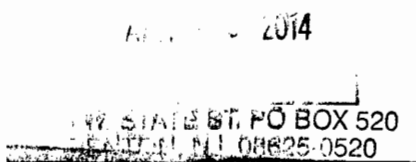


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PC2-87



PINELANDS COMMISSION MEETING¹
Richard J. Sullivan Center
Terrence D. Moore Conference Room
15 Springfield Road
New Lisbon, New Jersey

MINUTES

December 13, 2013

Commissioners Present

Candace Ashmun, Alan W. Avery, Jr., Bill Brown, Sean Earlen, Leslie Ficcaglia, Paul E. Galletta, Robert Jackson, Ed Lloyd, Ed McGlinchey, Richard Prickett, Fran Witt and Chairman Mark Lohbauer. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit Liaison Kerstin Sundstrom and Deputy Attorney Generals (DAG) Helene Chudzik and John Renella.

Commissioners Absent

Gary Quinn, Joe DiBello and D'Arcy Rohan Green.

Chairman Lohbauer called the meeting to order at 9:42 a.m.

DAG Chudzik read the Open Public Meetings Act Statement.

Ms. Nancy Wittenberg called the roll and announced the presence of a quorum.

The Commission and public in attendance pledged allegiance to the Flag.

¹ Please note that all attachments are maintained with the original minutes, but are not attached to copies. For information about attachments, please contact the office.

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Chairman Lohbauer welcomed back Commissioner Ashmun and Alan W. Avery. Chairman Lohbauer said Ocean County recently appointed Commissioner Avery as the replacement for the late John Haas. Chairman Lohbauer said Commissioner Avery previously served on the Commission for 21 years and has already been sworn in.

Minutes

Chairman Lohbauer presented the November 8, 2013 Commission meeting minutes. Commissioner Ficaglia moved the adoption of the minutes. Commissioner Earlen seconded the motion.

The minutes of the November 8, 2013 Commission meeting were adopted by a vote of 11 to 0, with Commissioner Avery abstaining.

Other

Chairman Lohbauer said that before we start regular business, he would like to take a moment to remember two men who were very influential in preserving the Pinelands. He said that he attended Commissioner Haas' funeral last week. He asked Alan Avery, who delivered the eulogy at John's funeral, to read some of his remarks about Mr. Haas today.

Commissioner Avery said that he and John were colleagues at Ocean County for almost 40 years and a deep friendship developed. He said John played basketball at Monmouth College and was inducted into its Hall of Fame. He said John had the option to play professionally but declined. He said John spent his childhood at the Jersey shore and lived there most of his adult life. He loved the Barnegat Bay and enjoyed fishing and sailing there. He also belonged to the Seaside Park Yacht Club and served as its Commodore. Commissioner Avery said that in retirement he and Mr. Haas spent a lot of time trout fishing and travelling to famous trout streams to fly-fish.

He closed by saying that when the Freeholders of Ocean County approached him to represent Ocean County at the Commission, it was not an offer that he could refuse.

Chairman Lohbauer said the Commission also recently lost another important member, Richard J. Sullivan, who served as Chairman of the Commission from 1988-1998. Chairman Lohbauer read a long list of Mr. Sullivan's accomplishments and asked Commissioner Ashmun to say a few words.

Commissioner Ashmun said she worked on numerous projects with Richard Sullivan through the years and that she was proud to be his friend.

A moment of silence was observed in honor of John Haas and Richard J. Sullivan.

PC2-89

Committee Chairs' Reports

Policy & Implementation Committee

Chairman Lohbauer updated the Commission on action from the November 22, 2013 Policy and Implementation (P&I) Committee meeting:

The Committee adopted the minutes of the October 23, 2013 meeting.

The Committee authorized advance payment to the Trust for Public Land for Pinelands Conservation Fund monies allocated to purchase the Clayton property. Closing is scheduled for December 18, 2013.

The Committee recommended the Commission adopt a resolution related to an agreement and funding of \$20,000.00 for the Cape May County Municipal Utility Authority's comprehensive wastewater planning study.

The Committee recommended the Commission certify Dennis Township's revised master plan and Ordinance 2013-03.

The Committee received an update on a draft Memorandum of Agreement with the Board of Public Utilities, including a proposed schedule for its consideration.

The Committee received comment from 37 members of the public on the proposed South Jersey Gas pipeline.

Chairman Lohbauer updated the Commission on action from the December 4, 2013 Policy and Implementation (P&I) Committee meeting

This meeting was called to discuss the provisions of a proposed Memorandum of Agreement (MOA) between the Pinelands Commission and the Board of Public Utilities (BPU) to allow South Jersey Gas to construct a pipeline through the Forest Area to the B.L. England electric generating station.

The MOA includes measures to ensure an equivalent level of protection for the resources of the Pinelands including acquisition of 2,000-3,000 acres of land in the vicinity of the pipeline, expanded educational and outreach programs and measures to be implemented during and post construction.

Thirty-five members of the public provided comment on the proposal.

Personnel & Budget Committee

Chairman Lohbauer said the originally scheduled meeting of December 3, 2013 was cancelled due to lack of agenda items.

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Plan Review Committee

Commissioner Ashmun said the November 8, 2013 meeting of the Plan Review Committee was canceled. However, the Committee will try to meet later today. (The meeting was cancelled)

Executive Director's Reports

Ms. Wittenberg said that Stacey Roth is out today but reachable by phone in the event she is needed during the meeting. She said that Helene Chudzik and John Renella are both here from the Attorney General's office.

Mr. Larry Liggett updated the Commission on the following:

- Staff met with Carrie Mosley of U.S. Department of Agriculture's Natural Resources Conservation Services. Ms. Mosley and her staff work with farmers to restore portions of agriculture fields to functioning wetlands. Ms. Mosley and her staff were interested in understanding the Commission's regulations and discussing future projects.
- The Town of Hammonton requested an increase in water allocation about three years ago. A condition of that approval required Hammonton to address its wastewater management issues. The Town had three years to develop a plan to end all surface water discharges. Staff has been working with the town closely and is happy to announce that the Town has a plan to build a 26.5 acre overland drip irrigation system at the Boyer Avenue wastewater facility. Staff will be seeking recommendation on the plan from the Policy and Implementation Committee in early 2014 before seeking approval by the full Commission.

Mr. Chuck Horner updated the Commission on the following:

- Staff met with Senator Robert Singer to discuss an affordable housing development project in Manchester Township, that includes a proposal for sanitary sewer. The proposed extension of the sewer line would go through the Preservation and Forest Area, neither of which is permitted. The applicant will be pursuing alternatives.
- Staff met with the consultant hired to assist in the review of the Route 72 stormwater management basin reconfiguration in Stafford Township. The applicant posted an escrow, allowing the Commission to retain an engineer to review the proposal for the construction of the basin.
- The Commission recently released a permit for the reuse of the William B. Kessler Hospital in Hammonton. The facility will now house medical offices.
- Staff will be meeting with Woodland Township to discuss tree removal at the Franklin Parker Preserve.
- The Ocean County Agriculture Development Board recently determined that an applicant who cleared land was not entitled to "right to farm". The Commission will work with the applicant on revegetating the cleared area.

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Public Development Projects and Other Permit Matters

Commissioner Galletta moved the adoption of a Resolution Approving With Conditions an Application for the Issuance of a Certificate of Appropriateness (App. No. 2013-0047.001) (See Resolution # PC4-13-42). Commissioner Prickett seconded the motion.

Mr. Horner said by approving the resolution for the Certificate of Appropriateness, specific measures will be taken by the County to temporary preserve the historic bridge at another location. At this time, the County is also proposing a temporary bridge structure, approval of which is covered by an existing Memorandum of Agreement (MOA) between Atlantic County and the Commission. The ultimate treatment of the historic bridge will be determined as part of the County's application to the Commission for a permanent bridge. That application will require that the Commission to issue another Certificate of Appropriateness specifying the appropriate permanent treatment of the historic bridge.

The Commission adopted the resolution by a vote of 12 to 0.

Resolutions Relating to Municipal Ordinances

Commissioner McGlinchey moved the adoption of a Resolution Issuing an Order to Certify Resolution 10-12, Adopting Dennis Township's 2012 Master Plan – Land Use Plan, and Ordinance 13-03, Amending and Superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township (See Resolution # PC4-13-43). Commissioner Jackson seconded the motion.

The Commission adopted the resolution by a vote of 11 to 0, with Commissioner Avery abstaining.

Other Resolutions

Commissioner Ashmun moved the adoption of a Resolution to Authorize the Executive Director to Execute a Memorandum of Understanding (MOU) among the Pinelands Commission, the Borough of Woodbine and the Cape May County Municipal Utilities Authority to Assist and Participate in a Comprehensive Wastewater Planning Study to Potentially Eliminate Onsite Septic Systems Servicing Existing and Future Residential, Commercial and Institutional Uses in the Borough of Woodbine and to Revise the FY2014 Pinelands Conservation Fund Budget (See Resolution # PC4-13-44). Commissioner Jackson seconded the motion.

Mr. Liggett displayed an aerial of the study area (see attached slide). He said the Cape May County Municipal Utilities Authority (CMCMUA) has received a grant of \$90,000 from the United States Department of Agriculture (USDA) through its Rural Development Program to look at the feasibility of installing a joint interceptor in the Town of Woodbine to connect to the CMCMUA. Currently, Woodbine has a developmental center with an on-site wastewater treatment facility, a downtown area looking for growth, a state-of-the-art landfill that collects leachate that is trucked off-site and an industrial area with an existing airport. The study will look at the aforementioned areas and determine if there is an

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advantage to constructing the sewer infrastructure. The USDA requires a \$30,000 local cash match, the CCMUA is contributing \$10,000. Woodbine Borough is seeking \$20,000 from the Commission's Pineland Conservation Fund for the remaining balance of the match contribution. By approving the resolution to enter into the MOU, the Commission would partner in the study and allocate \$20,000 to the CCMUA.

Mr. Liggett said more money may be needed for professional services in the future.

Commissioner Jackson asked if the planning study would take into consideration the cost and effect on residents of the sewer hook-ups.

Mr. Liggett said Mayor Pikolycky responded to the Commission in writing after that same question was raised at the November 22, 2013 Policy and Implementation Committee meeting. The Mayor said he would seek grants that offer residents assistance with the cost of sewer hook-ups.

Mr. Liggett added that it is unclear at this point, if the sewer would be offered to residents. The goal right now is to look at the downtown area.

Commissioner Prickett added that Woodbine is served by public water.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Ashmun moved the adoption of a Resolution Setting Pinelands Commission Meeting Dates for 2014 (See Resolution # PC4-13-45). Commissioner Jackson seconded the motion.

Commissioner Galletta and Commissioner McGlinchey said they would like an additional night meeting added to the 2014 calendar.

