production Areas with an opportunity to secure an additional beneficial use of their land without the risk of damaging the essential ecological character of the Pinelands."

The CMP also requires that townships and counties in the Pinelands must accommodate this Program in order to conform to the CMP, Section 5-402, p. 401, as follows:

"In order to be certified under the provisions of Part 4 of Article 3 of this Plan, the master plan and land use ordinances of a municipality which has land in a Regional Growth Area shall include provisions implementing the Pinelands Development Credit Program."

Thus, it is clear from the CMP that the Pinelands Development Credit Program is an integral part of the overall CMP. It is It is an ingenious to-1 both to accommodate reasonable development interests in the Pinelands as a region and to preserve most of the unique ecological, water, agricultural and cultural resources of the Pinelands.

It must be recognized that the Pinelands as an ecological and cultural resource of state and national significance, as reflected in the federal and state acts, could not survive if piecemeal, scattered development were to proceed apace. Severe restrictions on development in large contiguous tracts of the forested Pinelands is a sine qua non for its long-term integrity. Our generation could decide to attain this Pinelands conservation goal solely through restrictions on development. In the CMP, however, the Commission, buttressed by policy pronouncements in the state and federal acts, decided to maintain overall levels of population and economic growth. These dual conservation and development objectives can be attained, however, only through significant rearrangement of prospective growth.

In turn, this rearrangement or channelizing of development could be accomplished solely through use of traditional land use powers - upzoning the Preservation, Forest and Agricultural Production Areas and downzoning to pre-determined densities in the Regional Growth Areas. However, in adopting the PDC Program, the Commission recognized the vital role which economic incentives can play in accommodating the CMP's and statutory conservation and development goals. It is this role which the PDC program is designed to serve. Simultaneously, it provides, in effect, economic "incentives" to property owners in the Preservation and Agricultural Areas to conserve those holdings. On the other hand, it provides property owners in the regional growth areas with economic incentives to develop to higher densities in accordance with the CMP. The PDC program is

therefore twice blessed. "It blesseth him that gives, and him that takes." It functions as a kind of Adam Smithian invisible hand, guiding property owners to make decisions which, cumulatively, attain the dual conservation and development goals of the CMP. In the process, it provides considerable equity and fairness which land use regulations alone would not furnish.

The PDC Bank

Although the PDC Program may be able to function without the institutional and financial support that this bill provides, this bill would greatly strengthen the credibility and daily workability of the program.

The CMP, with statutory foundation, has established the Program within the boundaries of the Pinelands over which the Commission exercises ultimate land use powers. Thus, the CMP establishes the bare legal and economic framework for the Program. Through the certification process, the townships and counties in the Pinelands must accommodate the Program by allowing for increased densities in regional growth areas within their municipal boundaries reflecting the bonus densities of the PDCs. This process is underway.

Like most aspects of the CMP, the PDC Program has been challenged legally. We can anticipate more challenges in the future, particularly by those who dislike the Plan and see the PDC Program as increasing its palatibility. Most recently, two Burlington County taxpayer residents have challenged the legality of a Pinelands Conservation Easement and Pinelands Development Credit Exchange Board which Burlington County has established, capitalized initially with county bond funds, to facilitate the exchange of PDCs. One of the legal arguments which the plaintiffs have raised is

is that the state legislature has failed to enact legislation specifically authorizing such exchange boards.

Quite aside from these legal challenges, it cannot be doubted that effective implementation of the PDC Program would be enhanced by establishment of appropriate Pinelands institutional mechanisms. This is exactly what the bill before us does. Institutions make ideas work. The PDC bank which this bill establishes will help make the PDC program work.

Unlike other legislative proposals, this bill limits the jurisdiction of the proposed bank to the Pinelands. This is a critical jurisdictional limitation since the Commission has no legal powers to control land use decisions and therefore to provide for receipt of PDCs as bonus densities outside the Pinelands. In addition, the funding for the bank under the bill will give the PDC program some much needed seed capital and therefore give it some much needed elan. It should be emphasized that the level of public funding, \$5 million, is a small fraction of the state and federal monies available for Pinelands acquisition. Yet, this small amount will accomplish much more. It therefore represents a very wise use of scarce public resources to accomplish major land use goals.

The National Importance of the PDC
Program and the Bank

No other state has ever attempted to implement a transfer of development credit program on this kind of rule. Yet, we must

recognize that such programs could be of vital importance to local and state governments interested in preserving critical ecological, water, forest and agricultural resources where acquisition funds are limited. Thus, the successful acceptance and implementation of the Pinelands PDC Program is important to all states in the nation.

Likewise, no state, to our knowledge has established a bank to facilitate the exchange of development credits to attain, simultaneously, regional conservation and development objectives. Because of its deserved high reputation in the field of regional land use planning and willingness to take innovative measures to conserve important natural resources, we look to New Jersey to take this significant step to establish the Pinelands PDC bank and, in the process, to show to others elsewhere that this program will work.

CONCLUSION

We urge this Committee, the entire State Legislature and the Governor to support this Bill to establish a Pinelands PDC bank. We look to them for leadership in taking innovative land use measures to protect the New Jersey Pinelands and, in the process, to provide other states with the example and the courage to take similar actions elsewhere.

Atlantic County Board of Agriculture

1200 W. HARDING HIGHWAY
MAYS LANDING, NEW JERSEY

DECEMBER 9, 1982

SUBJECT: COMMENTS ON "PINELANDS DEVELOPMENT CREDIT BANK ACT"

TO WHOM IT MAY CONCERN:

THE ATLANTIC COUNTY BOARD OF AGRICULTURE WISHES TO EXPRESS APPRECIATION FOR THE OPPORTUNITY TO MEET BEFORE YOU TO DISCUSS ASSEMBLY BILL #1259, KNOWN AS "PINELANDS DEVELOPMENT CREDIT BANK ACT."

OUR BOARD HAS IN THE PAST OFFERED TESTIMONY IN REFERENCE TO THE PINELANDS COMPREHENSIVE MANAGEMENT PLAN AND HAS OBJECTED TO THE MANNER IN WHICH AGRICULTURAL LANDS THROUGHOUT THE PINELANDS REGION HAVE BEEN PLACED IN AGRICULTURAL PRODUCTION AREAS WITH SUBSEQUENT LOSS OF VALUABLE DEVELOPMENT RIGHTS.

BASED ON THIS FACT, LAND VALUES IN AGRICULTURAL PRODUCTION AREAS HAVE DROPPED CONSIDERABLY MAKING IT DIFFICULT FOR FARMERS TO OBTAIN NECESSARY CREDIT TO CARRY ON THEIR FARM OPERATIONS. THE PROPOSAL OF THIS PINELANDS DEVELOPMENT CREDIT BANK IN OUR OPINION DOES NOT RESOLVE THE MAJOR ISSUES THAT CONFRONT THE AGRICULTURAL COMMUNITY.

THERE ARE SEVERAL RESERVATIONS THAT WE HAVE IN REFERENCE TO THE CONCEPT OF PINELAND DEVELOPMENT CREDITS. IS THIS A PROPOSAL OF THE PINELANDS COMMISSION TO PROVIDE COMPENSATION TO FARMERS AND FOREST LAND OWNERS FOR THEIR LOSS OF DEVELOPMENT RIGHTS? IF IT IS, WE DO NOT SEE IN THE DEFINITION OF A PINELANDS DEVELOPMENT CREDIT ANY REFERENCE TO THE WORD COMPENSATION.

ALSO, WE TAKE OBJECTION TO THE FACT THAT PINELAND DEVELOPMENT CREDITS WILL BE PURCHASED ONLY TO ALLEVIATE HARDSHIP. THE POTENTIAL CREDIT BANK

SHOULD PURCHASE P.D.C.'S ON DEMAND WHEN FARMERS OR FOREST LAND OWNERS OFFER THEM FOR PURCHASE.

ANOTHER POINT THAT WE WOULD LIKE TO RAISE IS THE MANNER IN WHICH THE \$10,000 VALUE FOR EACH P.D.C. WAS ACTUALLY DETERMINED. FARMERS WILL REALIZE APPROXIMATELY \$500 PER ACRE ACCORDING TO YOUR CONCEPT. THIS IS ON THE BASIS OF TWO CREDITS FOR EACH 39 ACRES OR PORTION THEREOF WHICH IS UNJUST.

FARMERS IN HAMMONTON, MULLICA, GALLOWAY, AND BUENA VISTA TOWNSHIPS WILL BE GIVEN THE SAME DOLLAR VALUE FOR THEIR P.D.C.'S AS FARMERS IN THE UNDEVELOPED CENTRAL PORTION OF THE PINELANDS PERSERVATION ZONE WHERE LAND VALUES ARE NOT AS HIGH. DO YOU FEEL THAT THIS IS JUST?

MANY FARM LAND OWNERS IN THE ABOVE MENTIONED MUNICIPALITIES WERE OFFERED \$3,500 TO \$4,000 PER ACRE FOR THEIR LAND PRIOR TO THE PINELANDS COMPREHENSIVE MANAGEMENT PLAN. NOW YOU OFFER A MERE \$500 WHEN A MORE REALISTIC FIGURE WOULD BE \$2,000 TO \$2,500 FOR THE DEVELOPMENT RIGHTS.

