



NEW JERSEY PINELANDS COMMISSION

MONTHLY MANAGEMENT REPORT



A wood frog that was photographed by a Pinelands Commission Research Scientist in February as part of the Commission's annual frog and toad surveys

FEBRUARY 2023

1 EXECUTIVE OFFICE

1.1 EXECUTIVE DIRECTOR

1.1A COMMITTEE MEETINGS

- **Personnel & Budget (P&B) Committee:** The Committee did not meet in February.
- **Pinelands Climate Committee:** The Committee met on February 15, 2023 and received a series of staff presentations on state initiatives, including the New Jersey Department of Environmental Protection's (NJDEP) Inland Flood Protection rule proposal, the Extreme Heat Resilience Action Plans being developed for the Interagency Council on Climate Resilience and NJDEP's Water Supply Plan update. Staff also updated the Committee on various office initiatives, including the purchase of battery-powered grounds equipment, potential grant funding for an electric vehicle charging station, and a Request for Quote (RFQ) for new field work vehicles.
- **Policy & Implementation (P&I) Committee:** The Committee met on February 24, 2023. Pemberton Township and the Pinelands Preservation Alliance gave a joint presentation on a proposed Memorandum of Agreement (MOA) with the Commission involving construction of a handicap-accessible pathway along an existing trail route at Pemberton Lake. Surfacing the trail represents a deviation from Comprehensive Management Plan (CMP) standards because the activity would occur within required wetlands buffers. Because a portion of the property is owned by NJDEP, the Department would also need to be a party to the MOA. The Committee indicated its support for the proposal and voted to recommend the matter to the full Commission. Commission staff then delivered a presentation on the Commission's comprehensive landfill closure assessment process.

1.1B RULEMAKING

- **Stormwater Management:** Staff finalized the Pinelands model stormwater ordinance and distributed it to Pinelands municipalities in January, after tailoring the ordinance to each municipality's code. A copy of the final model ordinance was also shared with the NJDEP. Throughout February, staff coordinated and tracked municipal ordinance adoption schedules.
- **Water Management (Kirkwood-Cohansey):** The Commission adopted a resolution at its February 10, 2023 meeting authorizing re-proposal of the CMP rule amendments with substantial changes in response to public comment. The re-proposal notice will be submitted to the Office of Administrative Law in early March for publication in the New Jersey Register.

1.1C OPEN PUBLIC RECORDS ACT

- A total of 16 Open Public Records Act (OPRA) requests were received in February. Seven were provided responsive material, five were advised that a file review could be held, one request was withdrawn and three will be responded to in March.

1.1D PINELANDS MUNICIPAL COUNCIL

- The Pinelands Municipal Council did not meet in February.

1.1E OTHER

- Nicholas Asselta was sworn in as Cumberland County's representative on the Pinelands Commission on February 10, 2023.

- The Commission voted unanimously to appoint Susan R. Grogan as the Commission's Executive Director on February 10, 2023. Ms. Grogan had served as the Commission Acting Executive Director since June 24, 2021. Ms. Grogan has worked at the Pinelands Commission since August 1988. She served as the Commission's longtime Chief Planner and was promoted as the Director of Planning in 2020. She has also served as the Executive Director of the Pinelands Development Credit Bank since 2011.



Above: Commission Chair Laura E. Matos (pictured left) sits beside new Pinelands Commission Executive Director Susan R. Grogan (pictured right) during the Pinelands Commission meeting on February 10, 2023.

1.2 LEGAL AND LEGISLATIVE AFFAIRS

1.2A LEGISLATION

- **S3477/A5234 - Makes FY2024 supplemental appropriation of \$17 million for grants for certain lake management activities for recreation and conservation purposes** - This bill makes a one-time supplemental appropriation of \$17 million for Fiscal Year 2024 to NJDEP from the General Fund. The bill directs NJDEP to establish a program to use these funds for grants to assist qualified entities to pay certain costs associated with the management and maintenance of lakes for recreation and conservation purposes. The bill defines "qualified entity" to mean: the Greenwood Lake Commission; the Lake Hopatcong Commission; a local

government unit; an entity established pursuant to law or an entity established pursuant to ordinance by the municipalities surrounding a publicly accessible lake for the management of the lake, including, but not limited to, the Deal Lake Commission or the Lake Topanemus Park Commission; or a nonprofit organization that is exempt from federal taxation pursuant to 26 U.S.C. s.501 (c)(3) and whose mission is the management or maintenance of a publicly accessible lake. The bill has been referred to the Senate Environment and Energy Commission. A5234, the companion bill to S3477 was introduced at the end of February and referred to the Assembly Environment and Solid Waste Committee.

- **S3489/A5128 - Requires BPU to study and implement methods to allow additional distributed energy sources to interconnect to electrical grid** - This bill would require the Board of Public Utilities (BPU) to conduct a study for the purpose of identifying, researching, and quantifying the effects of short-term solutions that could open segments of the electrical transmission and distribution system that are currently closed to new distributed energy generation sources. S3489 was passed by the Senate, received in the Assembly and referred to the Assembly Telecommunications and Utilities Committee.
- **S3338/A4867 – Requires NJDEP to prioritize funding for certain projects for acquisition of lands for recreation and conservation purposes and certain environmental infrastructure projects that include, or allow for, flood mitigation projects:** This bill would direct the NJDEP to provide additional priority points to certain applicants seeking funding for Blue Acres projects and for wastewater and drinking water infrastructure projects. Specifically, projects that include, or allow for, a flood mitigation project to occur onsite would receive additional priority points in the ranking for funding pursuant to the respective program. The NJDEP would factor these additional points into its calculations when establishing: (1) the list of projects eligible to receive “Blue Acres funding”; (2) the “clean water project priority list,” pursuant to section 20 of P.L.1985, c.334 (C.58:11B-20); and (3) the “drinking water project priority list,” pursuant to section 24 of P.L.1997, c.224 (C.58:11B-20.1) A4867 has been reported out of both the Assembly Environment and Solid Waste Committee and the Assembly Special Committee on Infrastructure and Natural Resources Committee. A4867 was passed by the Assembly, received in the Senate and referred to the Senate Environment and Energy Committee.