Commissioner Lloyd said he was not opposed to a night meeting but he did not think that the change in time would increase public participation.

The Commission adopted the resolution by a vote of 12 to 0.

Commissioner Ficcaglia moved the adoption of a Resolution To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Application Requirements and Procedures; Letters of Interpretation; Pilot Program for Alternate Design Treatment Systems) (See Resolution # PC4-13-46). Commissioner McGlinchey seconded the motion.

Ms. Grogan highlighted the proposed amendments to the Comprehensive Management Plan (CMP). She said the rule proposal will formally eliminate the Cromaglass system from the Commission's Alternate Design Wastewater Treatment System's Pilot Programs, in addition to extending the deadline for the installation of the remaining alternate design systems. Other changes were driven by Plan Review, including extending Letters of

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Interpretations (LOI) from two years to five years. In allocating Pinelands Development Credits, the Commission will no longer take into account common ownership of adjacent properties. We have also added two exemptions from application to the Commission: home occupations and change of use applications. The municipality will continue to review these applications.

Ms. Grogan said if this is approved today, the formal rule-making process will begin.

Commissioner Ashmun asked about the existing homes that are currently using the Cromaglass septic system.

Ms. Grogan said there are about 60 Cromaglass systems installed in the Pinelands and the homeowners will not be required to remove or change the systems unless they choose to do so.

Commissioner Ahsmun also raised concern about changing the LOIs to five years. She said the two year date was in place to catch any development.

Ms. Grogan said there is a process in place. If an applicant submits a development application on a parcel which already has an LOI, an amended LOI would be issued.

Commissioner Jackson has reservations about the homeowners who currently have a Cromaglass system; he would like to have a system in place in the event these septic systems need maintenance.

Mr. Liggett said staff would get back to the Commission with potential ideas of how the Commission can help the homeowners and he agrees the Commission has an obligation to do so.

Commissioner Galletta recused himself and left the room because the rule proposal makes adjustments to LOIs for Pinelands Development Credits.

The Commission adopted the resolution by a vote of 10 to 0, with Commissioner Avery abstaining and Commissioner Galletta recusing himself from voting.

Public Comment on Agenda Items and Pending Public Development Applications

No public comment was offered.

Ordinances Not Requiring Commission Action

Chairman Lohbauer asked if any Commissioner had questions regarding the list of ordinances not requiring Commission action:

- Hamilton Township Ordinance 1755-2013
- Lacey Township Ordinance 2013-25

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No members of the Commission had questions.

Ms. Wittenberg reported that on Monday, December 9, 2013 a Public Hearing was held to receive comment on the draft MOA between the Commission and the Board of Public Utilities. She said about 115 members of the public spoke. She said the Commission will continue to receive written comment until close of business today.

Commissioner Lloyd advised the Commission that he was contacted yesterday by the State Ethics Commission, which ordered him to recuse himself from further participation in the pipeline matter because of a conflict. Commissioner Lloyd explained why he felt there was no conflict and advised that the State Ethics Commission was aware of his position. Commissioner Lloyd then left the meeting.

Public Comment on Any Matter Relevant to the Commission's Statutory Responsibilities

Over 70 members of the public offered comment on the draft MOA between the Commission and the Board of Public Utilities. The comment received will be part of the formal record and addressed in the Executive Director's report.

Adjournment

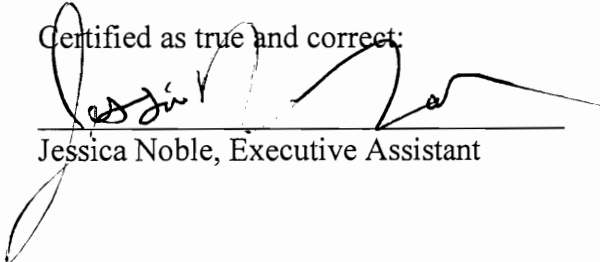
Ms. Wittenberg said that at the last P&I Committee meeting a member of the public made false accusations about a member of the Commission staff. The person that made those accusations has since apologized in writing.

Commissioner Witt said no one from the Governor's Office or from this office has asked him how he will vote or advised him how he should vote on the proposed draft MOA for the gas pipeline.

Commissioners proceeded to discuss the process for the pipeline application thus far and the process going forward.

Commissioner Jackson moved to adjourn the meeting. Commissioner Witt seconded the motion. The Commission agreed to adjourn at 2:22 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

Date: _____

12/24/13



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 42

TITLE: Approving With Conditions an Application for the Issuance of a Certificate of Appropriateness (App. No. 2013-0047.001)

Commissioner Galletta moves and Commissioner Prickett seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director that the following application for the issuance of a Certificate of Appropriateness be approved with conditions:

App. No. 2013-0047.001 Applicant: Atlantic County Department of Regional Planning & Development

Municipality: Borough of Folsom
 Management Areas: Rural Development Area and Forest Area
 Proposed Action: Certificate of Appropriateness for the removal of an existing bridge, 50 years old or older (Date of Report: November 25, 2013)

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received; and

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period and Governor shall approve same, in which case the action shall become effective upon such approval; and

WHEREAS, the Pinelands Commission hereby determines that, if the conditions recommended by the Executive Director are imposed, the proposed treatment of the significant historic resource conforms to the standards for the issuance of a Certificate of Appropriateness as set forth in N.J.A.C. 7:50-6.156.

NOW, THEREFORE BE IT RESOLVED that the following application for the issuance of a Certificate of Appropriateness is hereby **approved** subject to the conditions recommended by the Executive Director:

App. No. 2013-0047.001 Applicant: Atlantic County Department of Regional Planning & Development

Municipality: Borough of Folsom
 Management Areas: Rural Development Area and Forest Area
 Proposed Development: Certificate of Appropriateness for removal of an existing bridge, 50 years old or older (Date of Report: November 25, 2013)

Record of Commission Votes

| AYE | NAY | NP | ABS | AYE | NAY | NP | ABS | AYE | NAY | NP | ABS |
|---------|-----|----|-----|------------|-----|----|-----|-------------|-----|----|-----|
| Ashmun | X | | | Ficcaglia | X | | | Prickett | X | | |
| Avery | X | | | Galletta | X | | | Quinn | | | X |
| Brown | X | | | Jackson | X | | | Rohan Green | | | X |
| DiBello | | | X | Lloyd | X | | | Witt | X | | |
| Earlen | X | | | McGlinchey | X | | | Lohbauer | X | | |

Adopted at a meeting of the Pinelands Commission

 Nancy Wittenberg
 Executive Director

Date: December 13, 2013

 Mark S. Lohbauer
 Chairman



State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

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Chris Christie
Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpinelands.state.nj.us
Application Specific Information: AppInfo@njpinelands.state.nj.us

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

November 25, 2013

Joseph D'Abundo, P.E.
Atlantic County Department of Regional Planning & Development
PO Box 719
Northfield, NJ 08225

Re: Application # 2013-0047.001
Eighth Street Bridge
Borough of Folsom

Dear Mr. D'Abundo:

The Commission staff has completed its review of this application for a Certificate of Appropriateness for the removal of an existing bridge, 50 years old or older.

A cultural resource survey was completed by the applicant. The cultural resource survey determined that the existing bridge constituted a significant historic resource. The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.156(a)2.) provides that because the proposed bridge removal involves a structure found to be a significant historic resource, the Pinelands Commission must issue a Certificate of Appropriateness.

On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application for a Certificate of Appropriateness with conditions at its December 13, 2013 meeting.

Any interested party may appeal this recommendation in accordance with the appeal procedure attached to this document. If no appeal is received, the Pinelands Commission may either approve the recommendation of the Executive Director or refer the application to the New Jersey Office of Administrative Law for a hearing.

Sincerely,

Charles M. Horner, P.P.

Director of Regulatory Programs

- Enc: Appeal Procedure
- c: Secretary, Borough of Folsom Planning Board (via email)
- Borough of Folsom Construction Code Official (via email)
- Borough of Folsom Environmental Commission (via email)
- Douglas Chabrak





State of New Jersey

THE PINELANDS COMMISSION

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Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

CERTIFICATE OF APPROPRIATENESS

November 25, 2013

Joseph D'Abundo, P.E.
Atlantic County Department of Regional Planning & Development
PO Box 719
Northfield, NJ 08225

Application No: 2013-0047.001

Location: Eighth Street Bridge
Borough of Folsom

BACKGROUND

Atlantic County proposes removal of the existing Eighth Street Bridge over Hospitality Branch in the Borough of Folsom. The existing bridge is a one lane bridge that has been damaged due to overloading and is currently closed to traffic. The County also proposes to construct a temporary one lane bridge which will permit the road to be reopened.

On August 8, 2011, the Commission entered into a Memorandum of Agreement (MOA) with Atlantic County to facilitate the review of certain classes of public development defined in the MOA. The MOA (Section V.H.9) allows for bridge replacement provided that the total proposed new land disturbance does not exceed 5,000 square feet and that all development activities are consistent with the standards of the Pinelands Comprehensive Management Plan (CMP). If the Commission approves this application for a Certificate of Appropriateness, the proposed bridge removal and replacement will meet the requirements of the MOA and will be consistent with the standards of the CMP.

FINDINGS OF FACT

A cultural resource survey was completed by the applicant. The cultural resource survey determined that the existing bridge constituted a significant historic resource. The CMP (N.J.A.C. 7:50-6.156(a)2.) provides that because the existing bridge is a significant historic resource, a Certificate of Appropriateness must be obtained. A Certificate of Appropriateness specifies the appropriate treatment of a significant historic resource. The CMP (N.J.A.C. 7:50-6.156(a)4.) further requires that, when development is proposed by a County and that development involves a significant historic resource, the Pinelands Commission must issue the Certificate of Appropriateness.



A Certificate of Appropriateness identifies the required treatment of the significant historic resource from three alternatives:

- preservation in place if possible;
- preservation at another location, if preservation in place is not possible; or
- recordation, if neither preservation in place nor at another location is possible.

The existing bridge was built around 1908 and moved to its current location in 1937. The bridge has prominent steel framing and is referred to as a truss bridge. A truss bridge is a type of bridge with two parallel metal superstructures rising above either side of the decking. According to a statewide historic bridge survey sponsored by the New Jersey Department of Transportation, the concerned bridge is one of fewer than five surviving metal truss bridges in southern New Jersey and it is technologically significant as a rare survivor of an important bridge type in the region.

The existing bridge will be dismantled and removed to an off-site location for cleaning and priming of the bridge components. The bridge components will be stored in a sheltered location until a permanent bridge is proposed. The preservation of the bridge at another location is the appropriate temporary treatment of the significant historic resource.

At the time an application is filed with the Commission proposing a permanent bridge, a second Certificate of Appropriateness will be required. That second Certificate of Appropriateness must demonstrate the appropriate permanent treatment of the significant historic resource from the three above referenced significant historic resource treatment alternatives.