WE ARE ASKING THAT THE STATE GOVERNMENT GIVE THE PINELAND FARMERS THE SAME BENEFITS THAT WILL BE PROVIDED THEIR COUNTERPARTS IN THE REMAINDER OF NEW JERSEY WHEN THEY VOLUNTEER TO OFFER THEIR LAND IN THE NEW FARMLAND RENTENTION PROGRAM. IN THIS NEW PROPOSAL, JUST RECENTLY PASSED BY OUR LEGISLATIVE, FARMERS WILL BE PAID FOR THEIR DEVELOPMENT RIGHTS WHEN THE LAND IS RESTRICTED FOR JUST AGRICULTURAL PRODUCTION.

THE REQUEST THAT STATE GOVERNMENT PROVIDE THE TOTAL COMPENSATION FOR THE LOSS OF DEVELOPMENT RIGHTS IS TO BE CERTAIN THAT ALL FARMERS IN THE PINELANDS REGION RECEIVE WHAT IS JUSTLY DUE TO THEM.

WE DOUBT THAT THE P.D.C. SYSTEM WILL WORK. THERE ARE TOO MANY THINGS GOING AGAINST IT. NO ONE TO OUR KNOWLEDGE HAS EVEN OFFERED TO BUY ONE CREDIT AT ANY PRICE UP TO THIS TIME. THE CONCEPT OF TRANSFER OF DEVELOPMENT RIGHTS OR PINELANDS DEVELOPMENT CREDITS AS YOU CALL THEM, HAS NOT WORKED ANYWHERE ON SUCH A LARGE AREA AS BEING PROPOSED. WE DO NOT

FEEL THAT OUR FARMERS AND FOREST LAND OWNERS SHOULD BE USED AS GUINEA PIGS IN SUCH A VENTURE.

IF YOU TAKE THE POSITION THAT STATE GOVERNMENT CANNOT PROVIDE SUFFICIENT FUNDING FOR A MORE EQUITABLE VALUE FOR P.D.C.'s, THEN IT IS OUR RECOMMENDATION THAT YOU ALLOW FARMERS AND FOREST LAND OWNERS TO SUBDIVIDE THEIR PROPERTIES INTO UNITS OF 3½ ACRES FOR SALE WHEN THEY ELECT TO DO SO.


THIS SUBDIVISION WOULD OF COURSE BE BASED ON SOILS THAT HAVE PROPER DRAINAGE.

IF YOU DO NOT MODIFY YOUR PRESENT PROPOSAL TO A MORE EQUITABLE PLAN, WE WILL PREDICT THE RAPID LOSS OF AGRICULTURAL LANDS TO DEVELOPMENT OUTSIDE OF THE PINELANDS REGION. THIS WILL TAKE PLACE IN THE HEART OF OUR STATE'S PRIME AGRICULTURAL AREA--CUMBERLAND, GLOUCESTER, AND CAMDEN COUNTIES, BORDERING ATLANTIC COUNTY. DO YOU WANT THIS? WE DO NOT THINK YOU DO!

WE HOPE THAT YOU WILL TAKE OUR SUGGESTIONS INTO CONSIDERATION AND MODIFY THE "PINELAND DEVELOPMENT CREDIT BANK ACT" AND FOR THE PINELANDS COMPREHENSIVE MANAGEMENR PLAN WHICH OVER-REGULATES THE USE OF PRIVATE LAND.

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR VIEWS ON A TOPIC SO VITAL TO FARMERS AND FOREST LAND OWNERS IN THE PINELANDS REGION.

SINCERELY,



SALVATORE J. MAZZA
PRESIDENT
ATLANTIC COUNTY BOARD OF AGRICULTURE



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

No. 82-35

Date of Adoption 6/4/82

Title

RESOLUTION Expressing the Pinelands Commission's Support of Assembly Bill No. 1259, Pinelands Development Credit Bank Act.

Commissioner Chavooshian presents the following Resolution:

WHEREAS, the New Jersey Pinelands Comprehensive Management Plan contains an innovative land use program referred to as the Pinelands Development Credit (PDC) Program;

WHEREAS, the PDC program is designed to encourage development in suitable growth areas within the Pinelands and provide an additional economic use for property in areas restricted from traditional development due to the existence of environmentally sensitive or important agricultural lands; and

WHEREAS, the State of New Jersey can take positive steps to facilitate the full implementation of the PDC program through the establishment of a state Pinelands Development Credit Bank; and

WHEREAS, Assembly Bill Number 1259 proposes to establish such a State Pinelands Development Credit Bank; and

WHEREAS, the proposed State Bank would acquire PDC's in case of hardship and guarantee the value of PDC's for loan purposes for a five year period, and would further maintain supporting records for the PDC program;

NOW THEREFORE BE IT RESOLVED that the Pinelands Commission expresses its support for the creation of a Pinelands Development Credit Bank as expressed in Assembly Bill No. 1259.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Governor and members of the Legislature.

Record of Commission Votes

Commissioners	AYE	NAY	NP	ABS	Commissioners	AYE	NAY	NP	ABS	Commissioners	AYE	NAY	NP	ABS
Ashmun			X		Darlington	X				Shinn	X			
Davidge	X				Murray		X			Newcomb	X			
Batory	X				McFadden	X				Brown	X			
Burke			X		Nanzetta			X		West	X			
Chavooshian	X				Patterson	X				Chmn. Parker	X			

Adopted at a meeting of the Pinelands Commission

Date: June 4, 1982

Executive Director

Chairman

447

RECEIVED

FEB - 5 1982

Mid-Atlantic
Legal Foundation
Philadelphia, PA

RESOLUTION

RESOLUTION, Burlington County has successfully demonstrated the applicability of a conservation easement in the Pinelands; and

RESOLUTION, the Pinelands Conservation Easement Bond Referendum demonstrated a strong public support for preservation of the Pinelands; and

RESOLUTION, the Pinelands Comprehensive Management Plan provides a Development Credit allocation to those property owners who have had their residential development potential restricted; and

RESOLUTION, a system to ensure the workability of the envisioned Pinelands Development Credit program has not been implemented; and

RESOLUTION, it is in the interest of Burlington County to do everything in its power to ensure that a fair and equitable preservation effort be implemented; and

RESOLUTION, a system of purchasing PDC's, issuing conservation easements, and marketing... would relieve hardship and assist in meeting the necessary housing density goals of the Pinelands CMP; now, therefore, be it

RESOLVED, by the Burlington County Board of Chosen Freeholders that the Burlington County Conservation Easement and Pinelands Development Credit Exchange be created consisting of:

Board

- A. The BCCEPDCE shall be governed by a Board of Trustees consisting of five (5) voting members as follows:
 1. the president of the Burlington County Bar Association.
 2. the Burlington County Pinelands Conservation Easement Advisory Committee chairperson.
 3. the Burlington County Farmland Preservation Advisory Committee chairperson.
 4. the chairperson* of the New Jersey Pinelands Commission.

designated alternate of the Pinelands Commission chairman shall be a member of the Commission and shall have full authority and power to vote in the absence of the chairman.

RESOLUTION

5. the director of the Burlington County Board of Chosen Freeholders; and the following ex-officio members (non-voting):
 - a. the Burlington County Clerk/Administrator
 - b. the Burlington County Solicitor
 - c. the Burlington County Comptroller
 - d. the Burlington County Department of Economic Development Director

II. Purchases

- A. The exchange shall have the authority to purchase, in the name of the Burlington County Board of Chosen Freeholders in a form sanctioned by the New Jersey Pinelands Commission, Pinelands Development Credits at a purchase price of \$10,000 per credit of a fraction thereof. Fractions of PDC's shall be considered on buildable lots no smaller than a quarter ($\frac{1}{4}$) acre. Said lots must have been in existence prior to the issuance of Executive Order #71 (February 8, 1979) and affirmed in writing by the municipal building inspector.

Only PDC's originating from sending districts within the geographic boundaries of Burlington County shall be purchased by the Board. Exceptions for PDC purchases outside of Burlington County may be considered when they are in the best interest of the public and the County. This action will require a three-quarter vote of the members.

- B. The purchase of PDC's shall take place only in cases of economic hardship, the criteria of which shall be determined by the Board.
- C. The Board shall have the authority to receive gifts of PDC's upon completion of the title and approval processes.
- D. PDC's for a specific property must be certified by the New Jersey Pinelands Commission prior to purchase.
- E. Upon clear title guarantee and approval of the Board, a settlement would take place transferring the certified PDC's from the property with a recorded conservation easement which shall run in perpetuity in a form approved and enforceable by the New Jersey Pinelands Commission. The easement shall be in the name of the Burlington County Board of Chosen Freeholders. The property owner shall

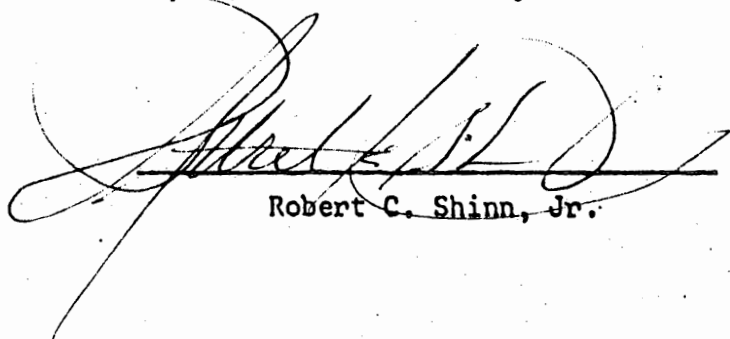
ADOPTED _____, 19 _____

CLERK

RESOLUTION

receive financial compensation and maintain restricted title.