1.2B INTERGOVERNMENTAL AGREEMENTS

- **Atlantic County Lake Lenape Memorandum of Agreement (MOA):** By letter dated July 28, 2022, Atlantic County requested that efforts to amend the 1998 MOA resume so that the old floating dock at Lake Lenape could be replaced with a new floating dock of a different configuration. The County previously discussed its request with the P&I Committee in August 2019. For the proposed dock replacement project to move forward, the Commission and the County must agree to an amendment of the 1998 MOA that authorized various development activities within the western lake shore of Lake Lenape Park and required the preservation of lands at the park through the filing of a Deed of Conservation Restriction. Staff briefed the P&I Committee at its November 30, 2022 meeting. A public hearing to elicit comments on the proposed amendment to the 1998 MOA was held on January 4, 2023. Staff presented the Executive Director’s Report and its recommendation for approval of the MOA Amendment at the January 27, 2023 P&I Committee Meeting. The Committee voted to recommend approval of the MOA Amendment by

the full Commission, and the matter was considered and approved by the Commission at its February 10, 2023 meeting.

- **South Jersey Transportation Authority MOA:** In early December 2022, the South Jersey Transportation Authority (SJTA) contacted the Commission to discuss future development at the Atlantic City Airport and the potential need for a second amendment to the 2004 MOA between the Commission and SJTA. A meeting was held on December 12, 2022 to identify necessary information and discuss the process for such an MOA amendment. As of January 31, 2023, the requested information had not been received.
- **Pemberton Township and the New Jersey Department of Environmental Protection:** Daniel Hornickel, Pemberton Township Administrator, and Carleton Montgomery, Executive Director, Pinelands Preservation Alliance, discussed a potential Memorandum of Agreement (MOA) with the Chair Matos and Executive Director Grogan in early February. This proposed MOA, if approved by the Commission, would authorize a deviation from the wetland buffer standards of the Pinelands Comprehensive Management Plan to permit improvements to an existing 0.65 mile trail along the perimeter of Pemberton Lake in order to make the trail accessible for individuals using wheel chairs and walkers. The trail is located on lands, a portion of which is owned by Pemberton Township and a portion of which is part of the New Jersey Department of Environmental Protections, Division of Fish and Wildlife's Pemberton Lake Wildlife Management Area. In accordance with the Commission's MOA process, Messrs. Hornickel and Montgomery made a presentation to the Commission's CMP Policy and Implementation Committee at its February 24th meeting. The Committee recommended that the proposal move forward to the next step in the process and Pemberton Township and PPA make a presentation to the Commission at its March 10 meeting to obtain the Commission's approval to move forward with the drafting of a proposed MOA.

1.2C OTHER

- **Outside Labor Counsel:** In preparation for collective bargaining negotiations with the Communication Workers of America, Local 1040, staff reviewed the New Jersey Division of Law's list of approved special labor counsel and distributed emails to eight firms requesting their interest in representing the Commission. After reviewing the responses, staff conducted interviews with three firms at the end of January. Staff identified a firm that it would like to retain but was subsequently advised that said firm was unable to represent the Commission because of a conflict involving another client. Staff intends to conduct an additional interview with another firm in early March.

1.3 HUMAN RESOURCES

- **Recruitment:** Recruitment continued for the Information Specialist 3 and Environmental Technologies Coordinator vacancies. Interviews for the Research Scientist position and the Information Specialist 3 positions were completed.
- **Training:** Virtual trainings for Human Resources (HR) staff were completed. Some topics included retirement in the Public Employees Retirement System (PERS), reporting retro salaries and supervising hybrid teams.

- **Internship:** Rutgers accepted the NJ Pinelands Commission as an employer for Rutgers interns. An internship in the Information Systems office is set to begin in summer 2023. Intern interviews will be held in March.

2 INTERAGENCY COORDINATION

- **Interagency Council on Climate Change (IAC):** Staff attended two meetings in February for IAC action, one on February 8, and the second on February 14, 2023. At the February 8 meeting, the Executive Director and a member of the Planning Office staff met with the NJ Deputy Climate Resilience Officer (DCRO). Staff confirmed the IAC's receipt of the revised Pinelands Commission "Agency at a Glance" summary, advised the DCRO of upcoming staff shortages at the Commission that may inhibit the Commission's ability to meet all IAC deliverable deadlines, and reviewed the timeline for completion of agency Extreme Heat Resilience Action Plans. At the IAC meeting of February 14, 2023, IAC members were briefed on a NJ Department of Community Affairs, Hurricane Ida Community Development Block Grant-Disaster Recovery Funds program that will be used to rebuild infrastructure and spur economic development in the wake of Hurricane Ida. IAC members were also introduced to Extreme Heat Resilience Actions being undertaken by New York State and Massachusetts, and the cities of Los Angeles, Phoenix and Miami. The IAC members were also apprised of the makeup of the Extreme Heat Advisory Group that will be assisting IAC member agencies in the development of their Extreme Heat Resilience Action Plans.
- **NJDEP Protecting Against Climate Threats (PACT) Initiative:** Staff prepared and sent a letter of support for NJDEP's proposed inland flooding rules on February 2, 2023. The letter was shared with the Pinelands Climate Committee at its February 15, 2023 meeting.

3 PLANNING

3.1 CONFORMANCE ACTIVITY

	Monthly Total	Calendar Year to Date
Master Plans/Ordinances Received		
Adopted	12	18
Drafted or Introduced	11	14
Total ¹	15	18

¹The total accounts for unique master plans and ordinances received (i.e., it does not double count drafted, introduced, or adopted submissions for the same ordinance).