PUBLIC COMMENT

Based upon a total area of disturbance of less than 5,000 square feet, the proposed development is defined as “minor” development by the CMP. Public notice is not required by the CMP for “minor” public development applications. This application was designated as complete on the Commission’s website on October 23, 2013. The Commission’s public comment period closed on November 8, 2013. No public comments regarding this application were submitted to the Commission.

CONDITIONS

1. The removal of the existing bridge and transfer of the bridge to another location shall be undertaken consistently with the conditions of the October 10, 2013 letter from the New Jersey Department of Environmental Protection, Historic Preservation Office.
2. Prior to any development of the temporary bridge, the applicant shall receive a written determination from the Commission staff that the proposed development is consistent with the provisions of the existing MOA between Atlantic County and the Pinelands Commission.
3. Prior to the development of a permanent bridge at the above referenced location, an application shall be completed with and approved by the Pinelands Commission. That application also requires a Certificate of Appropriateness identifying the permanent treatment of the bridge that was removed.

CONCLUSION

As the proposed temporary preservation of the significant historic resource at another location conforms to the standards set forth in N.J.A.C. 7:50-6.156 (c), it is recommended that the Pinelands Commission **APPROVE** the Certificate of Appropriateness subject to the above conditions.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 43

TITLE: Issuing an Order to Certify Resolution 10-12, Adopting Dennis Township's 2012 Master Plan – Land Use Plan, and Ordinance 13-03, Amending and Superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township

Commissioner McBlinney moves and Commissioner Jackson seconds the motion that:

WHEREAS, on September 9, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Dennis Township; and

WHEREAS, Resolution #PC4-83-77 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-83-77 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas; and

WHEREAS, on October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management; and

WHEREAS, on November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry; and

WHEREAS, these three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively; and

WHEREAS, municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments; and

WHEREAS, on June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27, extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously; and

WHEREAS, Commission staff subsequently provided a model ordinance and other guidance to Dennis Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments; and

WHEREAS, by letter dated December 2, 2011, Dennis Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments; and

WHEREAS, by letter dated December 5, 2011, the Executive Director notified the Township that an extension was granted until March 2, 2012; and

WHEREAS, on March 22, 2012, Commission staff attended a joint meeting of the Dennis Township Planning Board and governing body to discuss the CMP amendments related to cluster development, forestry and wetlands management; and

WHEREAS, on December 5, 2012, the Dennis Township Planning Board adopted Resolution 12-10, approving the municipality's 2012 Master Plan – Land Use Plan; and

WHEREAS, the 2012 Master Plan contains recommendations for zoning changes designed to implement center designations and revised state planning area boundaries in the Pinelands National Reserve portion of the municipality, but makes no mention of the adoption of amendments related to clustering, forestry or wetlands management in the Pinelands Area; and

WHEREAS, on May 15, 2013, the State Planning Commission approved Dennis Township's petition for Plan Endorsement, resulting in the designation of five village centers within that portion of the municipality located within the Pinelands National Reserve but outside the state-designated Pinelands Area; and

WHEREAS, by letter dated May 17, 2013, Dennis Township notified the Commission of its adoption schedule for the clustering, forestry and wetlands management amendments and the need for a further extension of the March 1, 2011 deadline; and

WHEREAS, by letter dated May 22, 2013, the Executive Director notified the Township that a second extension was granted until July 15, 2013; and

WHEREAS, on July 15, 2013, Dennis Township adopted Ordinance 2013-03, amending and superseding in their entirety Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Township's Code, incorporating amendments related to residential cluster development, forestry and wetlands management, and creating a number of new zoning districts; and

WHEREAS, Ordinance 2013-03 also adopts a revised Zoning Map for the Township, dated April 2013, which adjusts the boundaries of existing zoning districts and management areas within the Pinelands Area and reflects the creation of new zoning districts within the Pinelands National Reserve, outside the Pinelands Area, for purposes of implementing the Township's plan endorsement petition; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 2013-03, including a copy of the amended April 2013 Zoning Map, on August 16, 2013; and

WHEREAS, the Commission also received copies of Planning Board Resolution 12-10 and the Township's adopted 2012 Master Plan – Land Use Plan on August 16, 2013; and

WHEREAS, by letter August 8, 2013, Dennis Township requested that the Pinelands Commission review and approve its master plan and land use ordinances for that portion of the municipality located east of the Garden State Parkway, within the Pinelands National Reserve but outside the state-designated Pinelands Area; and

WHEREAS, Commission staff subsequently notified the Township that because the State Planning Commission had authorized amendments to the State Plan Policy Map only to designate five village centers in the Pinelands National Reserve, and did not authorize changes in state planning area designations outside these centers for the majority of the Township's Pinelands National Reserve area, the request for Commission approval of the Township's master plan and ordinances applicable to the Pinelands National Reserve was premature and could not be processed at this time; and

WHEREAS, by letter dated August 27, 2013, the Executive Director notified the Township that Resolution 12-10 and Ordinance 2013-03 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Resolution 12-10 and Ordinance 2013-03 was duly advertised, noticed and held on October 2, 2013 at the Richard J. Sullivan Center, 203C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Resolution 12-10 and Ordinance 2013-03 sufficiently implement the cluster development, forestry and wetlands management amendments to the Comprehensive Management Plan and are otherwise consistent with Comprehensive Management Plan standards; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Resolution 12-10, adopting the 2012 Master Plan – Land Use Plan of Dennis Township, and Ordinance 2013-03, amending and superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township, are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Resolution 12-10 and Ordinance 2013-03 be certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Resolution 12-10 and Ordinance 2013-03 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5H, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

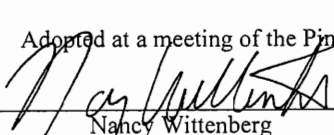
NOW, THEREFORE BE IT RESOLVED that

1. An Order is hereby issued to certify that Resolution 12-10, adopting the 2012 Master Plan – Land Use Plan of Dennis Township, and Ordinance 2013-03, amending and superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Dennis Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

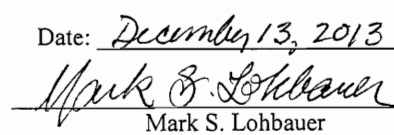
Record of Commission Votes

| | AYE | NAY | NP | ABS | | AYE | NAY | NP | ABS | | AYE | NAY | NP | ABS |
|---------|-------------------------------------|-----|-------------------------------------|-------------------------------------|------------|-------------------------------------|-----|----|-----|-------------|-------------------------------------|-----|-------------------------------------|-----|
| Ashmun | <input checked="" type="checkbox"/> | | | | Ficcaglia | <input checked="" type="checkbox"/> | | | | Prickett | <input checked="" type="checkbox"/> | | | |
| Avery | | | | <input checked="" type="checkbox"/> | Galletta | <input checked="" type="checkbox"/> | | | | Quinn | | | <input checked="" type="checkbox"/> | |
| Brown | <input checked="" type="checkbox"/> | | | | Jackson | <input checked="" type="checkbox"/> | | | | Rohan Green | | | <input checked="" type="checkbox"/> | |
| DiBello | | | <input checked="" type="checkbox"/> | | Lloyd | <input checked="" type="checkbox"/> | | | | Witt | <input checked="" type="checkbox"/> | | | |
| Earlen | <input checked="" type="checkbox"/> | | | | McGlinchey | <input checked="" type="checkbox"/> | | | | Lohbauer | <input checked="" type="checkbox"/> | | | |

Adopted at a meeting of the Pinelands Commission


 Nancy Wittenberg
 Executive Director

Date: December 13, 2013


 Mark S. Lohbauer
 Chairman



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



Chris Christie
Governor
Kim Guadagno
Lt. Governor

General Information: Info@njpines.state.nj.us
Application Specific Information: AppInfo@njpines.state.nj.us

Mark S. Lohbauer
Chairman
Nancy Wittenberg
Executive Director

**REPORT ON RESOLUTION 12-10, ADOPTING DENNIS TOWNSHIP'S
2012 MASTER PLAN – LAND USE PLAN, AND ORDINANCE 2013-03,
AMENDING AND SUPERSEDING CHAPTERS 165 (SUBDIVISION OF LAND)
AND 185 (ZONING) OF THE CODE OF DENNIS TOWNSHIP**

November 22, 2013

Dennis Township
P.O. Box 204
Dennisville, NJ 08214

FINDINGS OF FACT

I. Background

The Township of Dennis is located in the extreme southern portion of the Pinelands Area, in Cape May County. Pinelands municipalities that abut Dennis Township include the Township of Upper and the Borough of Woodbine in Cape May County and the Township of Maurice River in Cumberland County.

On September 9, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Dennis Township.

On January 16, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to mandatory residential cluster development in the Pinelands Forest and Rural Development Areas. On October 9, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to wetlands management. On November 13, 2009, the Pinelands Commission adopted amendments to the Comprehensive Management Plan related to forestry. These three sets of amendments took effect on April 6, 2009, December 21, 2009 and March 1, 2010, respectively.

Municipalities located within the Pinelands Area are required to adopt ordinance amendments necessary for conformance with any Comprehensive Management Plan amendments within one year of the effective date of any such amendments. On June 11, 2010, the Pinelands Commission adopted Resolution PC4-10-27; extending the time period for response to the clustering and wetlands management amendments to March 1, 2011 in order to provide municipalities with sufficient time for consideration, preparation and adoption of master plan and ordinance amendments to address the three sets of Comprehensive Management Plan amendments simultaneously. Commission staff subsequently

provided a model ordinance and other guidance to the Township to assist the municipality in completing its response to the three sets of Comprehensive Management Plan amendments.

By letter dated December 2, 2011, Dennis Township notified the Commission of the need for an extension of the March 1, 2011 deadline for adoption and submission of the necessary ordinance amendments. By letter dated December 5, 2011, the Executive Director notified the Township that an extension was granted until March 2, 2012.

On March 22, 2012, Commission staff attended a joint meeting of the Dennis Township Planning Board and governing body to discuss the CMP amendments related to cluster development, forestry and wetlands management.

On December 5, 2012, the Dennis Township Planning Board adopted Resolution 12-10, approving the municipality's 2012 Master Plan – Land Use Plan. The 2012 Master Plan contains recommendations for zoning changes designed to implement center designations and planning area changes in the Pinelands National Reserve portion of the municipality. The 2012 Master Plan does not discuss clustering in the Pinelands Area or the need to respond to the three sets of the CMP amendments.

On May 15, 2013, the State Planning Commission approved Dennis Township's petition for Plan Endorsement, resulting in the designation of five village centers within that portion of the municipality located within the Pinelands National Reserve but outside the state-designated Pinelands Area. Although discussed in detail in the Township's 2012 Master Plan, changes in state planning area designations outside the five centers were not approved. The five designated centers are located within the Pinelands National Reserve but outside the state-designated Pinelands Area.