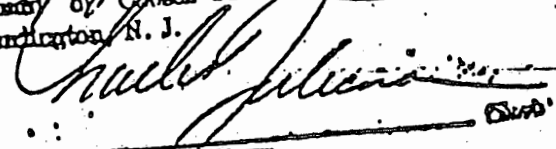
- F. PDC's purchases will be funded through Burlington County's Pinelands Conservation Easement Bond issue.
- G. The County shall utilize the funds received from the sale of the PDC's to purchase additional PDC's or direct conservation easements.
- H. "A waiver of hardship" requirement may be granted by a three-quarter vote of the Board. A waiver must be determined to be in the best interest of the citizenry of Burlington County.
- I. Prior to the purchase of the PDC a "Certification of Available Funding" must be obtained from the County Comptroller.
- J. The Board is authorized to sell the PDC's in a public manner in accordance with the statutes.
- K. Board members shall serve without compensation for a twenty-four month term.



Robert C. Shinn, Jr.

I hereby certify that the foregoing is a true, full and correct copy of resolution adopted by the Board of Chosen Freeholders of the County of Burlington, N. J.

ADOPTED September 23 19 81


Charles T. Juliana CLERK



**BURLINGTON COUNTY
CONSERVATION EASEMENT and
PINELANDS DEVELOPMENT CREDIT
EXCHANGE BOARD**

**PROCEDURAL
GUIDE**

24x **BURLINGTON COUNTY
BOARD of CHOSEN FREEHOLDERS**

BOARD OF CHOSEN FREEHOLDERS

OF THE COUNTY OF BURLINGTON

MOUNT HOLLY, NEW JERSEY

08000

609 267-3300

Ext. 5000

OFFICE OF THE
BOARD OF CHOSEN FREEHOLDERS

Charles T. Juliana
Clerk Administrator

Harold L. Colburn, M.D.
Michael J. Conda
Catherine A. Costa
Henry W. Metzger
Robert C. Shinn, Jr.

February 1, 1982

Dear Pineland Landowners:

With the recent adoption of the Pinelands Comprehensive Management Plan and the incorporation of that plan into the local municipal master plans, certain landowners now possess Pineland Development Credits (PDC's).

The PDC's originate with lands in the section of the Pinelands known as the preservation and agricultural areas and are a transferrable and saleable commodity. Ultimately, landowners or developers in the Pinelands Protection area will form the market for PDC's. In very general terms, ownership of PDC's will enable the owner/developer to increase a building density in certain protection area zones.

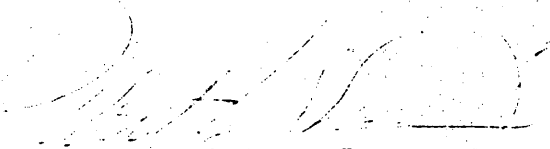
In order to stimulate the free exchange of PDC's and initiate financial compensation to PDC owners, the Board of Chosen Freeholders created the Burlington County Conservation Easement and Pinelands Development Credit Exchange (Exchange).

The Exchange is designed to purchase PDC's for a fixed purchase price of \$10,000 per credit and sell them at auction to the highest bidder. The rules, regulations and application forms for PDC sale are enclosed in this guide.

We hope that you will read all the information. If there are any questions, county staff is available to assist you. For further information, call the Burlington County Department of Economic Development (609) 261-5055.

Sincerely,

Michael J. Conda
Freeholder Director


Robert C. Shinn, Jr.
Deputy Freeholder Director

QUESTIONS AND ANSWERS CONCERNING THE BURLINGTON COUNTY PROGRAM

1. What is the Pineland Credit Exchange Board (Exchange)? A Board created by the Burlington County Board of Chosen Freeholders authorized to buy and sell Pineland Development Credits (PDC's).

2. Who receives Pineland development credits? Property owners in the Preservation Area or in one of the Agricultural Production Areas may receive allocations of PDC's. Allocations are made by the New Jersey Pinelands Commission, pursuant to the Comprehensive Management Plan.

3. Why should I sell credits to the Exchange? Application to the Exchange is a voluntary act of the owner. The Exchange will not seek out sellers or use the county's eminent domain powers to purchase credits. Each credit owner is advised to examine all alternatives prior to applying to the Exchange. (Legal and/or financial counsel is advisable). A brochure entitled Pineland Development Credits: A Landowners Guide is attached and explains the credit allocation system.

4. How much will I be paid for my credits? The Exchange has established the fixed rate of compensation at \$10,000 per credit or a fraction thereof in $\frac{1}{4}$ credit allotments. Example #1: A Credit owner with 2 credits would be paid \$20,000. Example #2: A Credit owner with $\frac{1}{4}$ credit would be paid \$2,500.

5. How do I apply to sell my credits to the Exchange? Application forms are enclosed in this Procedural Guide. Anyone needing assistance in completing an application should call the Burlington County Department of Economic Development (609) 261-5055 for further information.

6. Who can sell to the Exchange? Any credit owner who:
 1. owns credits which are allocated to land ($\frac{1}{4}$ acre minimum), within the geographic boundaries of Burlington County;
 2. can demonstrate that a hardship situation exists; and,
 3. applies to the Exchange.

7. What will the Exchange accomplish? The Exchange is designed to stimulate the private transaction of PDC's by demonstration. The Exchange will self-destruct in 2 years (unless the private transaction of PDC's begin in volume even sooner).
8. What do I give up with the sale of credits? At a credit purchase "sale", credits will be transferred to the Board of Chosen Freeholders and the seller is paid according to the formula explained in #4.

Also, a Conservation Easement is placed on the "selling" property, restricting use for development purposes by a recorded restriction on the deed. A sample "deed of conservation easement" is enclosed.

9. How will hardship be determined? The Exchange Board will examine financial and other information submitted in the application. Among the criteria that the Exchange will consider are:
 - A. Personal net worth vs. investment in the land
 - B. Unsuccessful application to the New Jersey Pinelands Commission for a "waiver of strict compliance".
 - C. Undersized lots pursuant to the minimum standards prescribed in the Pinelands Comprehensive Management Plan.
10. Why are restrictions placed on the purchase of credits? Again, the Exchange is designed solely to stimulate the private transfer of PDC's. The Exchange will initially have a limited amount of funds available for PDC purchases, therefore the hardship and geographic restrictions were incorporated into the review. A waiver of either restriction may be granted if the waiver is found by the Exchange Board to be in the best interest of the county.
11. What is the correct procedure to follow?
 - A. The owner obtains applications and information by contacting either:

Burlington County Freeholders Office
49 Rancocas Road
Mt. Holly, NJ 08060
(609) 261-5193

New Jersey Pinelands Commission
P. O. Box 7
New Lisbon, NJ 08064
(609) 894-9342

Burlington County Department of Economic Development
49 Rancocas Road
Mt. Holly, NJ 08060
(609) 261-5055

B. The owner completes the application form and submits it to the: Burlington County Freeholders Office, 49 Rancocas Road, Mt. Holly, NJ 08060. Attachments to the application include--

- (1) A COPY OF THE NEW JERSEY PINELANDS COMMISSION "LETTER OF INTERPRETATION." This letter will certify the exact number PDC's due the owner at the time of application. The commission's address and phone number is listed in "A" above.
- (2) A COPY OF THE MUNICIPAL BUILDING INSPECTOR'S CERTIFICATION OF LOT EXISTENCE. The format enclosed in this package must be prepared on official municipal stationery and signed by the municipal building inspector.
- (3) A COPY OF THE CURRENT MUNICIPAL TAX BILL FOR THE SUBJECT PROPERTY.
- (4) A COPY OF THE MUNICIPAL TAX MAP SHEET SHOWING THE ABOVE LAND. These maps are generally available for a nominal fee from the municipal tax office or the municipal engineer.
- (5) A COPY OF THE DEED TO THE SUBJECT PROPERTY.