Substantial Issue Finding ²	2	2
No Substantial Issue Finding	9	14
No Issue Finding	0	1
Total	0	17
Finding Letters Issued ³	5	11

3.2 CULTURAL RESOURCE ACTIVITY

Activity	Monthly Total	Calendar Year to Date
Applications Reviewed	18	18
Surveys Required	4	4
Surveys Reviewed	2	2
Certificates of Appropriateness Required	0	0

3.3 PINELANDS DEVELOPMENT CREDIT (PDC) PROGRAM

Activity	Monthly Total	Calendar Year to Date
PDCs Allocated	16.25	16.75
PDCs Severed	0	0
Acres Protected	0	0
PDCs Extinguished	0	0
Acres Protected	0	0
PDCs Sold	0.25	0.25
Average Sales Price per PDC	\$60,000	\$60,000
Average Sales Price per right	\$15,000	\$15,000
PDCs Redeemed	7.75	7.75

² Ordinances and Master Plans that are found to raise substantial issues with respect to the standards of the CMP require formal review and approval by the full Commission.

³ A single finding letter can pertain to multiple master plans/ordinances from the same municipality.

Notable Activity:

- **PDC Allocations:** A total of 15 PDCs (60 rights) were allocated to four separate parcels comprising 392 acres owned by the same applicant in the Agricultural Production Area in Tabernacle Township. Another 1.25 PDCs (5 rights) were allocated to a 156-acre parcel in the Preservation Area District, also in Tabernacle Township.
- **PDC Redemptions:** A total of 7.75 PDCs (31 rights) were redeemed in February. The majority (7.0 PDCs or 28 rights) were redeemed in association with phase 1 of a 457-unit project in Jackson Township. The remainder were redeemed for the development of single-family detached homes in Egg Harbor, Manchester and Monroe townships.

4 REGULATORY PROGRAMS

4.1 APPLICATION ACTIVITY

Activity	Monthly Total	Calendar Year to Date
Pre-Application Conferences	10	12
Certificates of Filing	16	34
Public Development Reports	4	5
Forestry Certificates of Filing	0	0
PDC Letters of Interpretation	5	7
Non-PDC Letters of Interpretation	0	0
MOA Consistency Determinations	1	1
Review of Agency Determinations	58	106

4.2 NOTABLE APPLICATIONS

- **Residential Development, Pemberton Township (App. No. 1981-0640.001):** This application proposes 578 dwelling units on a 695.1-acre parcel. By letter dated February 23, 2023, the Commission staff advised the applicant that a Township General Development Plan approval, equivalent of a preliminary approval, and an eight-year extension of that approval until June 7, 2027 continued to raise substantial issues with the minimum standards of the Pinelands Comprehensive Management Plan (CMP). The letter indicated that the applicant's request for an extension of time until June 30, 2023, for the Pinelands Commission to forward the application to the New Jersey Office of Administrative Law (NJ OAL) for a hearing on the substantial issues was granted. The letter further indicated that no further extension of time for forwarding the application to the NJ OAL would be granted beyond December 31, 2023. The

letter also indicated that additional threatened and endangered (T&E) species survey work would be necessary to address consistency of the proposed development with the T&E species protection standards.

- **Municipal Land Development Violations, South Toms River Borough (App. No. 2005-0232.006):** By letter dated February 3, 2023, the Commission staff advised the Borough of the information required to complete an application for certain development, including a building addition and a parking lot expansion, that had occurred on a municipally owned 42.15-acre parcel without application to the Commission.
- **Capping of a Landfill and Residential Development, South Toms River Borough (App. No. 2005-0232.007 and App. No. 2005-0232.007):** On November 15, 2021, the Commission received an application proposing 30 affordable dwelling units on the same Borough owned 42.15-acre parcel as the land development violations subject of the above referenced App. No. 2005-0232.006. An existing closed, but uncapped Borough landfill is located on the 42.15-acre parcel. By letter dated January 21, 2022, the Commission staff advised that the residential development application could be completed with the Commission, enabling issuance of a Commission Certificate of Filing, provided the Borough adhered to certain deadlines established in a Commission staff January 13, 2022 letter regarding the submission of information addressing the capping of the landfill. The Borough did not meet the deadlines established in the January 13, 2022 Commission letter. By letter dated January 5, 2023 letter, the Borough indicated that it has received funding for the capping of the landfill. By letter dated February 3, 2023, the Commission staff requested an updated schedule for the capping of the landfill. The February 3, 2023 letter also indicated that it was unlikely that the Commission could issue a letter allowing any municipal or county approvals or permits for the development of the proposed 30 affordable dwelling units on the same parcel as the landfill to take effect until the Borough has submitted, and the Commission has approved, an application to cap the landfill. A meeting was held on February 7, 2023 to further discuss the matter with Borough officials.
- **Pond Herbiciding, Evesham Township (App. No. 1992-0365.001):** This application proposes the herbiciding of Lost Lake to control aquatic vegetation. The applicant submitted a T&E species survey demonstrating the absence of a wetlands-associated T&E animal species of concern in Lost Lake. By letter dated October 4, 2021, the Commission staff indicated that it remained necessary to address whether the herbicide(s) could migrate to downstream wetlands and impact any wetland associated T&E animal species. By letter dated February 17, 2023, the Commission staff advised the applicant that it may be possible to demonstrate consistency with the T&E species protection standards if it is proposed to lower the surface water level of Lost Lake to below the invert of the outfall to the adjacent downstream water body and then apply the herbicide(s). The applicant must provide information demonstrating that maintaining the lowered surface water level of Lost Lake for X number of days (to be determined by the applicant) would allow the applied herbicides to become inert so that once Lost Lake was refilled, the herbicides would not migrate to downstream water bodies and associated wetlands.