By letter dated May 17, 2013, Dennis Township notified the Commission of its adoption schedule for the clustering, forestry and wetlands management amendments and the need for a further extension of the March 1, 2011 deadline. By letter dated May 22, 2013, the Executive Director notified the Township that a second extension was granted until July 15, 2013.

On July 15, 2013, Dennis Township adopted Ordinance 2013-03, amending and superseding in their entirety Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Township's Code. Included in these revised chapters are amendments related to residential cluster development, forestry and wetlands management. Ordinance 2013-03 also adopts a revised Zoning Map for the Township, dated April 2013, which adjusts the boundaries of existing zoning districts and management areas within the Pinelands Area. In addition, Ordinance 2013-03 amends Chapter 185 of the Township's Code for purposes of implementing the recommendations of the December 2012 Master Plan and the Township's Plan Endorsement Petition.

The Pinelands Commission received a certified copy of Ordinance 2013-03, including a copy of the amended April 2013 Zoning Map, on August 16, 2013. The Commission also received copies of Planning Board Resolution 12-10 and the adopted 2012 Master Plan – Land Use Plan on August 16, 2013.

By letter August 8, 2013, Dennis Township requested that the Pinelands Commission review and approve its master plan and land use ordinances for that portion of the municipality located east of the Garden State Parkway, within the Pinelands National Reserve but outside the state-designated Pinelands Area. Commission staff subsequently notified the Township that because the State Planning Commission had authorized amendments to the State Plan Policy Map only to designate five village

centers in the Pinelands National Reserve, and did not authorize changes in state planning area designations outside these centers for the majority of the Township's Pinelands National Reserve area, the request for Commission approval of the Township's master plan and ordinances applicable to the Pinelands National Reserve was premature and could not be processed at this time.

By letter dated August 27, 2013, the Executive Director notified the Township that Resolution 10-12 and Ordinance 2013-03 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification: _____

- * Resolution 12-10, approving the 2012 Master Plan – Land Use Plan of Dennis Township, adopted by the Consolidated Land Use Board on December 5, 2012; and
- * Ordinance 2013-03, amending and superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township, introduced on April 23, 2013, amended on June 3, 2012 and adopted on July 15, 2013.

These amendments have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50 3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50 3.39.

1. **Natural Resource Inventory**

Not applicable.

2. **Required Provisions of Land Use Ordinance Relating to Development Standards**

Forestry

Ordinance 2013-03 amends Chapter 185 of the Township's Code by revising and adding definitions related to forestry. Specifically, terms for such forestry activities as "artificial regeneration," "clearcutting" and "disking" are added and the existing definition of "forestry" is revised to make clear that it includes these and other silvicultural practices. Ordinance 2013-03 further amends Chapter 185 by replacing Section 185-55C, in its entirety, with an amended set of standards applicable to forestry activities in the Pinelands Area. Included in this revised section are detailed standards for a wide variety of silvicultural practices, as well as limitations on amount of land that may be subject to these practices and the Pinelands Native Forest Types in which such practices may or may not be conducted.

The amended forestry standards adopted by Ordinance 2013-03 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan.

Wetlands Management

Ordinance 2013-03 amends Chapter 185 of the Township's Code by adding a definition of "wetlands management." Ordinance 2013-03 also revises Section 185-51E to indicate that wetlands management may be permitted in wetlands, subject to the standards of the Comprehensive Management Plan. In so doing, Ordinance 2013-03 sufficiently responds to the December 2009 Comprehensive Management Plan amendments relative to wetlands management.

Development Transfer Program

Ordinance 2013-03 amends Chapter 185 by revising the provisions of the Township's development transfer program to clarify the types of uses that may be permitted on noncontiguous lands used to meet density requirements. Specifically, Ordinance 2013-03 states that all noncontiguous lands utilized in the development transfer program must be permanently protected through recordation of a deed of restriction, with only the following uses permitted: low intensity recreation, ecological management and forestry. Limits on clearing and impervious surface then also apply to these uses. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 2013-03 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met.

The amended development transfer program standards adopted by Ordinance 2013-03 are consistent with the April 2009 amendments to the Pinelands Comprehensive Management Plan.

Cluster Development

Ordinance 2013-03 amends Chapter 185 by adding residential cluster development as a permitted use in the Township's Pinelands Forest and Rural Development Area zoning districts (the PR, PF8 and PF25 Zones). Furthermore, Ordinance 2013-03 indicates that whenever two or more residential units are proposed in these zoning districts, cluster development will be required. The ordinance then sets forth the standards that all such cluster developments must meet, including a one acre lot size requirement, the location of the development area itself on a parcel and the provision of accessory recreational amenities. Ordinance 2013-03 also specifies that the number of residential lots permitted within a cluster development will be calculated based on the size of the parcel of land and the permitted density allowed in Chapter 185 for the zoning district(s) in which the project will be located. For example, four units would be permitted on a 100 acre parcel located in the Township's PF25 Zone, where the permitted density is one unit per 25 acres.

Ordinance 2013-03 also provides bonus density to parcels of 50 or more acres in size. This bonus density ranges from 15 to 40%, depending on the size of the parcel and the permitted density of the zone in which the parcel is located. The larger the parcel and the lower the permitted density, the larger the percentage of bonus density provided.

According to Ordinance 2013-03, the balance of the parcel located outside the residential cluster development area must be permanently protected through recordation of a deed of conservation

restriction. Permitted uses in the open space area are limited to low intensity recreation, ecological management and forestry, subject to specific limitations on clearing and impervious surface. In addition, in cases where agricultural uses exist on the lands to be protected, Ordinance 2013-03 provides that such agricultural uses may be permitted to continue and, in some cases, expand, if certain conditions related to impervious surface and the preparation of Resource Management System Plans are met. Should a cluster development applicant elect to continue or expand an existing agricultural use on the parcel, Ordinance 2013-03 requires that all of the new dwelling units to be constructed in the cluster development utilize on-site septic waste water treatment systems designed to reduce the level of nitrate/nitrogen in the waste water.

The amendments adopted by Ordinance 2013-03 sufficiently respond to the April 2009 Comprehensive Management Plan amendments relative to cluster development and are consistent with the land use and development standards of the Comprehensive Management Plan.

Zoning and management area changes

The Zoning Map adopted by Ordinance 2013-03 reflects a number of small zoning and management area changes within the Pinelands Area. These changes were adopted to better follow lot lines and recognize existing development and state ownership. The changes were apparently made some years ago when the Township adopted a prior zoning map; however, that map was never provided to the Commission for review and certification. Therefore, the changes are now being reviewed for consistency with the CMP as part of Ordinance 2013-03.

Ordinance 2013-03 makes two changes involving the Pinelands Village of Eldora. First, the boundary line between the PV (Pinelands Village) and PF25 (Forest) Zones is redrawn to follow lot lines such that three lots (Block 53, Lots 76.01, 76.02, 76.03) will now be entirely within the PV Zone. The previously certified management area boundary in this location cut through the three lots, leaving the rear portions in the Forest Area. All three lots are residentially developed. The second change affecting Eldora is the addition of one lot (Block 9, Lot 6) to the PV Zone. The lot in question is vacant, one acre in size and fronts on a state highway (Route 47). It is in common ownership with the immediately adjacent Lot 5, which contains an existing dwelling and is also one acre in size. Lot 5 is already in the PV Zone. Rezoning Block 9, Lot 6 from the PF25 Zone to the PV Zone appropriately recognizes the size of the lot, its highway frontage and common ownership with Lot 5. It should be noted that under its prior zoning designation, Lot 6 was considered to be nonconforming due to the 25 acre lot size requirement in the PF25 Zone. Because the PV Zone has a 3.2 acre minimum lot size requirement for residential development, Lot 6 will continue to be nonconforming under its new zoning designation. In total, 15 acres are redesignated from the Forest Area to the Pinelands Village of Eldora.

Ordinance 2013-03 makes five changes affecting the Pinelands Village of Belleplain. First, the boundary line between the PV and PF25 Zones is redrawn to follow lot lines such that seven lots (Block 16, Lots 6.02-6.08) will now be entirely within the PV Zone and two lots (Block 16, Lots 15.01 and 15.02) will now be entirely within the PF25 Zone. The previously certified management area boundary in this location cut through all nine of the lots, leaving portions in the Pinelands Village and portions in the Forest Area. All nine affected lots are residentially developed. The lots being rezoned to the PV Zone range in size from 1.8 to 2.2 acres. The two lots being rezoned to the PF25 Zone are each 3.2 acres in size and were created and developed

under the cultural housing provisions of the CMP. Thus, the change in management area designations has no practical effect.

A second change to Belleplain Village also involves the redrawing of a management area boundary to coincide with lot lines. In this case, the boundary between the PV and PF25 Zones is redrawn such that the entirety of Block 31, Lot 29 will now be located in the PF25 Zone. The affected lot is relatively large (89 acres) and is owned by the New Jersey Department of Environmental Protection. Under the prior zoning plan, a small portion (approximately five acres) of the lot was included in the PV Zone, with the remainder in the PF25 Zone.

Two additional changes are made to Belleplain Village by Ordinance 2013-03, each involving the rezoning of a vacant one acre lot from the PF25 Zone to the PV Zone. The first lot, Block 28, Lot 32, fronts on Joe Mason Road, and is sandwiched between two small residentially developed lots that are both already in the PV Zone. The second lot, Block 28, Lot 24, is an existing lot on Head of River Road, at the very tip of the existing village boundary. In both cases, state owned lands adjoin the lots to the rear. Also in both cases, it is unclear why these two small lots were excluded from the Pinelands Village boundary when the Township's zoning map was originally certified by the Commission. The final change made to Belleplain Village involves the rezoning of a 1.2 acre lot from the PV Zone to the PF25 Zone. The affected lot (Block 31, Lot 30) is a vacant triangular piece of property at the very edge of Belleplain Village, with frontage on Head of River Road. All three of these lots were nonconforming (undersized) under their prior zoning designations and will continue to be so under their new designations.

In total, approximately seven acres are added to the Pinelands Village of Belleplain while approximately 8.5 acres are removed.

The final management area change adopted by Ordinance 2013-03 affects the Pinelands Village of Dennisville. Here, Ordinance 2013-03 rezones one lot, Block 70, Lot 15, from the PV Zone to the PR (Rural Development) Zone. The lot in question is residentially developed and just under one acre in size. Its redesignation has no impact on development potential; the affected lot will remain nonconforming in the PR Zone, just as it was in the PV Zone.