- C. The Exchange Board reviews each application. Every effort will be made by the Board to make a determination within 60 days of receipt of the completed application.
 - D. On those applications approved, a full title search is secured from an independent title company by the county.
 - E. On applications approved and insurable title determined, an easement document for the land is negotiated. No value negotiations will take place. A fix rate of compensation has been established in #4. Applicants are advised to obtain legal counsel at this point in time.
 - F. After all of the above steps have been completed a "closing" for the transfer of credit ownership is scheduled.
 - G. At closing the seller receives compensation. The seller grants a conservation easement (deed restriction) to the Burlington County Board of Chosen Freeholders and the credits are formally transferred to the Burlington County Conservation Easement and Pineland Development Credit Exchange.
12. What will the Exchange do with the Credits? The Exchange will periodically offer the credits for sale at auction as provided by law. Minimum bid will be \$10,000 per credit. Funds derived from the sale will enter a dedicated account to fund further credit/easement purchase.
13. What is the appeal procedure for Exchange decisions? Administrative appeals of Exchange Board decisions are made to the Burlington County Board of Chosen Freeholders.

APPLICATION NO. _____

BURLINGTON COUNTY CONSERVATION EASEMENT
AND
PINELANDS DEVELOPMENT CREDIT
EXCHANGE BOARD

APPLICATION

OWNER INFORMATION

NAME: _____
ADDRESS: _____
WORKING HOUR PHONE NUMBER: () _____
AGENT: (Lawyer, etc., if any) _____
PHONE: () _____

PROPERTY INFORMATION

MUNICIPALITY: _____ COUNTY: _____
BLOCK(S): _____ LOT(S): _____ ACRES: _____
IMPROVEMENTS: (if any) _____
PRESENT USE OF LAND: _____

OWNERSHIP STATEMENT AND OFFER TO SELL CREDITS

I/WE DO HEREBY ATTEST THAT I/WE HAVE BEEN THE OWNER(S) OF
RECORD OF THE ABOVE LISTED PROPERTY SINCE FEBRUARY 8, 1979
OR BEFORE.

I/WE HEREBY OFFER TO SELL _____ CREDIT(S) DERIVED FROM
THE ABOVE LAND TO THE BURLINGTON COUNTY CONSERVATION EASEMENT
AND PINELANDS DEVELOPMENT CREDIT EXCHANGE, AS CERTIFIED BY
THE ATTACHED NEW JERSEY PINELANDS COMMISSION "LETTER OF
INTERPRETATION."

DATE: _____

SIGNATURE: _____

PRINT NAME: _____

SIGNATURE: _____

PRINT NAME: _____

STATEMENT OF CONSERVATION EASEMENT ACCEPTANCE

I/WE DO HEREBY ACKNOWLEDGE AND ACCEPT THAT A CONSERVATION EASEMENT WILL BE PERMANENTLY AFFIXED AND RECORDED WITH THE DEED FOR THE ABOVE LAND SHOULD THIS APPLICATION BE APPROVED AND THE TRANSFER OF CREDIT(S) COMPLETED.

DATE: _____ SIGNATURE: _____
PRINT NAME: _____
SIGNATURE: _____
PRINT NAME: _____

ATTACHMENTS

1. COPY OF THE NEW JERSEY PINELANDS COMMISSION "LETTER OF INTERPRETATION"
2. COPY OF THE MUNICIPAL BUILDING INSPECTORS CERTIFICATION OF LOT EXISTENCE PRIOR TO FEBRUARY 8, 1979 (SAMPLE ATTACHED)
3. COPY OF THE MUNICIPAL TAX BILL FOR THE ABOVE LAND
4. COPY OF THE MUNICIPAL TAX MAP SHEET SHOWING THE ABOVE LAND
5. COPY OF THE DEED TO THE SUBJECT PROPERTY (RECORDED COPY)

STATEMENT OF HARDSHIP

PLEASE COMPLETE A STATEMENT OF THE SPECIFIC HARDSHIP IMPOSED UPON YOU AS THE OWNER OF THE ABOVE LISTED LAND. IDENTIFY ANY UNIQUE CIRCUMSTANCES THAT CONTRIBUTE TO THIS HARDSHIP. INCLUDE ALL FACTUAL DATA CONCERNING FINANCIAL INVESTMENT IN THE ABOVE PROPERTY.

IF A "WAIVER" FROM THE HARDSHIP PROVISION IS SOUGHT, PLEASE EXPLAIN THE BASIS FOR THE "WAIVER" REQUEST IN DETAIL (BELOW).

(USE ADDITIONAL SHEETS IF NECESSARY)

DUE TO BANKS

NAME OF BANK	COLLATERAL	WHEN DUE	AMOUNT
			\$
TOTAL DUE TO BANKS			\$

DUE TO OTHERS (Itemize every debt over \$100)

NAME OF CREDITOR	ORIGIN OF DEBT	WHEN DUE	AMOUNT
			\$
ALL OTHER DEBTS NOT SHOWN ABOVE			
TOTAL DUE TO OTHERS			\$

REAL ESTATE

LOCATION AND DESCRIPTION	YEAR PURCHASED	COST	ASSESSED VALUE	FIRE INSURANCE	PRESENT VALUE	MORTGAGE		YEARLY GROSS RENTAL INCOME
						AMOUNT	WHEN DUE	
		\$	\$	\$	\$	\$		\$

THE LEGAL AND EQUITABLE TITLE TO ALL THE REAL ESTATE LISTED ABOVE IS SOLELY IN MY NAME, EXCEPT AS FOLLOWS:

SECURITIES OWNED

FACE VALUE (BONDS) NUMBER OF SHARES (STOCKS)	DESCRIPTION OF SECURITY	MARKET VALUE	INCOME RECEIVED LAST YEAR	TO WHOM PLEDGED
		\$	\$	

LIFE INSURANCE

COMPANY	FACE AMOUNT OF POLICY	TOTAL CASH SURRENDER VALUE	TOTAL LOANS AGAINST POLICY	BENEFICIARY	TO WHOM POLICY IS ASSIGNED
	\$	\$	\$		

OTHER INSURANCE

FORM (FIRE, LIABILITY, ETC.)	CARRIED ON	NATURE	ASSIGNEE	AMOUNT
				\$

IN SUBMITTING THE FOREGOING STATEMENT THE UNDERSIGNED GUARANTEES THAT IT BE RELIED UPON BY THE AFORESAID EXCHANGE IN EVALUATING THE UNDERSIGNED AND WARRANTS THAT ___ HAS NOT KNOWINGLY WITHHELD ANY INFORMATION THAT MIGHT AFFECT ___ CREDIT; AND THE UNDERSIGNED EXPRESSLY AGREES TO NOTIFY IMMEDIATELY THE EXCHANGE IN WRITING OF ANY MATERIAL CHANGE IN ___ FINANCIAL CONDITION.

DATE: _____

SIGNATURE: _____

33x SIGNATURE: _____



State of New Jersey
PINELANDS COMMISSION
P.O. BOX 7, NEW LISBON, N.J. 08064

DATE

LETTER OF INTERPRETATION #

APPLICANTS NAME
AND ADDRESS

SAMPLE

Application No.
Block ____, lot ____
Block ____, lot ____
Block ____, lot ____
Block ____, lot ____
Block ____, lot ____
____ Township

FINDINGS OF FACT

The applicant owns the above ____ acre parcel in _____ Township. The parcel is located in the Preservation Area District. Pursuant to Section 4-602 C, the applicant is requesting a Letter of Interpretation as to the number of Pinelands Development Credits that are attributed to this parcel.

There are several areas of pitch pine lowlands located on the parcel. There are some small areas of cedar swamps located on the parcel. A tributary to the _____ River flows through the site. The _____ River is the western boundary of the parcel. The pitch pine lowlands, cedar swamps and the streams constitute ____ acres of the parcels.

There are no easements limiting the use of this parcel to non-residential uses.

CONCLUSION

Section 5-403 A grants, with two exceptions, to every parcel of land in the Preservation Area District a use right known as "Pinelands Development Credits" that can be used to secure a density bonus for lands located in Regional Growth Areas.

The two exceptions are for lands which were owned by a public agency and land which was subject to an easement limiting the use of the land to non-residential uses as of January 14, 1981. Neither of these exceptions applies to this parcel.

Section 5-403 B1 established the ratio by which Pinelands Development Credits are allocated in the Preservation Area District. One Pinelands Development Credit is allocated for every 39 acres of upland. For wetlands 0.2 Pinelands Development Credits are allocated for every 39 acres of wetlands.

The streams on the applicant's property is a fresh water wetland (Section 6-105 G). The cedar swamp and the pitch pine lowland on the applicant's property are fresh water wetlands (Section 6-105 A and C). This portion of the applicant's property in the Preservation Area District constitutes ____ acres. The applicant is entitled to 0.3 Pinelands Development Credits for this wetland acreage. The remaining ____ acres of the applicant's property is upland. The applicant is entitled to ____ Pinelands Development Credits for the upland acreage.

The applicant is entitled to a total of ____ Pinelands Development Credits for this ____ acre parcel in the Preservation Area District.

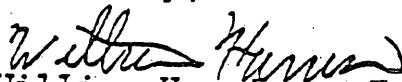
RECONSIDERATION

Any person who is aggrieved by this determination may seek reconsideration of the decision by the Pinelands Commission within 18 days of the date of this letter by giving notice, by certified mail, of the request for reconsideration to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the reconsideration;
2. the application number;
3. a brief statement of the basis for the reconsideration request; and
4. a certificate of service indicating that service of the notice has been made, by certified mail, on:
 - a. the applicant (unless the applicant is requesting the reconsideration);
 - b. the secretary of the _____ Township Planning Board;

- c. the secretary of the Burlington County Planning Board; and
- d. the _____ Township Environmental Commission.