- Residential Development, Woodland Township (App. No. 1992-0327.001):** In 2009, an application for the development of 12 single family dwellings on a 21.27-acre parcel was approved by the Commission. As part of that application, a T&E species survey was conducted in 2005 for certain animal species. Based on the results of that survey, the applicant permanently deed-restricted 9.73 acres of the parcel against development and disturbance to demonstrate consistency of the proposed development with the T&E animal species protection standards. To date, no development has occurred on the parcel. In February and March of 2022, the Commission received notice of a final subdivision approval granted by the Burlington County Planning Board. The Commission staff first issued a letter on May 10, 2022 indicating that the County Planning Board subdivision approval raised an issue with the T&E animal species protection standards. The Commission staff letter indicated since completion of that 2005 T&E species survey, new sightings of the concerned animal species have occurred in the vicinity of the parcel. Due to the approximately 17 years that had passed since completion of the 2005 T&E survey, the Commission staff advised that it must be demonstrated that the proposed development remains consistent with the T&E species protection standards. On January 23, 2023, the Commission staff received a T&E species survey protocol for the parcel. By letter dated February 23, 2023, the Commission staff indicated their agreement with the proposed protocol. The February 23, 2023 letter also indicated that if the concerned species are found during the spring season survey, the applicant should discuss that fact with the Commission staff prior to undertaking the proposed fall season survey.
- Residential Development, Winslow Township (App. No. 1995-1305.005):** An application was completed with the Commission for the development of 281 dwelling units (142 single family detached units and 139 townhomes) on an 80-acre parcel in the Regional Growth Area. The Commission staff issued a Certificate of Filing for the proposed development on February 14, 2023.
- Low Intensity Recreational Use, Pemberton Township (App. No. 1984-0500.006):** A pre-application conference was held on February 7, 2023 for the proposed construction of a 3,200 square foot clubhouse associated with the training of dogs, two 1,800 square foot buildings accessory to the dog training use and a gravel parking area on a 96.06-acre parcel. The concerned parcel is subject of a State of New Jersey and Burlington County Agricultural Retention and Development Program conservation deed restriction. The parcel remains subject of the regulations contained in the CMP. The parcel is located in the Township's Agricultural Residential zoning district (Pinelands Agricultural Production Area). The applicant is attempting to demonstrate that the proposed development meets the definition of a "low intensity recreational use" and would be permitted by both the conservation deed restriction and the CMP. By letter dated February 21, 2023, the Commission staff indicated that certain components of the proposal, such as the fencing of the parcel and the training of dogs within a fenced-in area at a certain intensity of use could be considered a low intensity recreational use. However, the February 21, 2023 letter further indicated that the proposed 3,200 square foot clubhouse, two proposed 1,800 square foot buildings and the proposed gravel parking area require significant modifications of the environment and will have more than an insignificant impact on the environmental integrity of the area. Based upon these facts, the proposed development would not meet the CMP definition of a low intensity recreational use.

- Residential Development/Forest Fire Fuel Break, Barnegat Township (App. No. 1995-1772.001):** By letter dated February 22, 2023, the Township Attorney wrote to the Commission regarding an existing 200-foot perimeter forest fire fuel break located on a residentially developed 116-acre parcel. An application for the development of 247 single family dwellings on the parcel was previously approved by the Commission. Both the Township land use ordinance and the CMP require all residential development of 100 dwelling units or more in high or extreme high forest fire hazard areas to have a 200-foot perimeter forest fire fuel break between all structures and the “forest.” The information submitted on February 22, 2023 requests a meeting with the Commission staff to discuss the lifting of portions of the 200-foot perimeter forest fire fuel break easement. When the residential development was approved in 2006 and 2008, there was undeveloped “forest” to the north, west and south of the parcel. During the intervening years, some of that “forest” has been cleared and developed. The Commission staff is completing its review of the matter.
- Commercial Development, Winslow Township (App. No. 2001-0354.002):** An application was completed with the Commission for the proposed construction of a 280,800 square foot commercial building on a 24.79-acre parcel. The Certificate of Filing for the proposed development indicated that the height of the proposed building was inconsistent with the 35-foot height limitation for a building in a Pinelands Village. In January 2023, the Commission received notice of Winslow Township Zoning Board of Adjustment approval for the proposed development. By letter dated February 22, 2023, the Commission staff advised that the proposed development raised a substantial issue with the maximum height standard of the Township land use ordinance and the CMP and scheduled a Commission staff public hearing for March 23, 2023 to review the issue. The issue is raised because the proposed commercial building will be 60 feet in height. The CMP provides that in a Pinelands Village, no building (structure) shall exceed a height of 35 feet from grade. Based upon a review of the applicant submitted “Winslow Warehouse Section Exhibit,” the height of the proposed building, when viewed from the existing grade on adjacent Route 73, will be 45 feet. The February 22, 2023 Commission staff letter advised that the issue was potentially resolvable by reducing the height of the proposed building to 35 feet or demonstrating that, based upon existing or proposed grade, the building will not exceed 35 feet in height above grade on the parcel.
- Demolition/Reconstruction of a Single Family Dwelling, Evesham Township (App. No. 1989-0719.033):** This application proposes the demolition of an existing single family dwelling and the reconstruction of that dwelling. Approximately 50% of the existing dwelling is located on Block 50, Lot 15 and approximately 50% of the existing dwelling is located on Block 50, Lot 16. The dwelling is proposed to be reconstructed on Lot 16. The two lots have different owners. By letter dated December 22, 2022, the Commission staff requested that recorded deed notices be provided for both Lot 15 and Lot 16, so that current and future owner(s) of Lots 15 and 16 would be aware that the existing single family dwelling previously located on both lots is/was reconstructed on Lot 16. The deed notices would specifically advise current and future owner(s) of the two lots that the development of any future single family dwelling on Lot 15 would not be eligible for the provision in the CMP that exempts the reconstruction of a single family dwelling within five years of its demolition from the need to apply to the Commission. The owner of Lot 15 opposed the deed notice. By letter dated January 25, 2023, the Commission staff reiterated the need for the deed notice on both lots. The need for the deed notice was based upon past

experience with a dispute between property owners as to the location of a demolished dwelling and the rights to reconstruct that demolished dwelling without application to the Commission. The January 25, 2023 letter indicated that the Commission staff was open to suggested language for the deed notice to address the concerns of the owner of Lot 15. By email dated January 25, 2023, the owner of Lot 16 requested relief from the deed notice requirement for Lot 15. On January 26, 2023, the owners of both lots separately called the Commission staff to further discuss the deed notice. The owner of Lot 15 indicated they would submit a draft deed notice proposing alternative deed notice language. On February 22, 2023, the owner of Lot 15 submitted alternative deed notice language. By letter dated February 28, 2023, the Commission staff suggested certain revisions to the proposed alternative deed notice language.