The management area changes made by Ordinance 2013-03 are nothing more than small adjustments made for purposes of ensuring that management area and zoning lines coincide with lot lines and that existing (primarily developed) lots are appropriately recognized. This is a practice that the Commission has long encouraged and should aid in administration of the zoning lines by both the Township and Commission staff. In terms of net changes, the Forest Area decreases in size by approximately 14 acres, the Rural Development Area increases by one acre and the Township's four Pinelands Villages collectively increase by 13 acres. Because the increase in Pinelands Village acreage is largely due to the addition of portions of developed lots, no offsetting reduction in the villages is necessary.

In addition to the above-described management area changes, Ordinance 2013-03 also makes one other zoning change in the Pinelands Area. An area of approximately 16.5 acres in size is rezoned from the PF8 Zone to the PF25 Zone, within the Forest Area. The affected area consists of residentially developed lots ranging in size from 0.37 to 7.17 acres. All of the affected lots are developed and would be considered nonconforming in either the PF8 or PF25 Zones. The rezoning therefore has no practical impact.

The zoning and management area changes adopted by Ordinance 2013-03 are consistent with the land use and development standards of the CMP.

3. Requirement for Certificate of Filing and Content of Development Applications

Ordinance 2013-03 amends Chapter 185 (Zoning) by replacing Section 185-55B, in its entirety, with an amended set of application requirements for municipal forestry permits. For forestry activities on parcels of land enrolled in the New Jersey Forest Stewardship Program, an applicant needs only to submit to the municipality a copy of his or her approved Stewardship Plans. For all other forestry applications, the list of submission requirements includes a forestry management plan, information concerning threatened and endangered plants and animals, cultural resources and the use of herbicides, written comments from the New Jersey State Forester and a Certificate of Filing issued by the Pinelands Commission.

The amended forestry application requirements adopted by Ordinance 2013-03 are consistent with the March 2010 amendments to the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. **General Conformance Requirements**

Resolution 12-10, adopting the 2012 Master Plan – Land Use Plan of Dennis Township, and Ordinance 2013-03, amending and superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

This standard for certification is met.

11. **Conformance with Energy Conservation**

Not applicable.

12. **Conformance with the Federal Act**

Resolution 12-10, adopting the 2012 Master Plan – Land Use Plan of Dennis Township, and Ordinance 2013-03, amending and superseding Chapters 165 (Subdivision of Land) and 185 (Zoning) of the Code of Dennis Township, are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan. No special issues exist relative to the Federal Act.

This standard for certification is met.

13. **Procedure to Resolve Intermunicipal Conflicts**

None of the zoning and management area changes depicted on the zoning map adopted by Ordinance 2013-03 within the Pinelands Area involve lands that are adjacent to any other municipalities. This standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning Dennis Township's application for certification Resolution 12-10 and Ordinance 2013-03 was duly advertised, noticed and held on October 2, 2013 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which the following testimony was received:

Jack Gibson, Dennis Township Engineer, asked that the Commission certify the Township's master plan and ordinance.

Written comments were accepted through October 4, 2013; however, none were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 2013-03 sufficiently implements the April 2009, December 2009 and March 2010 amendments to the Pinelands Comprehensive Management Plan. The Executive Director has further concluded that Resolution 12-10, adopting the 2012 Master Plan – Land Use Plan of Dennis Township, and Ordinance 2013-03 are consistent with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Resolution 12-10 and Ordinance 2013-03 of Dennis Township.

SRG/CDE



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 44

TITLE: To Authorize the Executive Director to Execute a Memorandum of Understanding (MOU) among the Pinelands Commission, the Borough of Woodbine and the Cape May County Municipal Utilities Authority to Assist and Participate in a Comprehensive Wastewater Planning Study to Potentially Eliminate Onsite Septic Systems Servicing Existing and Future Residential, Commercial and Institutional Uses in the Borough of Woodbine and to Revise the FY2014 Pinelands Conservation Fund Budget

Commissioner Ashman moves and Commissioner Jackson seconds the motion that:

WHEREAS, the Cape May County Municipal Utilities Authority (CMCMUA) is developing plans for the installation of sewerage infrastructure to convey landfill leachate from the Authority's Cape May County Municipal Utilities Landfill to the CMCMUA's Seven Mile Beach/Middle Regional Wastewater Treatment Facility; and

WHEREAS, the Borough of Woodbine has expressed an interest in eliminating existing and future septic systems that serve residential and commercial development in the Borough's Pinelands Town Management Area, by connecting that development to the CMCMUA's Seven Mile Beach/Middle Regional Wastewater Treatment Facility; and

WHEREAS, the New Jersey Department of Human Services may also wish to decommission its aging onsite wastewater treatment facility that currently serves the Woodbine Developmental Center, located on 250 acres in the Borough of Woodbine's Pinelands Town Management Area, and convey its wastewater to the CMCMUA's Seven Mile Beach/Middle Regional Wastewater Treatment Facility; and

WHEREAS, the United States Department of Agriculture (USDA), Rural Development element is offering a \$90,000 grant to CMCMUA to help finance the design of wastewater conveyance infrastructure to convey landfill leachate, residential, commercial and institutional wastewater to the CMCMUA's regional wastewater treatment facility, subject to a required \$30,000 local funding match from the project participants; and

WHEREAS, the CMCMUA is contributing a \$10,000 local cash match in addition to substantial in-kind professional engineering and wastewater planning services, and

WHEREAS, the Borough of Woodbine has requested financial assistance from the Pinelands Commission to complete the local match (\$20,000) to ensure that the Borough and the Woodbine Developmental Center's current and future sewerage needs are adequately addressed in the study; and

WHEREAS, the Commission has reviewed the Borough's request and has determined that the water quality and development goals of the Pinelands Comprehensive Management Plan (CMP) will be further advanced by eliminating existing and future septic systems in the Borough's Pinelands Town Management Area; and

WHEREAS, the Executive Director has recommended that the Commission consider providing a \$20,000 local cash contribution and in-kind wastewater planning services on behalf of the Borough of Woodbine to ensure that existing and future sewer service needs are adequately addressed in the study; and

WHEREAS, the Executive Director has determined that adequate funding is available in the Community Planning and Design component of the Pinelands Conservation Fund to contribute a \$20,000 local cash match and in-kind services assistance to the CMCMUA and has recommended that the FY 2014 Pinelands Conservation Fund Budget be revised to include funds for this purpose; and

WHEREAS, both the CMP Policy and Implementation Committee and the Personnel and Budget Committee have recommended that the Commission provide the requested financial assistance; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that

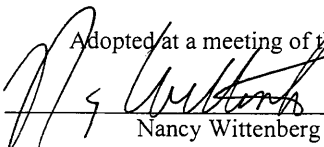
1. The Executive Director is authorized to execute a Memorandum of Understanding or other agreement among the Pinelands Commission, the Borough of Woodbine and CMCMUA to participate in and provide \$20,000 of funding for a comprehensive wastewater planning study of the existing and future sewer service needs of the Borough of Woodbine's Pinelands Town Management Area.
2. The Pinelands Commission hereby approves a \$20,000 increase to the FY 2014 Pinelands Conservation Fund Budget for Community Planning and Design for the local cash match to the CMCMUA's comprehensive wastewater planning project.

Record of Commission Votes

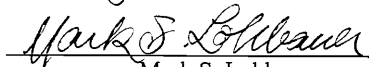
| | AYE | NAY | NP | ABS | | AYE | NAY | NP | ABS | | AYE | NAY | NP | ABS |
|---------|-----|-----|----|-----|------------|-----|-----|----|-----|-------------|-----|-----|----|-----|
| Ashmun | X | | | | Ficcaglia | X | | | | Prickett | X | | | |
| Avery | X | | | | Galletta | X | | | | Quinn | | | X | |
| Brown | X | | | | Jackson | X | | | | Rohan Green | | | X | |
| DiBello | | | X | | Lloyd | X | | | | Witt | X | | | |
| Earlen | X | | | | McGlinchey | X | | | | Lohbauer | X | | | |

Adopted at a meeting of the Pinelands Commission

Date: December 13, 2013



 Nancy Wittenberg
 Executive Director



 Mark S. Lohbauer
 Chairman

USDA SOLID WASTE MANAGEMENT GRANT PROGRAM
CMCMUA APPLICATION FOR FISCAL YEAR 2013 – REVISED JUNE 20, 2013

B. REVISED SCOPE OF WORK

1. Schedule, Work Tasks and Participants

The scope of work to be undertaken with grant funding is estimated to take approximately 11 months from beginning to completion. The CMCMUA anticipates that it will be able to undertake grant related activities within one month of formal grant award. The tasks and activities to be undertaken are set forth below, along with the anticipated timetable:

Task 1 – November 2013 through January 2014 – The CMCMUA staff will prepare and issue a Request for Proposals (RFP) for a consulting engineer to identify, evaluate, and recommend long-term solutions for the treatment and disposal of landfill leachate which includes alternatives that address the Borough of Woodbine's wastewater treatment and disposal needs. A CMCMUA evaluation committee will review and rank responses received to the RFP and will select an experienced and qualified consultant. The CMCMUA will contract with the selected consulting engineer to complete Task 2 with the assistance of the CMCMUA management and engineering staffs. CMCMUA staff anticipated to be involved in this task includes Charles Norkis, P.E., John Baron and Thomas LaRocco, P.E.

Task 2 – February through May 2014 – The selected consulting engineer will work with CMCMUA management and engineering staffs to identify, evaluate, rank and recommend long-term solutions for the treatment and disposal of landfill leachate. The consulting engineer and CMCMUA staff will coordinate with the Borough of Woodbine and the Woodbine Developmental Center (WDC) to specifically evaluate potential solutions for the CMCMUA, the Borough of Woodbine and the WDC to partner in order to address both landfill leachate and local wastewater treatment and discharge issues.