Sincerely,


William Harrison, Esquire
Assistant Director

WH/ss

cc: Secretary, _____ Township
Planning Board
Secretary, Burlington County
Planning Board
_____ Township Environmental
Commission

36 x

MUNICIPAL LETTERHEAD

CERTIFICATION OF LOT EXISTENCE

I, _____, Building Inspector for
_____, Burlington County,
do hereby certify that the land described below is an approved
buildable lot ($\frac{1}{4}$ acre minimum) in existence prior to February 8, 1979,
and listed on the official municipal tax map as:

BLOCK

LOT

DATE: _____

SIGNATURE: _____

PRINT NAME: _____

TITLE: _____

MAKE CHECK PAYABLE

TO WOODLAND TOWNSHIP TEL 609-726-1552 MON-FRI 10-4
BOX 480 CHATSWORTH NJ 08019 CLOSED-HOLIDAYS

TOWNSHIP OF WOODLAND
BURLINGTON COUNTY NJ

1981 FINAL TAX BILL

PROPERTY IDENTIFICATION	BIGGY NUMBER	LOT NUMBER	QUALIFICATION
101 PROPERTY LOCATION RT 70 ADD'L LOT NO LAND DIMENSION	101	30	
1981 4TH QUARTER	79.91AC		
TAX AMOUNT BILLED	DUE	DUE	
561.75	AUG 1, 1981	NOV 1, 1981	561.74
INTEREST		INTEREST	
TOTAL		TOTAL	

DISTRIBUTION OF TAX

DESCRIPTION	RATE PER \$100	AMOUNT OF TAX
COUNTY TAX	.770	578.66
COUNTY LIBRARY TAX	.050	37.58
LOCAL SCHOOLS TAX	1.930	1450.39
LOCAL PURPOSE TAX	.080	60.12

SEE REVERSE SIDE FOR INFORMATION TO TAXPAYERS

TAX PAYER NAME AND ADDRESS	TAX BILL NUMBER
	913000445

08035 4TH QUARTER INSTALLMENT DUE NOVEMBER 1, 1981

ASSESSED VALUATION	TOTAL TAX	AMOUNT
LAND	75150	2.830
IMPROVEMENTS		
TOTAL	75150	2126.75
LESS EXEMPTION		
NET TAXABLE VALUE	75150	2126.75
1981 NET TAX		2126.75
LESS 1981 TAX PREVIOUSLY BILLED		1003.26
BAL. OF 1981 TAX		1123.49

Audrey Fleming
deputy

-15-

38X

MAKE CHECK PAYABLE

TO WOODLAND TOWNSHIP TEL 609-726-1552 MON-FRI 10-4
BOX 480 CHATSWORTH NJ 08019 CLOSED-HOLIDAYS

TOWNSHIP OF WOODLAND
BURLINGTON COUNTY NJ

1982 PRELIMINARY TAX BILL

PROPERTY IDENTIFICATION	BIGGY NUMBER	LOT NUMBER	QUALIFICATION
101 PROPERTY LOCATION RT 70 ADD'L LOT NO LAND DIMENSION	101	30	
1982 1ST QUARTER	79.91AC		
TAX AMOUNT BILLED	DUE	DUE	
531.69	FEB 1, 1982	MAY 1, 1982	531.69
INTEREST		INTEREST	
TOTAL		TOTAL	

1982 PRELIMINARY TAX BILL

EXPLANATION OF TAX

PRELIMINARY TAX IS EQUAL TO ONE HALF OF
1981 TOTAL NET TAX

TOTAL PRELIMINARY 1063.38

TAXPAYERS
NAME AND ADDRESS

08035

2ND QUARTER INSTALLMENT DUE MAY 1, 1982 1ST QUARTER INSTALLMENT DUE FEBRUARY 1, 1982

NOTE: ALL ACRES GIVEN ON THIS MAP
DOES NOT INCLUDE ROAD AREAS

WOODLAND TOWNSHIP
BURLINGTON COUNTY, N. J.
TAX MAP SHEET NO. ③
PLOTTED FROM DEEDS & RECORDS

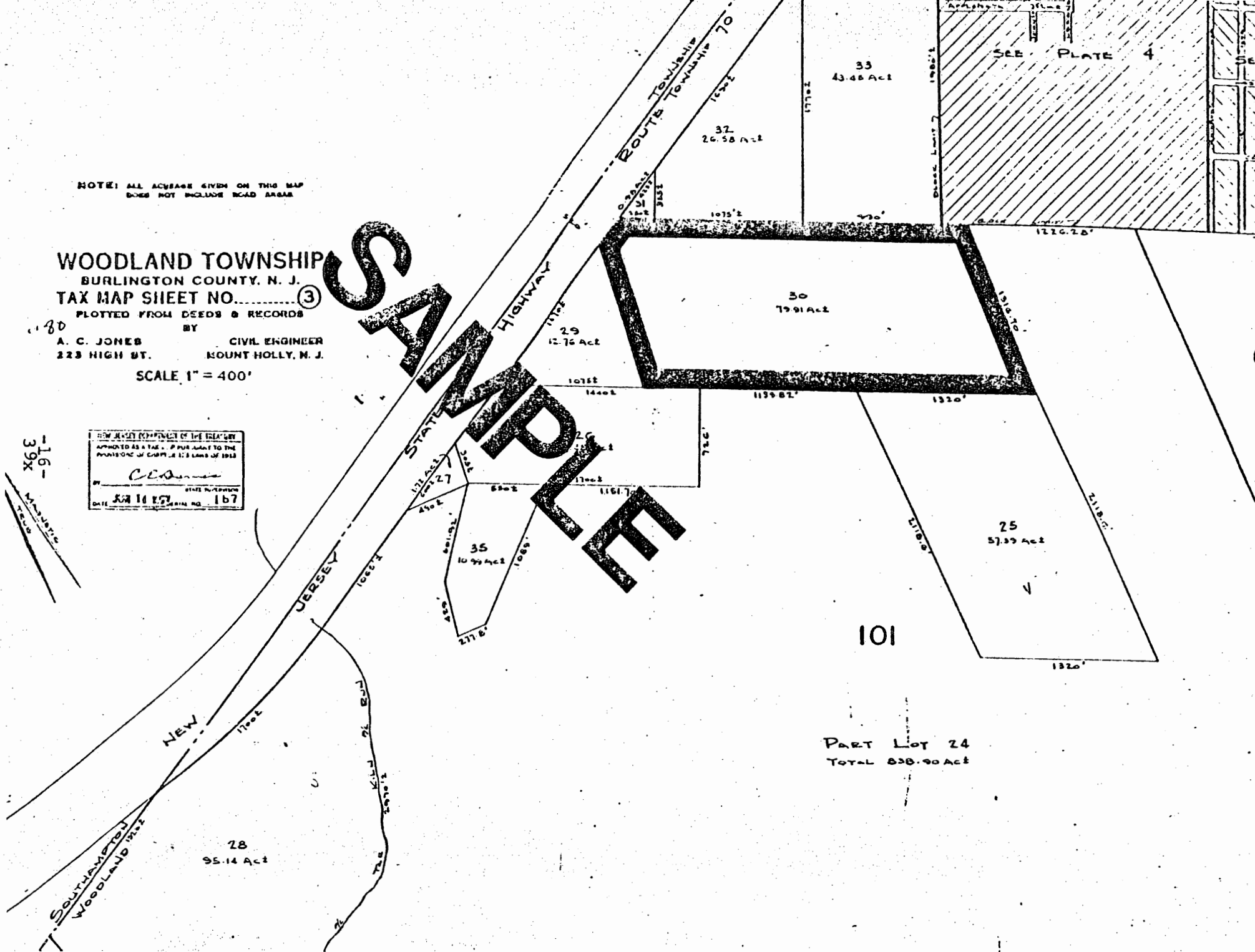
BY
A. C. JONES CIVIL ENGINEER
223 HIGH ST. MOUNT HOLLY, N. J.

SCALE 1" = 400'

NEW JERSEY DEPARTMENT OF THE TREASURY
APPROVED AS A TAX MAP PURSUANT TO THE
PROVISIONS OF CHAPTER 123 LAWS OF 1918
BY *C. C. Jones*
DATE *5/21/27* SERIAL NO. *167*

-16-
39X

SAMPLE



PART LOT 24
TOTAL 838.90 ACRES

**COPY
TO DEED
SUBJECT
PROPERTY**

COUNTY OF BURLINGTON
CONSIDERATION none
REALTY TRANSFER FEE open
DATE 5-12-81 BY JL

DEED OF CONSERVATION EASEMENT

THIS INDENTURE, dated May 8, 1981, between the NEW JERSEY CONSERVATION FOUNDATION, a non-profit corporation, having its principal office at 300 Mendham Road, Morristown, New Jersey 07960, herein referred to as GRANTOR, and the BOARD OF CHOSEN FREEHOLDERS OF THE COUNTY OF BURLINGTON, a body corporate and politic of the State of New Jersey, having its principal place of business at 49 Rancocas Road, Mount Holly, New Jersey 08060, hereinafter referred to as GRANTEE.