- **Residential Development, Hamilton Township (App. No. 1984-1087.006):** This matter involves two separate residential communities, one existing and one proposed. There is a disagreement between the two developers of the residential communities regarding the shared use of a stormwater management basin. Lot 5.01 contains 99 existing dwelling units. Lot 5.01 also contains three existing stormwater management basins and a portion of a fourth large existing stormwater management basin. The other portion of the large existing stormwater basin is located on adjacent vacant Lot 5.03. All four stormwater management basins have been constructed; however, none are functioning as designed. The owner of Lot 5.03 is proposing to develop 56 townhouse dwellings. The owner of Lot 5.03 requested a meeting with the Commission to determine the extent to which proposed development on Lot 5.03 could utilize the fourth large stormwater basin. By letter dated January 26, 2023, the Commission staff indicated that such a determination could not be made until an application for modification of the fourth large stormwater basin is completed with the Commission. If it is demonstrated that the existing development located on Lot 5.01 meets the stormwater management standards, then the proposed development on Lot 5.03 could use the fourth large stormwater management basin to the extent that it is demonstrated that sufficient volume, in whole or in part, is available in that basin to retain the required amount of stormwater runoff generated by the proposed 56 townhouse dwellings. By letter dated January 26, 2023, the Commission staff advised that it was our understanding that modifications to the four existing stormwater basins beyond that which would constitute routine maintenance had occurred on the parcel. Our letter further advised that any basin modification beyond routine maintenance required the completion of an application with the Commission. On February 9, 2023, the engineering firm representing the developer of Lot 5.01 submitted stormwater management information to the Commission for review. By letter dated February 15, 2023, the Commission staff advised of the need to submit an application and application fee for the modifications to the stormwater management basins that already occurred without the required application to the Commission.
- **Landfill Soil Cap, Berkeley Township (App. No. 1986-0127.001):** This application proposes to cap the closed municipal landfill. Two threatened and endangered (T&E) animal species were identified on or in the immediate vicinity of approximately 40 acres of forest proposed to be cleared on the parcel for the proposed landfill soil cap. As originally proposed, the design of the landfill soil cap was inconsistent with CMP T&E species protection standards. The applicant revised the landfill capping design to eliminate the inconsistency with the T&E species protection standards. The landfill cap application was subject to final public comment at the Commission's December 9, 2022 monthly meeting, after which the Commission staff issued a report recommending approval. At the January 13, 2023 monthly Commission meeting, several

Commissioners posed questions regarding the application and requested that additional information be incorporated into the public development report. To allow the Commission staff sufficient time to respond to those questions, the applicant granted an extension of time until February 10, 2023 for the Commission to act on the application. The Commission staff issued an Amended Public Development Application Report addressing the questions posed by Commissioners. At a special meeting of the Commission held on January 27, 2023, the application for the proposed soil capping of the landfill was approved. On February 8, 2023, the Commission staff received a requested appeal to the New Jersey Office of Administrative Law (NJ OAL) of the Commission's approval of the application. By letter dated February 24, 2023, the Commission staff advised that an appeal to the NJ OAL of the Commission's approval was not timely because such an appeal must be filed prior to Commission action on the application. The letter also advised that any appeal of the Commission's approval must be filed with the Appellate Division of Superior Court within 45 days of the Commission's January 27, 2023 approval of the application.

- **Solar Energy Facility, Berkeley Township (App. No. 1986-0127.015):** This application proposes a solar energy facility to be located on a proposed landfill cap. On November 9, 2022, the Commission issued a Certificate of Filing for the approximately 60-acre solar energy facility. The Certificate of Filing indicated that the proposed solar energy facility was inconsistent with CMP T&E species protection standards. The applicant revised the design of the proposed solar energy facility to eliminate the inconsistency. On December 15, 2022, the Berkeley Township Planning Board approved the proposed solar energy facility. On January 27, 2023, the Commission staff issued a letter scheduling a February 28, 2023 public hearing for review of the Township approval, based upon the existence of multiple Township land development violations on the same parcel as the proposed solar energy facility. Upon receipt of a February 17, 2023 email from the applicant, the Commission issued a letter on February 23, 2023, rescheduling the Commission staff public hearing for May 10, 2023.
- **Multiple Land Development Violations, Berkeley Township (App. No. 1986-0127.012):** Since 2013, the Commission staff has been writing to the Township regarding multiple land development violations on the same parcel as the Township landfill that is proposed to be capped and a solar energy facility is proposed to be located on the capped landfill. The parcel also contains the municipal complex and associated Township public works facilities. On January 13, 2023, the Commission staff issued a letter to the Township indicating that the entire municipal complex parcel is located in the Township's Municipal County Facilities zoning district (Pinelands Forest Area and Pinelands Preservation Area District). In this zoning district, the municipal complex is limited to a 50% expansion of the floor area, the area of the municipal complex or the capacity of the municipal complex, whichever is applicable on January 14, 1981. The Commission staff letter indicated that any development that has occurred on the parcel since 1981 that would be located outside of the area that qualifies for a 50% expansion must be removed from the parcel. By email dated January 17, 2023, the applicant requested clarification of the Commission staff delineated 50% expansion area. By email dated January 31, 2023, the Township Administrator requested a meeting with the Commission staff to discuss the Township ordinance 50% expansion provision. A meeting was held on February 6, 2023 to discuss the matter. Based upon the guidance provided at that meeting by the Commission staff, the applicant made six submissions of information addressing the 50% expansion provision during February of 2023. That information is currently under review.