The study conducted under this Task will identify and evaluate comprehensive, long-term solutions for the treatment and disposal of leachate generated at the CMCMUA's Sanitary Landfill in Woodbine, New Jersey while also evaluating possible wastewater treatment and disposal solutions which would include a partnership with the Borough of Woodbine and/or the WDC. The feasibility study would evaluate the potential to solve both the CMCMUA's leachate transportation, treatment and disposal issues as well as the wastewater treatment and discharge deficit facing the Borough and the WDC. The project will initially plan for the treatment and disposal of all CMCMUA landfill leachate anticipated at 100,000 gallons per day, approximately 100,000 gallons per day of wastewater anticipated to be generated from the Woodbine Developmental Center and a minimum of 100,000 gallons per day from the Borough of Woodbine. These flow estimates will be further refined as part of this study. The CMCMUA staff will be responsible for assisting the selected engineering consultant with data collection from both the Borough of Woodbine and the WDC to determine flow calculations and other information needed to complete the analysis. The identification, evaluation, ranking and recommendation of long-term solutions for the treatment and disposal of landfill leachate will consider appropriate options for the Borough

**USDA SOLID WASTE MANAGEMENT GRANT PROGRAM
CMCMUA APPLICATION FOR FISCAL YEAR 2013 – REVISED JUNE 20, 2013**

of Woodbine and the WDC's wastewater that can compatibly be integrated for study. Under this Task, work would include but not be limited to:

- Assess the environmental and economic impacts of the current method of hauling landfill leachate to the CMCMUA's wastewater treatment facility for treatment and disposal and the current treatment and disposal costs of the WDC for their treatment. Excess leachate that is removed from the lined landfill is stored in tanks and is continuously hauled fifteen miles (one-way) to the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant for treatment and discharge into the Atlantic Ocean. Depending upon local climate and landfill operating conditions, the amount of leachate requiring treatment and disposal varies dramatically. A minimum of six and a maximum of eighteen loads per day of leachate were hauled during calendar year 2012. In 2010, the daily average quantity of leachate hauled per day was 81,000 gallons, which exceeded the daily average for 2011. In 2016, when the next new landfill cell (2G) is opened at the CMCMUA Sanitary Landfill, leachate quantities requiring treatment and disposal are anticipated to increase to a minimum of 100,000 gallons per day. Increases in daily leachate volumes will continue with the opening of each new cell during the remaining life of the CMCMUA Sanitary Landfill which will continue to operate for a projected eight more decades;
- Evaluate the environmental and economic feasibility of installing an underground force main to transport leachate from the CMCMUA's Landfill and wastewater from the Borough of Woodbine and the WDC to the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant. The analysis of the force main installation option will include identifying potential routes and future flow calculations by the CMCMUA staff and selected consulting engineer for landfill leachate and wastewater in order to appropriately size the force main. This analysis will also include an assessment of any potential capacity treatment constraints at the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant which need to be addressed in order to accommodate this additional flow. If treatment constraints are identified, needed corrective measures will be recommended and the regulatory, environmental and economic ramifications of implementing such corrective measures will be determined. Task 2 will also include a review of the New Jersey Pollution Discharge Elimination System (NJPDES) permit for the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant by CMCMUA staff to determine if the permit parameters for the discharge of effluent require modification and, if so, identify the regulatory, environmental and economic challenges of such permit modification;
- Evaluate the potential and cost effectiveness for Woodbine to expand the capacity of its existing municipal wastewater treatment facility to address the long-term needs of the Borough of Woodbine, the WDC and/or the CMCMUA;
- Evaluate additional leachate treatment and disposal options identified by the CMCMUA staff or the selected consulting engineer which have the potential to

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CMCMUA APPLICATION FOR FISCAL YEAR 2013 – REVISED JUNE 20, 2013**

improve the CMCMUA's leachate treatment and disposal method, in accordance with the goals and objective of this grant, while also considering local wastewater discharge issues facing the Borough and the WDC;

- Identify methods that can be used by the CMCMUA to improve the management of the Sanitary Landfill with regard to leachate treatment and disposal, and to reduce the potential for ground and surface water pollution due to leachate breakouts or spills.

These options will be fully evaluated to determine the environmental and economic impacts of each with particular focus on protecting water resources. Solutions which will achieve the goal of reducing pollution of water resources will receive the highest environmental ranking. The study will also assess and rank long-term treatment and disposal options on their ability to support the Rural Utilities Service purposes of sound development of rural communities and local economic growth without endangering the environment. The factors used to rank long-term treatment and disposal options will integrate the purposes, goals, and objectives of the USDA Solid Waste Management Grant which include water pollution reduction or elimination, improvement of solid waste planning and management in rural areas, and support of sound development in rural communities which foster local economic growth and improve environmental conditions, as set forth in Project Goals and Objectives section of the original Project Proposal.

Other criteria to be applied in the evaluation and ranking of options include the ability to:

- Lower operating expenses for the CMCMUA Sanitary Landfill and/or the WDC;
- Partner with the Borough of Woodbine and the WDC to determine if there are shared solutions which would better address the wastewater issues facing these public entities in a more cost effective and efficient manner while maximizing the financial support received from the USDA;
- Increase revenues for Woodbine, if the selected solution includes utilization of and/or expansion of their wastewater treatment facility;
- Encourage job creation and economic development in the rural and distressed community of Woodbine by identifying a cost effective solution to its wastewater treatment capacity deficit;
- Reduce or eliminate air pollution created by currently using trucks to haul leachate approximately 100,000 road miles per year; and
- Reduce potential environmental liability for the CMCMUA, Borough of Woodbine, and the WDC by implementing treatment and operating improvements.

In addition, Task 2 will also include identification of all local and State permits and approvals needed to implement each studied option. Solutions which are unlikely to receive State or local regulatory approval and those with unjustifiable capital and operating costs will

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CMCMUA APPLICATION FOR FISCAL YEAR 2013 – REVISED JUNE 20, 2013**

be ranked lower than those solutions that can realistically be implemented. CMCMUA staff anticipated to be involved in this Task includes Charles Norkis, P.E., John Baron, Thomas LaRocco, P.E., Michael McClellan, P.E., and Russell Smith, P.E.

Task 3 – June through September 2014 – If the selected long-term treatment and disposal solution is an option other than the current method of hauling landfill leachate to the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant for treatment and disposal, CMCMUA management and engineering staffs will develop a preliminary engineering design for the selected long-term treatment and disposal solution. CMCMUA professional engineers will prepare permit level engineering plans and drawings as needed to apply for and secure permits that do not require complete sets of construction documents. Task 3 also includes the preparation, by CMCMUA management and engineering staffs, of permit applications and other paperwork required to submit the project for local and State permits and approvals. CMCMUA staff anticipated to be involved in this Task includes Charles Norkis, P.E., John Baron, Thomas LaRocco, P.E., Michael McClellan, P.E., Russell Smith, P.E. and Michael Frisko.

If the selected long-term solution includes the shared use of a force main from Woodbine to the CMCMUA's Seven Mile/Middle Regional Wastewater Treatment Plant or some other shared use option, the Borough of Woodbine and the WDC will participate in the process to secure all required permits and approvals.

2. CMCMUA Staff Experience

Since 1972, the Cape May County Municipal Utilities Authority has been designing, constructing and operating, efficient and cost-effective wastewater treatment facilities. Since 1980, the Authority has been developing and operating a comprehensive solid waste management system. These CMCMUA programs have received numerous national and state awards recognizing the level of excellence that has been achieved. The CMCMUA, and its highly experienced staff, have the ability to administer all aspects of the USDA Solid Waste Management Grant, from design and engineering to monitoring performance to ensure that work tasks and objectives are being met on time and within budget while adhering to all required accounting and reporting schedules and procedures. The CMCMUA and its staff have successfully completed projects supported by approximately \$200 million in State and Federal grants.

Mr. Charles Norkis, P.E., CMCMUA Executive Director and Mr. John Baron, CMCMUA Solid Waste Program Manager/Deputy Director, who have more than 50 years of combined experience in wastewater treatment and landfill operations, will be responsible for leading this project. These executives will be supported by a highly experienced CMCMUA staff that includes Thomas LaRocco, P.E., CMCMUA Chief Engineer, and Michael McClellan, P.E., CMCMUA Senior Project Engineer, both of whom have extensive engineering experience in design and operation of both solid waste management and wastewater treatment projects. Mr. Russell Smith, Senior Regulatory Compliance Engineer, who has many years of experience in permitting solid waste management and wastewater treatment facilities at the CMCMUA, will provide assistance on this project. Mr. Michael

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Frisko, Engineering Technician, and other CMCMUA staff have years of experience providing all additional support that will be needed to successfully complete all required work tasks as set forth above.

3. Census Data

The service area for this project is the Borough of Woodbine which is a rural community with a population of 2,472 based on 2010 U.S. Census data¹. According to the U.S. Census Bureau, the median household income for Woodbine is estimated at \$28,125, median family income is estimated at \$25,254, and per capita income is estimated at \$15,734². The U.S. Census Bureau estimates that 33.9% of all families and 38.1% of individuals are living below the poverty level in Woodbine³. Comparatively, the median household income for Woodbine is 39.5% of the 2010 median household income for New Jersey which is estimated at \$71,180³. Based upon current data provided by the Woodbine school district, at least 73% of Woodbine's school children are living in poverty⁴.

Woodbine is among New Jersey's most socially and economically distressed municipalities. The State of New Jersey Municipal Distress Index prepared by the Office of State Planning ranks Woodbine in the top 15% most distressed (86th of New Jersey's 566 municipalities).

4. Anticipated Benefits and Effectiveness Evaluation

Implementation of a long-term solution for the treatment and disposal of CMCMUA Landfill leachate will improve the management and operation of the CMCMUA's Sanitary Landfill by minimizing costs and environmental impacts. Implementation of a viable solution to the projected wastewater treatment capacity deficit in the Borough of Woodbine could, in the long-term, have a profound influence on the Borough's ability to redevelopment its rural community and promote local economic growth through the creation of new jobs and rateables. Woodbine is a multi-ethnic community with a poverty level that is dramatically higher than most other municipalities in the State. Woodbine is seeking to redevelop its former landfill site, further develop its municipal airport and attract businesses to its Woodbine Municipal Airport Business Park. Such redevelopment is hindered by the Borough's economic status and projected wastewater treatment capacity deficit. Resolution of the Borough's future wastewater treatment capacity deficit would also prevent pollution from affecting the pristine surface and ground waters of the Pinelands National Reserve.

The method for evaluating the anticipated effectiveness of the selected alternative will be to quantify the environmental and economic benefits to be realized from its

¹ Source: U.S. Census Bureau Data, 2010 Demographic Profile for Woodbine Borough, NJ.

² Source: U.S. Census Bureau Data, American FactFinder Selected Economic Characteristics, 2006-2010 Woodbine Borough, New Jersey, American Community Survey Selected Population Tables, Table DP03.

³ Source: U.S. Census Bureau Data, American FactFinder Selected Economic Characteristics, 2007-2011 State of New Jersey, American Community Survey Selected Population Tables, Table DP03.

⁴ Source: Woodbine, New Jersey Superintendent of Schools, Data as of 12/12/2012.