WITNESSETH:

WHEREAS, GRANTOR has in fee simple certain lands in the Township of Tabernacle, County of Burlington, State of New Jersey, which lands are described as follows:

ALL THAT CERTAIN tract or parcel of land lying on both sides of the Tabernacle-Chatsworth Road at Goose Pond, comprising Lot 3 of Block 1601 and Lots 6 & 7, Block 1502 in Tabernacle Township, Burlington County, New Jersey, which according to a survey by Shaw, O'Donnell & Horner Associates, Inc., as more particularly described as follows:

BEGINNING at a point in the center line of Tabernacle-Chatsworth Road (49.5 feet wide) corner to Lot 3 of Block 1502, now or late of Nine Acre Associates, and to Lot 2 of Block 1601, now or late of Aaron J. Haines, and runs; along the line of Lot 2 of Block 1601, (1) North 07 degrees 34 minutes 40 seconds East 950.44 feet to a point corner to Lot 2 and to Lot 1 now or late of John E. Cutts, etals; thence along Lot 1 (2) North 62 degrees 40 minutes 0 seconds East 1539.78 feet to a point corner to Lot 1, thence, still along Lot 1 (3) South 40 degrees 21 minutes 24 seconds East 1593.99 feet to a point corner to Lot 1 in the line of Lot 4 now or late of Charles Thompson; thence along Lot 4 (4) South 11 degrees 24 minutes

09 seconds West 1716 feet to a point in the center line of the Tabernacle-Chatsworth Road corner to Lot 4 and to Lot 1 of Block 1901 now or late of Abraham Robles et ux and to Lot 9 of Block 1502 now or late of Lillie Y. Smith Estate; thence along (5) North 76 degrees 09 minutes 21 seconds West 1406.08 feet to a point near the edge of the road corner to Lot 9; thence, still along 9 (6) North 86 degrees 24 minutes 31 seconds West 95.04 feet to a stone in the Northwesterly bank of Goose Pond Branch corner to Lot 9; thence, still along Lot 9 (7) South 40 degrees 50 minutes 06 seconds East 405.74 feet to a stone corner to Lot 9; thence, still along Lot 9 (8) South 45 degrees 54 minutes 54 seconds West 990 feet to a point corner to Lot 9, thence, still along Lot 9 (9) South 44 degrees 54 minutes 54 seconds West 264 feet to a point corner to Lot 9 and to Lot 8 now or late of J. Franklin Peacock; thence, along Lot 8 (10) South 69 degrees 57 minutes 37 seconds West 270.4 feet to a point corner to Lot 8; thence still along Lot 8 (11) South 16 degrees 25 minutes 15 seconds East 369.6 feet to a point corner to Lot 8; thence, still along Lot 8 (12) South 63 degrees 07 minutes 15 seconds East 465.6 feet to a point corner to Lot 8 and to the aforementioned Lot 9; thence, along Lot 9 (13) South 44 degrees 52 minutes 23 seconds West 508.2 feet to a stone letter "R.W.H." in the line of Lot 9 and corner to Lot 11 now or late of Martin L. Judy; thence, along Lot 11 (14) North 62 degrees 17 minutes 14 seconds West 813.5 feet to a stone corner to Lot 11; thence, still along Lot 11 (15) North 20 degrees 12 minutes 30 seconds East 90.42 feet to a stone corner to Lot 11; thence still along Lot 11 (16) North 21 degrees 40 minutes 42 seconds East 364.03 feet to a stone corner to Lot 11 and to Lot 5, now or late of Harvey-Powers Associates; thence, along Lot 5 (17) North 14 degrees 50 minutes 20 seconds West 163.68 feet to a monument corner to Lot 5; thence, still along Lot 5 (18) North 59 degrees 54 minutes 40 seconds East 257.4 feet to a monument corner to Lot 5; thence, still along Lot 5 (19)

North 23 degrees 38 minutes 50 seconds East 373.63 feet to a monument corner to Lot 5; thence, still along Lot 5 in part and partly along Lot 4 of Harvey-Powers Associates and Lot 3 now or late of Nine Acre Associates (20) North 07 degrees 34 minutes 40 seconds East 1689.6 feet to the point and place of beginning containing 158.425 acres of land be the same more or less.

BEING Tax Block 1502, Lots 6 & 7 and Tax Block 1601, Lot 3; hereinafter referred to as the "Property"; and

WHEREAS, it is the desire of the GRANTEE to assist in the protection of natural environmental systems; and

WHEREAS, GRANTOR and GRANTEE desire that the Property be protected from improper land use and be preserved in its natural, scenic, open and existing state to the greatest extent practicable, and for such purpose GRANTOR desires to grant to GRANTEE a conservation easement as hereinafter described:

NOW, THEREFORE, GRANTOR for and in consideration of

bargain sale, the receipt of which is acknowledged, hereby conveys, transfers, sells, and grants unto GRANTEE, its successors and assigns, an easement and interest in the Property for the purpose of protecting the Property in its natural, scenic, open and existing state on the following terms and conditions, with which both GRANTOR and GRANTEE hereby agree to comply and to enforce jointly:

1. No trees, shrubs or other vegetation now existing on the Property shall be removed or destroyed excepting those activities necessary to good land management and proper agricultural practices. Anything herein to the contrary notwithstanding, the GRANTOR may continue the production of cranberries and the maintenance, improvement and re-establishment of bogs, reservoirs and waterways. GRANTOR may also engage in the cultivation and production of produce and/or

horticulture and other products compatible with the native Pine Barrens environment on land presently or heretofore used as cranberry bog, reservoir or waterway, plus an additional agricultural production area chosen by the GRANTOR of up to 50% of the existing area.

2. No topsoil, sand, gravel, loam, rock or other minerals shall be removed from the Property. Excavations, dredging and soil relocation shall be permitted for the maintenance, repair, improvement and creation of present and future cranberry bogs, water supply reservoirs, and waterways. GRANTOR hereby retains and reserves unto itself, its heirs, successors and assigns, all rights to the use of water flowing in, through, upon, or under the Property, without limitation.

3. No buildings or structures shall be erected on the Property, except pump houses, as support for agricultural production.

4. No dumping or placing of soil or other substance or material as landfill, and no dumping or placing of trash, waste or unsightly or offensive materials, shall be permitted on the Property. Normal refuse from brush cuttings, chaff, and the like resulting from the normal farming operation of the Property shall be allowed. Access will be granted to local or state authorities for enforcement of this paragraph.

5. No activities shall be permitted on the Property which will cause soil erosion or damage to drainage ways or which will adversely affect flood control or water conservation.

6. Nothing herein contained shall be construed to convey to the public any right of access to or use of the Property, and GRANTOR, for itself, its successors and assigns shall, subject to Paragraph 7 hereof, retain the exclusive right of access to and use of the Property. GRANTOR shall also allow, by prearrangement, visitations from school classes and other groups for educational and scientific

purposes. Such visitations shall be reasonable in number and at reasonable times so as not to interfere with agricultural operations.

7. GRANTEE and its agents shall be permitted access to, and to enter upon, the Property at all reasonable times but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions herein contained. GRANTEE agrees to give GRANTOR 24 hours advance notice of its intention to enter the Property, and further, to limit such times of entry to the daylight hours on regular business days of the week.

8. No hunting, fishing, trapping or other killing or taking of wildlife shall be permitted except by the fee owner.

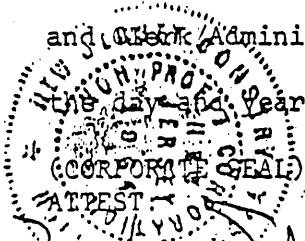
9. Nothing herein contained shall be deemed to restrict the right of GRANTOR to maintain all roads and trails existing upon the Property on the date hereof. GRANTOR shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, or reservoirs as may be necessary.

10. The GRANTEE agrees to indemnify the GRANTOR, its successors and assigns, forever against any Municipal, County, State or Federal assessments for roads or utilities of any kind, except to the extent that the purpose or effect of such an assessment is to benefit the Property rights retained by GRANTOR.

11. It is understood that this instrument imposes no obligation on the GRANTOR and no restrictions on use of the Property except as specifically set forth herein. Nothing herein contained shall be construed to interfere with the right of the GRANTOR, its successors, assigns, licensees and any party claiming under them to utilize the Property in such manner as they may deem desirable, subject to the terms and conditions hereof.

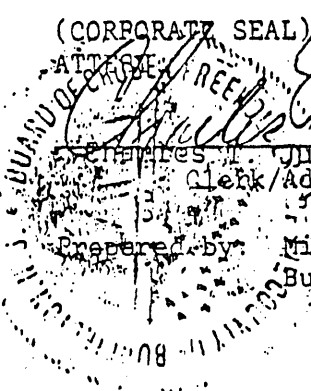
12. This instrument shall be binding upon the GRANTOR, its successors and assigns, and upon the GRANTEE, its successors and assigns.