- Single Family Dwelling, Mullica Township (App. No. 2021-0008.002):** This application is for a Waiver of Strict Compliance to build a single family dwelling on a 10.15 acre parcel. The CMP requires that all land in common ownership as of January 14, 1981 be included in a Waiver application. The CMP also provides that no application to the Commission is required for the division of lands by testamentary (will) provisions. The applicant owned an approximately 16 acre parcel on January 14, 1981. The applicant's attorney advised that the applicant passed away on October 6, 1997. The applicant's attorney further indicated that the individual lots comprising the 16-acre parcel were specifically identified and described in a pre-January 14, 1981 Last Will and Testament as being bequeathed to certain individuals. Based upon those facts, the applicant's attorney argued that the 10.15-acre parcel was not in common ownership with other lots on or after January 14, 1981. Ownership of the lots subject to the Last Will and Testament was transferred to the identified individuals by deeds recorded on May 8, 2000. At least two of the lots that were in common ownership as of January 14, 1981 and were bequeathed to certain individuals and have since been sold to other individuals and are not part of the 10.15-acre parcel currently subject of the Waiver application. By letter dated January 26, 2023, the Commission staff indicated that the 10.15-acre parcel subject of the Waiver application was in common ownership with the balance of the approximately 16-acre parcel. For reasons specified in the Commission staff's letter, the applicant was advised that it was unlikely that a Waiver application could be approved unless all lots in common ownership were included in the application. By letter dated February 8, 2023, the applicant's attorney responded to the Commission staff letter with a legal analysis distinguishing between legal ownership of land and beneficial/equitable ownership of land. The submitted information is under review.
- Landfill Capping, Borough of Woodbine (App. No. 1986-0257.003):** An application was filed with the Commission for the soil capping of the Borough's landfill. The CMP requires an impermeable landfill cap unless it is demonstrated that an alternate capping technique will address any ecological risk that may be associated with the landfill. By letter dated December 21, 2021, the Commission staff requested information necessary to demonstrate consistency of the proposed landfill cap with CMP T&E species protection standards. On August 17, 2022, the Commission staff received the requested T&E species information. By letter dated September 28, 2022, the Commission staff advised the applicant that the negative T&E survey results were accepted. The September 28, 2022 letter also indicated that specific geohydrologic landfill information requested at a January 2022 meeting with Commission staff had not yet been submitted. On December 23, 2022, the Commission staff received geohydrologic and other information regarding the application. By email dated January 26, 2023, the Commission staff advised that the submitted geohydrologic landfill information was under review and that the staff anticipated completion of that review by late February 2023. By email dated January 27, 2023, the Commission staff advised that, pending the review of the submitted geohydrologic landfill information and a determination of whether the proposed soil cap was consistent with CMP landfill capping requirements, the balance of the landfill capping application was completed. The Commission staff is finalizing its review of the information submitted on December 23, 2022 and anticipates a decision on whether the proposed soil cap meets the applicable CMP standards by March 10, 2023.
- Single Family Dwelling, Estell Manor (App. No. 1985-0577.001):** On January 16, 1987, the Commission approved a Waiver of Strict Compliance to develop a dwelling on a 4.64 acre parcel. Based upon the presence of wetlands, the Waiver included a condition that all development

must be located within 100 feet of Maple Avenue. By email dated October 14, 2022, an attorney representing the property owner requested a meeting to discuss relief from that condition of the Waiver. The applicant's attorney indicated that Estell Manor City was concerned with all development being located within 100 feet of Maple Avenue. By email dated October 31, 2022, the Commission staff advised that the staff cannot grant relief from the conditions of a Waiver because they were imposed by a vote of the Commissioners. The Commission staff email also indicated that if the applicant could not otherwise resolve the issue, an amended Waiver application must be completed with the Commission. The email further advised that a Waiver can only provide the minimum relief necessary from CMP wetlands protection standards. On November 23, 2022, the Commission staff met with the applicant's attorney and the Estell Manor Planning/Zoning Board attorney to discuss the application. On December 13, 2022, the Commission staff received a Resolution of the City Planning/Zoning Board approving a settlement agreement with the applicant. That settlement agreement approved locating all development within 150 feet of Maple Avenue. By letter dated December 22, 2022, the Commission staff advised Estell Manor that the approval to locate all development within 150 feet of Maple Avenue required an amended Commission Waiver. By email dated December 28, 2022, the applicant's attorney posed additional questions to the Commission staff regarding the application. By email dated January 9, 2023, the Estell Manor City Planning/Zoning Board attorney indicated that the settlement agreement effectively constituted a Township approval of the variance and that the approval of all development within 150 feet of Maple Avenue would have no impact on wetlands. On January 18, 2023, the Commission staff issued a letter scheduling a Public Hearing on February 21, 2023 for the Township Planning/Zoning Board approval. On January 30, 2023, an application was filed with the Commission for an Amended Waiver. By letter dated February 27, 2023, the Commission staff advised of the information necessary to complete an amended Waiver application. The Commission staff letter indicated that in the intervening 36 years since Commission approval of the 1987 Waiver, the Commission's Waiver regulations have changed and additional information has become available regarding T&E species within the vicinity of the concerned parcel. The Commission's Waiver regulations now require the purchase of 0.25 Pinelands Development Credits (PDCs) for a Waiver providing relief from the buffer to wetlands standard. In addition, the amended Waiver application must address consistency with the T&E animal protection standards.