**USDA SOLID WASTE MANAGEMENT GRANT PROGRAM
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implementation as compared to the current method of leachate transportation, treatment and disposal, and, if applicable, wastewater treatment and disposal. The CMCMUA will detail the treatment processes to be used or measures to be taken upon implementation of the selected long-term method for the treatment and disposal of CMCMUA Landfill leachate, and wastewater from the Borough of Woodbine, as well as the WDC, if applicable, that will prevent pollution from affecting the surface and ground waters of the Pinelands. This will include an assessment of the reduction in the potential for leachate breakouts and spills and, if applicable, pollution reduction to be realized from elimination of effluent discharge to groundwater in the Borough of Woodbine. The CMCMUA will also quantify any anticipated reduction in CMCMUA and/or WDC operating expenses to be realized upon project implementation. With the assistance of the Borough of Woodbine, the CMCMUA will also quantify any increase in revenues, ratables, and jobs anticipated in the Borough of Woodbine upon implementation of the selected long-term solution.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 45

TITLE: Setting Pinelands Commission Meeting Dates for 2014

Commissioner Ashmun moves and Commissioner Jackson seconds the motion that:

WHEREAS, the Open Public Meetings Act requires that the Pinelands Commission establish an annual schedule of regular meetings prior to January 10th of each year; and

WHEREAS, the Pinelands Commission would like to utilize the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education in New Lisbon, Pemberton Township, as the regular site for its meetings; and

WHEREAS, the Pinelands Commission may need to find an alternate, temporary meeting location within the Pinelands Area for its meetings throughout the year; and

WHEREAS, any meeting that will be scheduled at a location other than the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education, 15 C Springfield Road, New Lisbon, Pemberton Township, will be advertised in accordance with the requirements of the Open Public Meetings Act; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission shall conduct its meetings on the following dates in 2014 beginning at the specified time at the Pinelands Commission's Richard J. Sullivan Center for Environmental Policy and Education, 15 C Springfield Road, New Lisbon, Pemberton Township, New Jersey, unless notice is otherwise provided in accordance with the Open Public Meetings Act:

- | | |
|---------------------------------------|--|
| Friday, January 10, 2014 (9:30 a.m.) | Friday, July 11, 2014 (9:30 a.m.) |
| Friday, February 14, 2014 (9:30 a.m.) | Friday, August 8, 2014 (9:30 a.m.) |
| Friday, March 14, 2014 (9:30 a.m.) | Friday, September 12, 2014 (9:30 a.m.) |
| Friday, April 11, 2014 (9:30 a.m.) | Friday, October 10, 2014 (9:30 a.m.) |
| Friday, May 9, 2014 (9:30 a.m.) | Friday, November 14, 2014 (9:30 a.m.) |
| Thursday, June 12, 2014 (6:00 p.m.) | Friday, December 12, 2014 (9:30 a.m.) |

BE IT FURTHER RESOLVED that the Executive Director is directed to publish notice of this schedule in the Commission's official newspapers, file copies of the schedule with the Secretary of State of the State of New Jersey and Pinelands county and municipal clerks, post a copy of the notice in the Commission's offices and to post the annual schedule on the Commission's web page (www.nj.gov/pinelands).

Record of Commission Votes

| AYE NAY NP ABS | | | | AYE NAY NP ABS | | | | AYE NAY NP ABS | | | |
|----------------|---|--|---|----------------|---|--|--|----------------|---|--|---|
| Ashmun | X | | | Ficcaglia | X | | | Prickett | X | | |
| Avery | X | | | Galletta | X | | | Quinn | | | X |
| Brown | X | | | Jackson | X | | | Rohan | | | X |
| DiBello | | | X | Lloyd | X | | | Witt | X | | |
| Earlen | X | | | McGlinchey | X | | | Lohbauer | X | | |

Adopted at a meeting of the Pinelands Commission

 Nancy Wittenberg
 Executive Director

Date: December 13, 2013

 Mark S. Lohbauer
 Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-13- 46

TITLE: To Authorize the Executive Director to Propose Amendments to the Comprehensive Management Plan in Accordance with the Administrative Procedure Act (Application Requirements and Procedures; Letters of Interpretation; Pilot Program for Alternate Design Treatment Systems)

Commissioner Ficcardia moves and Commissioner McBinchey seconds the motion that:

WHEREAS, on May 10, 2002, the Pinelands Commission adopted amendments to the Comprehensive Management Plan which established the Alternate Design Treatment Systems Pilot Program as a means of testing whether five identified technologies could be maintained and operated so as to meet the water quality standards of the Comprehensive Management Plan; and

WHEREAS, these Comprehensive Management Plan amendments took effect on August 5, 2002; and

WHEREAS, pursuant to N.J.A.C. 7:50-10.23, the Executive Director reviewed the Pilot Program and reported on its implementation to the Commission in November of 2006 and November of 2009; and

WHEREAS, based on the Executive Director's recommendations, the Commission adopted amendments to the Alternate Design Treatment Systems Pilot Program on September 14, 2007 and then again on September 10, 2010 to remove one of the five identified treatment systems from the Pilot Program, authorize use of the treatment systems in all Pinelands municipalities, authorize use of two systems (Amphidrome and Bioclere) on a permanent basis, provide an opportunity for additional types of systems to be authorized for use through the Pilot Program and extend the duration of the Pilot Program for two other participating systems (Cromaglass and FAST) through August 5, 2013; and

WHEREAS, as required by N.J.A.C. 7:50-10.23, the Executive Director again reviewed the Pilot Program and reported on its implementation to the Commission in November of 2012; and

WHEREAS, the 2012 implementation report recommended that the Pilot Program be extended to allow for continued installation and monitoring of the Cromaglass and FAST systems; and

WHEREAS, upon completion of an additional report in August of 2013, the Executive Director recommended that the Cromaglass technology be removed from the Pilot Program entirely, with no further installations permitted, based on the technology's failure to comply with a retrofitting and sampling program or demonstrate the ability to meet Comprehensive Management Plan water quality standards; and

WHEREAS, the CMP Policy and Implementation Committee reviewed the 2012 and 2013 reports and concurred with the Executive Director's recommendations; and

WHEREAS, the Executive Director has prepared and submitted to the Commission proposed amendments to the Comprehensive Management Plan which remove the Cromaglass technology from the Pilot Program and extend the deadline for installation of the FAST technology through August 5, 2018; and

WHEREAS, the proposed amendments would also establish the same installation deadline for any USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the Pilot Program; and

WHEREAS, the Executive Director has also prepared and submitted to the Commission proposed amendments to the Comprehensive Management Plan that expand the list of activities for which no application to the Commission is required, extend the duration of Letters of Interpretation, codify existing policies and practices and correct minor typographical errors; and

WHEREAS, these amendments were identified by the Commission's Plan Review Committee as part of the Commission's fourth comprehensive review of the Comprehensive Management Plan, which began in June of 2012; and

WHEREAS, the proposed amendments were forwarded to the Pinelands Commission for review in January of 2013, with the understanding that they represented a first step in the plan review process, with more substantive amendments to follow after additional analysis and consideration of public input; and

WHEREAS, all of the proposed amendments have been reviewed by the Commission's CMP Policy and Implementation Committee; and

WHEREAS, the Pinelands Commission is desirous of considering the amendments to the Comprehensive Management Plan set forth in the attachment hereto, dated August 15, 2013; and

WHEREAS, the Administrative Procedure Act of 1968, as amended, and the Office of Administrative Law implementing regulations set forth a detailed procedure governing proposed rulemaking; and

WHEREAS, the Pinelands Commission is also desirous of obtaining the comments of the public, governmental agencies and the Pinelands Municipal Council on the proposed amendments, in accordance with the Pinelands Protection Act and Subchapter 7 of the Comprehensive Management Plan; and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE, BE IT RESOLVED that:

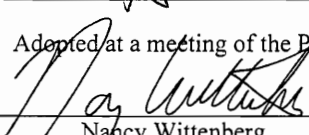
1. The Commission hereby authorizes the Executive Director to submit the proposed amendments to the Comprehensive Management Plan, attached hereto and dated August 15, 2013, and the required supporting documentation to the Office of Administrative Law for publication as proposed regulations;
2. The Executive Director shall transmit the proposed amendments to all Pinelands municipalities and counties and the Pinelands Municipal Council for review;
3. The public comment period on the proposed amendments shall extend 60 days from the date of publication of the proposal in the *New Jersey Register* and the Executive Director shall affix the date of a public hearing to receive comments on the proposed amendments; and
4. Subsequent to the comment period, the Executive Director shall expeditiously prepare proposed final amendments, with any pertinent changes to these amendments, for review by the Commission's CMP Policy and Implementation Committee, and shall submit same to the Commission for final action.

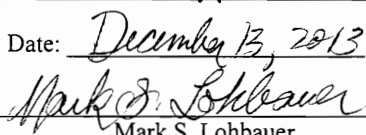
Record of Commission Votes

| AYE NAY NP ABS | | | | AYE NAY NP ABS | | | | AYE NAY NP ABS | | | |
|----------------|-------------------------------------|--|-------------------------------------|----------------|-------------------------------------|-------------------------------------|--|----------------|-------------------------------------|--|-------------------------------------|
| Ashmun | <input checked="" type="checkbox"/> | | | Ficcaglia | <input checked="" type="checkbox"/> | | | Prickett | <input checked="" type="checkbox"/> | | |
| Avery | | | <input checked="" type="checkbox"/> | Galletta | | <input checked="" type="checkbox"/> | | Quinn | | | <input checked="" type="checkbox"/> |
| Brown | <input checked="" type="checkbox"/> | | | Jackson | <input checked="" type="checkbox"/> | | | Rohan Green | | | <input checked="" type="checkbox"/> |
| DiBello | <input checked="" type="checkbox"/> | | <input checked="" type="checkbox"/> | Lloyd | <input checked="" type="checkbox"/> | | | Witt | <input checked="" type="checkbox"/> | | |
| Earlen | <input checked="" type="checkbox"/> | | | McGlinchey | <input checked="" type="checkbox"/> | | | Lohbauer | <input checked="" type="checkbox"/> | | |

Adopted at a meeting of the Pinelands Commission

Date: December 13, 2013


Nancy Wittenberg
Executive Director


Mark S. Lohbauer
Chairman

August 15, 2013

PINELANDS COMMISSION

Pinelands Comprehensive Management Plan

**Definitions; Application Requirements and Procedures; Pinelands Development Credits;
Pilot Program for Alternate Design Wastewater Treatment Systems**

**Proposed Amendments: N.J.A.C. 7:50-2.11, 4.1, 4.2, 4.18, 4.19, 4.25, 4.35, 4.37, 4.52, 4.74,
4.76, 5.43, 6.68, 6.69, and 10.21-10.23**

Authorized By:

_____/____/____
New Jersey Pinelands Commission,
Nancy Wittenberg, Executive Director

Authority: N.J.S.A. 13:18A-6j

Calendar Reference: See Summary below for explanation of exception to calendar requirement

Proposal Number:

A public hearing concerning this proposal will be held on:

March 26, 2014 at 7:00 P.M.
Richard J. Sullivan Center
15C Springfield Road
New Lisbon, New Jersey

Submit written comments by regular mail, facsimile or e-mail by April 19, 2014 to:

Susan R. Grogan, P.P., AICP
Chief Planner
Pinelands Commission
P.O. Box 359
New Lisbon, NJ 08064
Facsimile: (609)894-7330
E-mail: planning@njpines.state.nj.us

The name and mailing address of the commenter must be submitted with all public comments.