IN WITNESS WHEREOF, and intending to be legally bound, the GRANTOR and GRANTEE, respectively, have caused this Indenture to be executed by their duly authorized President and Director, attested by their duly authorized Secretary and Clerk/Administrator and their respective corporate seals to be hereto affixed the day and year first written above.



Morton Scharmann, Secretary
Morton Scharmann, Secretary

(CORPORATE SEAL)



Juliana
Juliana
Clerk/Administrator

Prepared by: Michael J. Hogan, Assistant
Burlington County Solicitor

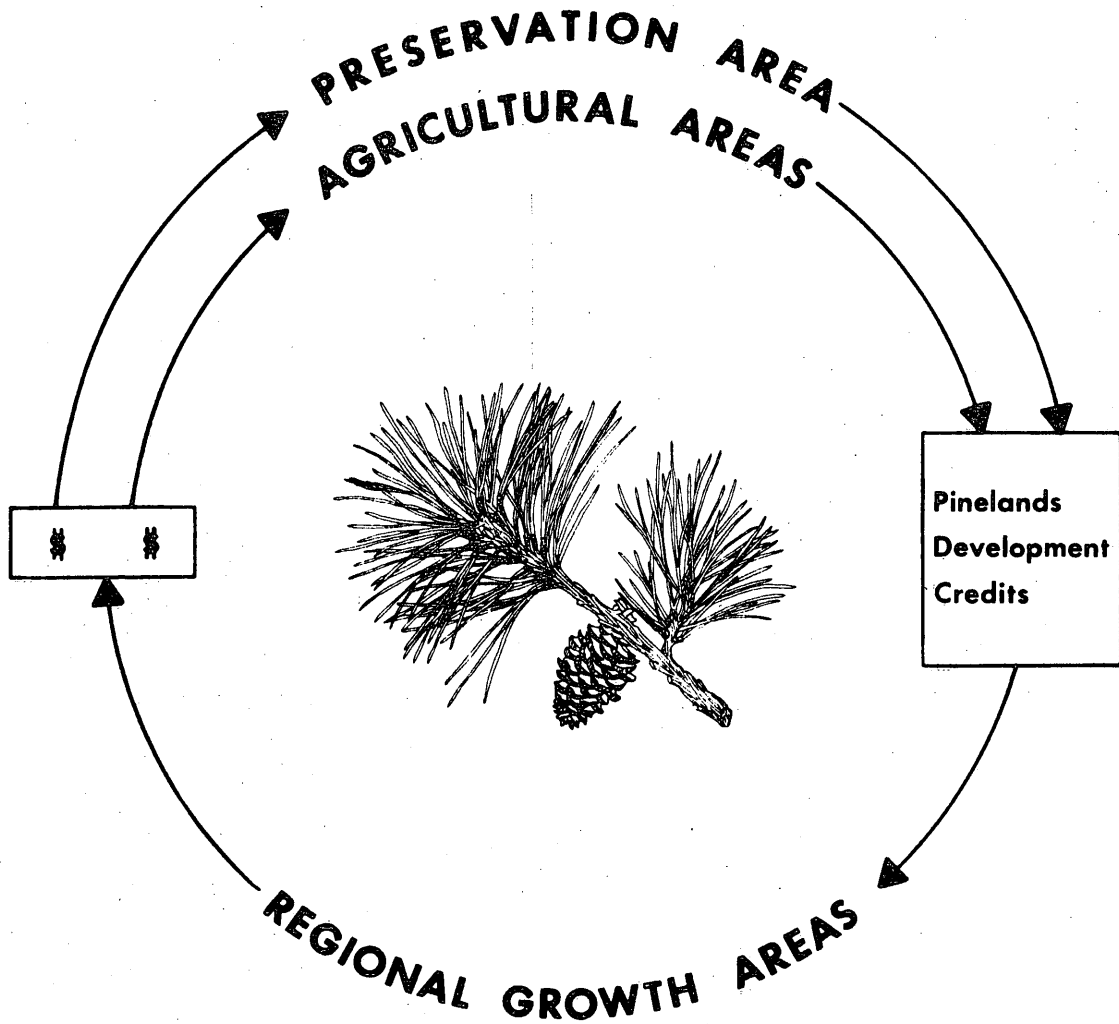
NEW JERSEY CONSERVATION FOUNDATION

Donald B. Jones, President
Donald B. Jones, President

BOARD OF CHOSEN FREEHOLDERS OF THE
COUNTY OF BURLINGTON

Henry W. Metzger
Henry W. Metzger
Director

PINELANDS DEVELOPMENT CREDITS



A LANDOWNER'S GUIDE

47x

December, 1981

New Jersey Pinelands Commission

People who own land within the 52 municipalities which comprise the Pinelands Area may be eligible to participate in the PINELANDS DEVELOPMENT CREDIT PROGRAM. This pamphlet is intended to help property owners better understand the program and its operation. For more detailed information on how the program affects you, please call or write to:

The New Jersey Pinelands Commission

Post Office Box 7

New Lisbon, New Jersey 08064

Telephone: (609) 894-9342

WHAT IS THE PINELANDS DEVELOPMENT CREDIT PROGRAM?

The Pinelands Development Credit (PDC) Program of the Pinelands Comprehensive Management Plan is designed to encourage a shift of development away from environmentally sensitive regions to more appropriate areas. It also provides a way for landowners in these sensitive areas to share in the economic benefits of increased land values which will occur in areas more suitable for home building.

A successful PDC program will encourage residential growth near existing development, in traditional village settings, and near employment centers. It will discourage growth near fragile ecological areas, wetlands, and important agricultural acreage, a major purpose of the Pinelands Plan.

Here's how the PDC program works.

Under the Pinelands Comprehensive Management Plan, all land and water resources within the Pinelands fall into one of seven basic categories of land use capability. These categories each have a special designation; i.e., Preservation Area District, Forest Area, Agricultural Production Area, Rural Development Area, Regional Growth Area, Military and Federal Installation Area, and Pinelands Villages and Towns. An eighth land use category, the Special Agricultural Production Area, may be created within the Preservation Area by municipalities or by the Pinelands Commission if petitioned to do so by landowners.

The Plan sets limits on the type and amount of development activity that can take place within each of these areas. Within Towns, Villages and Growth Areas, for example, an almost unlimited range of activities is permitted, including relatively concentrated residential development. By contrast, the type and density of development permitted in the Preservation Area District and Agricultural Production Areas is more limited.

Through the PDC program, landowners in the growth-restricted Preservation Area District and Agricultural Production Areas are allocated PDC's. These development credits may be used in Pinelands Regional Growth Areas to allow more homes to be built on property than would otherwise be permissible. Each credit would allow four additional homes to be built, within a range set by the municipality.

In simple terms, a person who owns property in the Preservation or Agricultural Area has two options: the property he or she owns can be developed for residential purposes (as permitted in the Pinelands Plan); or the Pinelands Development Credits can be sold for use in Regional Growth Areas. The credit seller's property would still be available for other non-residential land uses.

WHO RECEIVES DEVELOPMENT CREDITS?

If you own property in the Preservation Area District or in one of the Agricultural Production Areas, you may be assigned Pinelands Development Credits.

You can receive the allocation for vacant land or for property which was developed before January 14, 1981. The allocation generally reflects relative property values. The formula for the allocation is:

Preservation Area District

Upland - 1 credit for 39 acres of land that you own.

Wetland - 2 credits for 39 acres of land that you own.

Agricultural Production Area

Upland - 2 credits for 39 acres of land that you own.

Wetland - 2 credits for 39 acres of land that you own.

Wetlands that are actively farmed - 2 credits for 39 acres of land that you own.

Credits are not allocated to lands which were publicly owned as of January 14, 1981 or to privately owned lands which were already subject to a conservation easement on January 14, 1981. In addition, your credits are reduced or forfeited, depending on the parcel's size, if you develop vacant land for residential purposes after January 14, 1981.

WHAT CAN I EXPECT IF I OWN A SMALL PARCEL OF LAND?

Even if you own a smaller parcel of land you could receive at least one-quarter of a development credit.

In order to qualify, the parcel of land must:

- be at least .1 acre (4,356 square feet) in size,
- be vacant,
- be owned by you on or before February 7, 1979 and
- not adjoin other land that you owned as of February 7, 1979.

If you don't meet these tests, you will still be entitled to the number of development credits according to the basic formula described previously.