- **115 Residential Dwelling Units, Hamilton Township (App. No. 1989-0546.017):** This application proposes the redevelopment of an existing three-story textile manufacturing building on a 5.2-acre parcel in the Mays Landing area. The application proposes a three-story addition to the existing manufacturing building to accommodate 115 residential apartments. The existing building is commonly referred to as the "Cotton Mill." By letter dated November 10, 2022, the Commission staff advised of the information necessary to complete the application, including a cultural resource survey. On January 23, 2023, the applicant met with the Commission staff to discuss the required cultural resource survey. The applicant indicated that the cultural resource survey work had been undertaken in approximately 2011, but the results of that survey were not available. The applicant proposed that, in lieu of a cultural resource survey, an archaeologist would be present on the parcel during construction. The Commission staff indicated that such an approach raised many issues. Additional discussion occurred about the information that was available from the 2011 cultural resource survey work. It was agreed that the applicant would submit a detailed certification from the supervising archaeologist outlining the findings and results of the 2011 survey work along with whatever supporting information was available from that survey work. On January 22, 2023, the cultural resource survey certification was submitted.

On February 16, 2023, the available supporting information from the cultural resource survey was submitted to the Commission. On February 23, 2023, the Commission staff issued a letter requesting the information required to complete the application. The cultural resource survey information remains under review.

- **Single Family Dwelling, Lacey Township (App. No. 2021-0038.001):** This application proposes the development of one single family dwelling on a 1.75 acre lot. A T&E animal species survey was completed and submitted to the Commission. The survey identified the presence of a threatened animal species on the lot. On September 26, 2022, the Commission staff issued an Inconsistent Certificate of Filing for the proposed development. The Certificate of Filing indicated that receipt of any county or municipal permits or approvals for the proposed dwelling would probably result in the Commission staff scheduling a public hearing to review the consistency of the proposed development with CMP T&E animal species protection standards. On November 18, 2022, the Commission staff received notice from the Ocean County Health Department of its intent to issue a septic permit for the proposed dwelling. By letter dated November 22, 2022, the Commission staff advised that the septic permit raised a substantial issue with CMP T&E animal species protection standards and scheduled a public hearing to review that substantial issue. On January 4, 2023, the public hearing was opened and continued until January 12, 2023. At the January 12, 2023 public hearing, the Commission staff reviewed why, in their opinion, the application raised a substantial issue. The applicant's consultant presented information addressing why, in their opinion, the proposed development did not raise a substantial issue with the T&E animal species protection standard. The Commission's Acting Executive Director served as the Commission Hearing Officer. At the conclusion of the public hearing, the Commission Hearing Officer advised that a recommendation on the application would be submitted to the Commission by the Acting Executive Director, probably at the Commission's March 2023 monthly meeting. By email dated February 19, 2023, the applicant advised the Commission staff that they were withdrawing their application from the Pinelands Commission. By letter dated February 22, 2023, the Commission staff advised that based upon the applicant's withdrawal of the application, an Executive Director's report and recommendation to the Commission would not be issued and that no further action would be taken on the application by the Pinelands Commission.
- **Residential Development, Jackson Township (App. No. 1983-5386.002):** This application proposes 457 dwelling units and a 24,500 square foot private school. The proposed development received both preliminary and final approval by a Consent Order issued by the United States District Court, District of New Jersey. After review of the court-ordered development approval, the Commission staff issued a letter on May 16, 2022, scheduling a public hearing to review the "substantial issues" raised by the proposed development with the stormwater management standard and the 200-foot-wide perimeter forest fire fuel break standard. The Commission staff letter also indicated that the proposed development raised a substantial issue with the residential density standard because notice of the redemption of the required 27.5 Pinelands Development Credits (PDCs) had not yet been submitted to the Commission. On July 8, 2022, the applicant submitted information to address the stormwater management standards. On July 25, 2022, the applicant submitted information to address the 200-foot-wide perimeter forest fire fuel break standard. By letter dated September 1, 2022, the Commission staff indicated that the only remaining issue with the application was resolvable if 27.5 PDCs were acquired and submitted to the PDC Bank. The PDC Bank would then issue a "pending redemption" notice to the Pinelands Commission. Upon receipt of that notice, the

Commission would issue a letter of no further review allowing the concerned approvals to take effect. The September 1, 2022 letter also indicated that alternatively, the issue could be resolved if all 27.5 required PDCs are acquired and submitted to the PDC Bank, with a request that the PDCs be redeemed on a development section phase by phase basis, as approved final development plans were recorded with Ocean County for each development phase. By letter dated January 13, 2023, the Pinelands Development Credit Bank advised the Commission that 27.5 PDCs had been provided to the Bank and were pending redemption, with official redemption to occur in phases when approved final development plans are recorded with Ocean County for each phase of the development. By letter dated February 10, 2023, the Commission staff advised that it had completed its review of Phase 1 of the proposed development and that the approval could take effect. The 7.0 PDCs required for the 92 market rate dwelling units proposed in Phase 1 were redeemed.

4.3 OFF-ROAD VEHICLE EVENT APPROVALS

- **Application # 1988-0071.041**
South Jersey Enduro Riders, Inc.
Approval Issued: 2/21/2023
Event Name: Ice Breaker Dual Sport
Event Date: February 26, 2023
Municipality: Manchester Township, Pemberton Township, Woodland Township
Lands Utilized: Brendan T. Byrne State Forest
Route Length: 64 miles

4.4 OTHER ITEMS OF INTEREST

- **Pinelands Preservation Alliance Coordination Meeting:** Regulatory Programs staff met with representatives of Pinelands Preservation Alliance (PPA) on February 23, 2023. Staff provided PPA with an overview of the Pinelands application review process for both public and private applications, relevant regulations and helpful tools and reports available on the Commission's website. Staff also explained the Commission's records organization and tracking processes to facilitate future records requests.