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EXAMPLES OF CREDIT ALLOCATIONS

A. PRESERVATION AREA

19.5 ac. Upland

19.5 acre parcel

$$= 1 \text{ credit} \times \frac{19.5 \text{ acres}}{39 \text{ acres}} = .5 \text{ credit}$$

B. AGRICULTURAL AREA

19.5 ac. Upland

19.5 acre parcel

$$= 2 \text{ credits} \times \frac{19.5 \text{ acres}}{39 \text{ acres}} = 1 \text{ credit}$$

C. PRESERVATION AREA

78 ac. Upland

39 ac. Wetland

117 acre parcel

$$= 1 \text{ credit} \times \frac{78 \text{ acres}}{39 \text{ acres}} = 2 \text{ credits}$$

+

$$= .2 \text{ credit} \times \frac{39 \text{ acres}}{39 \text{ acres}} = .2 \text{ credit}$$

2.2 credits

rounded to 2.25 credits^Δ

D. AGRICULTURAL AREA

78 ac. Upland

19.5 ac. Wetland (farmed)

39 ac. Wetland

136.5 acre parcel

$$= 2 \text{ credits} \times \frac{78 \text{ acres}}{39 \text{ acres}} = 4 \text{ credits}$$

+

$$= 2 \text{ credits} \times \frac{19.5 \text{ acres}}{39 \text{ acres}} = 1 \text{ credit}$$

+

$$= .2 \text{ credit} \times \frac{39 \text{ acres}}{39 \text{ acres}} = .2 \text{ credit}$$

5.2 credits

rounded to 5.25 credits^Δ

^Δ Since each quarter of a credit allows for 1 additional home to be constructed in a regional growth area, credit allocations are rounded to the nearest quarter.

HOW MANY CREDITS DO I LOSE IF I BUILD A HOME AFTER JANUARY 14, 1981?

The number of credits lost will depend primarily on the size of your parcel of land.

If you qualify to build a home in the Preservation Area, you will need at least 3.2 acres of land. If you build the home, that 3.2 acre minimum lot size would then be subtracted from the total acreage of your land before the credit calculation is made. For example, if you own 22.7 acres of upland in the Preservation Area and build a home for one of your children, 3.2 acres would be subtracted from your parcel size to calculate the PDC allocation. The remaining 19.5 acres of upland would yield .5 credits.

The same approach applies to the agricultural areas although the acreage requirement for a home varies from 1 to 10 acres, depending on different circumstances.

WHAT ABOUT SPECIAL AGRICULTURAL PRODUCTION AREAS?

Pinelands Development Credits are also allocated to property within Special Agricultural Production Areas. These "special" areas may be designated within the Preservation Area District by a municipality. It is also possible for a landowner or group of landowners to directly petition the Pinelands Commission to designate their property as a Special Agricultural Production Area.

Since these areas will represent lands which are predominantly devoted to active berry agriculture (blueberry or cranberry farming), they will receive the increased credit allocation that applies to other agricultural areas.

Therefore, landowners who believe that their property may qualify for "Special Agricultural" designation may wish to contact their municipal officials before they sell their credits. Once sold, credits cannot be increased by the designation of Preservation Area lands as Special Agricultural lands.

The Pinelands Plan also creates this same opportunity for the designation of additional agricultural areas outside of the Preservation Area District.

HOW CAN I BE SURE THAT I AM ENTITLED TO CREDITS AND HOW CAN I FIND OUT HOW MANY I GET?

Under the Pinelands Plan, each municipality has the discretion to adjust the boundaries of land use areas. It is, therefore, possible that a parcel of land included within an Agricultural Area designated in the Pinelands Plan may be redesignated by a municipality into another land use area which does not yield credits. The converse may also occur - that is, a parcel of land from a non-credit yielding area may be reclassified into an Agricultural Area and thus receive a credit allocation.

Should you have any questions regarding the land use area in which your property is located, the Pinelands Commission will be glad to help. Just drop us a line and include the street location, tax block and lot numbers and we'll advise you where your property is located. One cautionary note, however -- you should also follow the progress of your municipality in revising its zoning ordinance so that you're aware of any land use changes it may make.

Before you sell credits, a certification of the precise number of credits allocated to your property should be obtained from the Pinelands Commission. This is done through a "Letter of Interpretation" which requires you to make a formal application to the Commission. Although the process is not too difficult, we suggest that you contact us by phone so that we can set up a conference to explain the procedure.

HOW DO I SELL DEVELOPMENT CREDITS?

Credits are sold in the same manner as property. A willing buyer and willing seller get together and agree on a sales price.

At the time of closing, a restriction on the deed to your property is recorded. That restriction must specify that new residential development on the property is no longer permissible. A sample deed restriction is available from the Pinelands Commission.

A "Development Credit Exchange" has also been established by the Freeholder Board for Burlington County residents. The Exchange will purchase credits at a fixed price of \$10,000 each for resale at public auction at a later date. In order to participate, certain conditions must be met. To get more information on how you may be able to benefit, contact Lewis Nagy, Burlington County Department of Economic Development, 49 Rancocas Road, Mount Holly, N. J. 08060, 609-261-5055.

WHAT HAPPENS TO MY LAND AFTER I SELL THE PDC'S?

Although a deed restriction has been placed on the property, you still hold title and may use or develop your property for a number of other non-residential activities. This restriction does not apply to existing homes. Future land use possibilities include agriculture, recreation, sand and gravel mining, and various commercial and industrial uses depending upon the particular zoning requirements applicable in your township.

HOW ARE PDC'S USED AFTER THEY ARE SOLD?

Once the deed restriction is placed on the "sending" property, the individual who paid for that restriction owns the Pinelands Development Credits and has, in essence, acquired a right to build elsewhere at a greater density than would normally be allowed. Since the deed restriction will include the purchaser's name, the credit owner will present the deed and the Commission's certification of the number of credits to the municipality in which he or she plans to develop.

Each Pinelands Development Credit generates four new homes and the "receiving" municipality will permit residential development on the receiving site to be increased according to a formula contained in its zoning ordinance. In towns which have not completed their revisions and obtained certification from the Pinelands Commission, the formula contained in the Pinelands Plan will be used.

In either case, the formula will guarantee an increase in density which will not disrupt the character and integrity of a neighborhood.

EXAMPLES OF DENSITY INCREASES

- A. A parcel of land 12 acres in size is zoned for single family homes on lots of one-half of an acre. Under normal circumstances, 24 homes could be built on the 12 acres. However, with Pinelands Development Credits, homes in this zone can be built on lots one-third of an acre in size. Therefore, it is possible to develop 36 homes on the site. Since each PDC generates four new homes, the developer would need to buy 3 PDC's to be entitled to the increase of 12 homes.
- B. A parcel of land 20 acres in size is zoned for townhouses at a density of 6 per acre. Under normal circumstances, 120 townhouses could be built on the 20 acres. However, with Pinelands Development Credits, townhouses in this zone can be built at a density of 9 per acre. Therefore, it is possible to build 180 townhouses on the site. Since each PDC generates four homes, the developer would need to buy 15 PDC's to be entitled to the increase of 60 townhouses.

HOW DO I KNOW WHAT MY PDC'S ARE WORTH?

As is the case with land values, the value of PDC's will be largely dependent upon two things - supply and demand and the ability of a developer to profit through their use.

On the first point, the program has been designed so that there are an adequate number of potential receiving areas. It is estimated that approximately 8,300 PDC's exist through the allocation provisions. If each and every PDC were sold (a highly unlikely event due to title questions, desires to develop homes on the site instead of selling PDC's, etc.), 33,200 additional homes would need to be accommodated within Growth Areas. However, if all potential sites in Growth Areas were developed with PDC's according to the prescribed density ranges, an additional 70,000 homes could be developed. In practical terms, neither of these situations will occur, but there is obviously an excellent supply versus demand ratio.

The profitability question is one which will depend on the specific circumstances surrounding a proposed development. Nevertheless, the basic premise is that for each additional home developed on a parcel, the developer will earn a bigger profit.

Ask yourself a simple question: If I were a developer, how much more money could I make if I were to build two homes rather than one on the same parcel of land? Basically, that is what someone interested in buying PDC's will ask. (Keep in mind that each PDC allows four additional homes to be built!)

The PDC program is a new concept here in New Jersey and will take some getting used to. As municipalities with receiving areas revise their zoning and as landowners and home builders complete transactions, the relative value should stabilize.

In the final analysis, however, a PDC's value is determined by what you, the landowner, are willing to consider as a reasonable offer.

PINELANDS MUNICIPALITIES

All or portions of the following municipalities are located within the New Jersey Pinelands Area.

Atlantic County

Buena Borough
Buena Vista Township
Corbin City
Egg Harbor City
Egg Harbor Township
Estell Manor City
Folsom Borough
Galloway Township
Hamilton Township
Hammonton Town
Mullica Township
Port Republic City
Weymouth Township

Burlington County

Bass River Township
Evesham Township
Medford Lakes Borough
Medford Township
New Hanover Township
North Hanover Township
Pemberton Township
Shamong Township
Southampton Township
Springfield Township
Tabernacle Township
Washington Township
Woodland Township
Wrightstown Borough

Camden County

Berlin Borough
Berlin Township
Chesilhurst Borough
Waterford Township
Winslow Township

Cape May County

Dennis Township
Upper Township
Woodbine Township

Cumberland County

Maurice River Township
Vineland City

Gloucester County

Franklin Township
Monroe Township

Ocean County

Barneget Township
Beachwood Borough
Berkeley Township
Eagleswood Township
Jackson Township
Lacey Township
Lakehurst Borough
Little Egg Harbor Township
Manchester Township
Ocean Township
Plumsted Township
South Toms River Borough
Stafford Township