5 SCIENCE

5.1 ENVIRONMENTAL MONITORING

- **Water Level Monitoring:** In February, Communications staff measured water levels at forest plots and ponds in the Commission network of long-term monitoring sites. This work is completed each month with assistance from the Communications Office. Staff replaced water level data loggers from two ponds that stopped working in the fall.
- **Rare Snake Monitoring:** Science staff continued to check radio-tracked pine snakes, corn snakes, and hognose snakes to determine if any movements occurred during the winter. In February, one pine snake moved from one hole approximately 5 meters to another hole and

another pine snake was out basking on the ground surface next to its den entrance. The remaining radio tracked snakes were still underground. On warm days in February, Staff observed several non-radio-tracked corn snakes under artificial cover placed at their dens or inside their den corrals. The snakes were captured and processed as necessary. Staff continued to place artificial cover at shed, nest, and hibernation sites to help recapture tagged snakes as well as new snakes in the future. Staff continued to proof the 2022 rare snake capture data and continued cleaning up other related data sets for eventual analysis. Staff awaits NJDEP approval to corral a series of new dens located on state land.

5.2 LONG TERM STUDIES

- **King Snake Study:** A total of 22 king snakes are currently hibernating in their winter dens. Science staff completed entering king snake radio tracking data from 2022 into the king snake database.
- **Joint Corn Snake Study:** In February, Science staff continued proofing the 2022 capture data associated with the drift fence array. Staff also continued to re-distribute the artificial cover previously associated with the drift fence to other areas of study. Some preliminary data was summarized for a presentation on Science Office research to the Commission at its February meeting.
- **Box Turtle Study:** The 36 radio tracked box turtles are still hibernating underground. In February, the Commission Chief of Legal and Legislative Affairs drafted the box turtle agreement for the study.
- **Adenovirus Study:** In collaboration with Rutgers University researchers, Science staff continued to collect swab samples for adenovirus from snakes.

6 COMMUNICATIONS

6.1 COMMUNICATIONS & PUBLICATIONS

- **Inquiries/Correspondence:** The Communications Office received and responded to 63 inquiries from the public in February, including phone calls, e-mails, and media inquiries.
- **Website:** Commission staff made routine edits to the website throughout February.
- **Press Releases:** The Commission issued a press release to announce the swearing-in of Nicholas Asselta and a press release to announce the appointment of Susan R. Grogan as the agency's new Executive Director on February 10, 2023.

- Annual Report:** Staff wrote, designed, edited, and finalized a draft of the 2022 Annual Report in February. The 30-page, draft report was sent to the Governor's Authorities Unit in February, along with a resolution to adopt the report. The 15-member Commission is scheduled to vote on the report during its meeting on March 10, 2023.
- Social Media Enhancements:** In February, staff shared 98 photos and eight videos on the Commission's Instagram site and 37 tweets on Twitter.



Above: The Commission shared 98 photos on Instagram in February, including this photo of greater yellowlegs birds at the more than 18,000-acre Tuckahoe Wildlife Management Area in the Pinelands National Reserve.

6.2 EVENTS, OUTREACH & INTERPRETIVE PROGRAMS

- Pinelands Short Course:** Registration for the 34th annual Pinelands Short Course opened in early January, and more than 430 people have registered thus far. The event will be held at Stockton University's main campus in Galloway Township on March 11, 2023, and it will feature 28 presentations, including 21 new programs. Event brochures were mailed out, and staff promoted the event heavily on social media in February. Staff is also planning the Summer Short Course, which will be held on June 23, 2023.
- Education Programs:** Staff is planning several Pinelands Speaker Series presentations that will be delivered at the Commission's headquarters this summer.
- Barnegat Bay Partnership:** A member of the Communications Office participated in the Partnership's Communication and Education Committee meetings on February 22, 2023 and February 24, 2023.

7 INFORMATION SYSTEMS

- **Pinelands Commission Information System Upgrades:** The Pinelands Commission Information System (PCIS) is the internal system of record for all applications to the Pinelands and associated transactions. Staff provided desktop support, implemented enhancements and bug fixes. Staff updated all internal documents and templates to reflect the newly appointed Executive Director. Staff worked to digitize and integrate into PCIS Certificates of Filing from 1992. Two hundred and seventy-three of the documents were processed.
- **Cybersecurity:** Vigilance to protect the internal networks, hardware, and data of the Pinelands Commission is critical in today's networked world. The Information Systems office participated in the monthly call hosted by the New Jersey Cybersecurity & Communications Integration Cell (NJCCIC).
- **Permanent Land Protection (PLP) Data System:** The PLP system manages the data related to all the preserved land in the Pinelands National Reserve. Staff supported the Planning Office in maintaining PLP records.
- **Pinelands Development Credit Bank:** The Pinelands Development Credit (PDC) Bank utilizes custom software to manage all operations including tracking data and issuing certificates. Staff supports the PDC Bank in utilizing the system. PDC Bank maps and reports were provided to the New Jersey Department of Environmental Protection.
- **Ad Hoc Reporting:** Staff assist the Pinelands Commission by generating reports to provide insight into relevant topics of interest. Staff produced a report on all warehouse development applications received during 2022 in preparation for the Commission's Annual Report. Staff completed a draft of the Regulatory Programs Application Dashboard and received feedback for further improvements.
- **Technology Enhancements:** Staff members continually evaluate emerging technologies for how they can impact or enhance the office environment. Staff planned a meeting with the New Jersey Office of Information Technology to plan the use of Teams Voice software. Staff received, configured and deployed laptops to support the New Jersey Telework Pilot Program. Staff worked on new features in SharePoint, OneDrive, and Teams to evaluate new features that may become part of the standard desktop deployment.

8 BUSINESS OFFICE

8.1 FINANCIAL MANAGEMENT

- **Application Fees:** February 2023, Net Total: \$157,424.79 Fiscal Year to Date Total: \$771,515.01. This represents 118.69% of the anticipated budget total for Fiscal Year 2023.

- **State of New Jersey Sponsored Project:** The Business Services office is participating in the Supplier Diversity Management System (SDMS) installation sponsored by the Office of Diversity & Inclusion. The B2GNow platform offers a system that can manage vendors, outreach and analyze spending.