The agency proposal follows:

Summary

The New Jersey Pinelands Commission proposes to amend subchapters 2, Interpretations and Definitions, 4, Development Review, 5, Minimum Standards for Land Uses and Intensities, 6, Management Programs and Minimum Standards, and 10, Pilot Programs, of the Pinelands Comprehensive Management Plan (CMP). The Pinelands CMP has been guiding land use and development activities in the Pinelands since it took effect on January 14, 1981. Since that time, the CMP has been amended a number of times, most recently in January of 2012 through a set of amendments relating to solar energy facilities (see 44 N.J.R. 73(a)).

The amendments now being proposed by the Commission relate to application requirements and procedures, the duration of Letters of Interpretation, the allocation of Pinelands Development Credits and the Pilot Program for Alternate Design Wastewater Treatment Systems. They are intended to codify current Commission practice, clarify existing standards and requirements, increase the efficiency of the Commission and its staff, eliminate unnecessary application requirements, correct typographical errors in the regulations, provide an extended time period within which the installation of certain alternate design wastewater treatment systems will be permitted and remove from the Alternate Design Wastewater Treatment Systems Pilot Program a particular technology that has been unable to demonstrated compliance with CMP standards.

The proposed amendments are, in part, an outgrowth of the Commission's fourth comprehensive review of the CMP. The Commission embarked on the plan review process in June of 2012. A Plan Review Committee, composed of five Commission members, was formed at that time and has since met monthly. While all of the Plan Review Committee meetings are open to the public, the Committee also sought public comment at a series of additional public meetings throughout the summer of 2012. The submission of written comments on the Comprehensive Management Plan and its implementation was also encouraged. Notice of the opportunity to attend the public meetings and/or provide written comments was provided via press releases, posting on the Commission's website and use of the Pinelands News Alert system which involves emails to nearly 600 people. In addition, emails were sent to a wide variety of potentially interested individuals and groups, including all Pinelands Area municipalities, the Pinelands Preservation Alliance and other environmental groups, the New Jersey State League of Municipalities, the New Jersey Farm Bureau, the Chambers of Commerce of all Pinelands counties, the Builders League of South Jersey, the New Jersey Builders Association and the members of the Commission's own Forest Advisory and Agricultural Advisory Committees. In response to these outreach efforts, both oral and written comments were received on a wide range of topics. All written comments received by the Commission have been posted and are available on the Commission's website at www.nj.gov/pinelands. Ultimately, the Commission's goal is to analyze its past actions, consider the public's input and identify ways to strengthen the Comprehensive Management Plan through future amendments and administrative actions.

The amendments now being proposed represent the first step in the CMP review process. Over the next year, the Commission plans to discuss and analyze the more substantive issues raised during the public comment process. That analysis may lead to the proposal of additional

CMP amendments. In the meantime, the Commission has determined it would be appropriate and beneficial to move ahead with what are generally being termed “efficiency measures” - amendments largely designed to improve the Commission’s procedures, maximize the Commission’s staff resources and codify current policies and practices.

The “efficiency measures” reflected in the proposed amendments were discussed and reviewed at public meetings of the Plan Review Committee on November 9, 2012, by the full Commission on January 11, 2013 and by the Commission’s CMP Policy & Implementation Committee on February 22, 2013. On January 28, 2013, staff from the Pinelands Commission also provided a presentation on the efficiency measures at a public meeting of the Pinelands Municipal Council (PMC). The PMC, created by the Pinelands Protection Act (N.J.S.A. 13:18A-1 et. seq), is made up of the mayors of the 53 municipalities in the Pinelands Area or their designees. The Council is empowered to review and comment upon changes proposed by the Pinelands Commission in the New Jersey Pinelands Comprehensive Management Plan and advises the Commission on matters of interest regarding the Pinelands.

A more detailed description of the proposed amendments follows.

Definitions

The definition of “alternate design pilot program treatment system” is being amended to reflect the removal of one technology (Cromaglass) from the pilot program, as is discussed in more detail later in this proposal.

The definition of “immediate family” in N.J.A.C. 7:50-2.11 is being modified so that it refers to “spouses” rather than “husbands and wives” and includes “domestic partners”.

Application Exemptions

N.J.A.C. 7:50-4.1(a) includes a list of activities that do not require application to the Commission. The Commission has identified a number of additional activities that it believes should likewise be “exempted” from the Commission’s review as such applications consume staff time that would be better devoted to the review of more significant development proposals and, in some cases, are more appropriately handled solely by municipalities. All of the new “exemptions” have been carefully selected and circumscribed to ensure there will be minimal, if any, impacts on the Pinelands environment if applications to the Commission are no longer required. As with all of the activities listed in N.J.A.C. 7:50-4.1(a), although applications to the Commission will no longer be needed for these additional activities, that does not mean they are exempt from municipal application, review and approval procedures, nor does it mean they are exempt from the environmental standards in subchapter 6 of the CMP.

N.J.A.C. 7:50-4.1(a)8 is being amended to address exemptions for accessory uses and additions to nonresidential uses and multifamily residential structures. In cases where the addition or accessory use would be located on or under an impervious surface, the size of the exemption is being increased from 1,000 square feet to 4,999 square feet. This exemption applies where the existing nonresidential use or multifamily residential structure is served by public sewers or, as is clarified in the proposed amendment, where the proposed accessory use or structure will generate no wastewater flows. The 4,999 square foot threshold was selected because, above that size, the CMP’s requirements for stormwater management would be triggered and an exemption from application requirements would no longer be appropriate. N.J.A.C. 7:50-4.1(a)8 is also being expanded to include a new exemption for accessory uses and additions to nonresidential uses and multifamily residential structures that are **not** located on or

under impervious surfaces. Based on the proposed amendment, applications to the Commission would no longer be required for the development of additions or accessory structures up to 1,000 square feet in size, provided the addition or structure will generate no wastewater flows.

N.J.A.C. 7:50-4.1(a)11 is being expanded to include not only the repaving of existing paved roads, but other paved surfaces as well. This would include, for example, sidewalks and parking lots. Such repaving activities will be considered exempt from application requirements, provided no increase in the paved width or area of the paved surfaces will occur.

N.J.A.C. 7:50-4.1(a)12 is being amended to clarify that the clearing of land for either agricultural or horticultural purposes is exempt from the Commission's application requirements. Since 1981, the Commission has interpreted this exemption to include both agricultural and horticultural activities; thus, this amendment represents no change in policy or practice. It is merely a clarification.

N.J.A.C. 7:50-4.1(a)22 is being added to exempt the establishment of certain home occupations from the need to submit an application to the Commission. Home occupations are, according to N.J.A.C. 7:50-2.11, activities for economic gain carried out in a residential dwelling or accessory structure, in which the occupant of the residence and no more than two other individuals are employed. Home occupations must be clearly secondary to the use of the dwelling as a residence. Proposed N.J.A.C. 7:50-4.1(a)22 would relieve applicants seeking to establish home occupations within their homes from the need to submit applications to the Commission, provided no additional development is proposed in association with that home occupation. If a new building were to be constructed to house the home occupation, an application would continue to be required. Likewise, if a new parking lot were proposed, an application would be required. In general, the Commission believes Pinelands municipalities are

better equipped to regulate and address issues that arise in association with home occupations as these issues tend to be those of local concern (e.g., traffic, noise), rather than those involving regional environmental standards. The addition of this exemption merely means that certain home occupations will not need to apply to and receive Certificates of Filing from the Commission. The ability of a Pinelands municipality to regulate home occupations is in no way affected by the proposed amendment.

N.J.A.C. 7:50-4.1(a)23 is being added to exempt certain changes of use from the need to file applications with the Commission. Specifically, the change of one nonresidential use to another nonresidential use would no longer require application, provided the existing and proposed uses are or will be served by public sewers and no additional development is proposed. With few exceptions, the requirement for sewer service effectively limits the exemption to nonresidential uses located in the growth-oriented areas of the Pinelands, Regional Growth Area, Pinelands Towns and Pinelands Villages. It also eliminates any concerns related to water quality (septic dilution requirements) arising from the change of use. Furthermore, restricting the exemption to situations where no additional development is proposed negates any concerns with stormwater management. Therefore, there is little reason for the Commission to continue to require applications for what is typically a change from one commercial use (e.g., a real estate office) to another commercial use (e.g., a hardware store) in a sewerred, developed area. These are matters best left to municipalities to regulate.

By expanding the list of exempt activities, the Commission hopes not only to support local businesses by decreasing costs and processing time, but also to be able to allocate more of its staff resources to the review of applications involving development proposals that have the potential for more significant impacts on the Pinelands environment.

Requirements of Local Approval Agencies; Review of Local Approvals

N.J.A.C. 7:50-4.18(e) and 4.35(e), the notice requirements applicable to final decisions made by local approval agencies, are being amended so that they will be identical to those for preliminary approvals. Minor differences in wording appear in the current regulations when, in fact, the information required by the Commission for review of preliminary and final local approvals is the same.

N.J.A.C. 7:50-4.19(c), 4.25(c) and 4.37(c) are also being amended to clarify that they refer to notification requirements that must be followed by the Commission in cases where a hearing before an Administrative Law Judge has been requested for purposes of reviewing a local approval or denial of a development application.

Letters of Interpretation

Letters of Interpretation (LOI) are issued by the Commission pursuant to N.J.A.C. 7:50-4, Part VI, at the request of an applicant. Although an LOI may be requested for any standard set forth in the CMP, the vast majority of LOI applications received by the Commission involve requests for an allocation of Pinelands Development Credits (PDC) to a particular parcel. From 2007-2012, the Commission issued 216 LOIs, 185 or 86 percent of which were for PDC allocations. The remaining 31 were LOIs related to the extent of wetlands or wetlands buffer areas on specific parcels.

Currently, N.J.A.C. 7:50-4.76(b) provides that LOIs shall not be valid for a period longer than two years from the date of issuance by the Commission. With respect to LOIs involving PDC allocations, this means that a landowner to whom PDCs were allocated has two years to

sever those PDCs from his or her property so that they may be sold, transferred or redeemed. After that two year time period, if the landowner wishes to sever the PDCs, he or she must once again apply to the Commission and “renew” the LOI. Renewals are largely a paperwork exercise, although there have been a few occasions where a change in Pinelands management area designations or the availability of more accurate wetlands mapping has changed the number of PDCs that are allocated in the “new” LOI. On the whole, the Commission believes that requiring renewals every two years is of little benefit and simply generates more work for the Commission and property owners. N.J.A.C. 7:50-4.76(b) is therefore being amended to extend the duration of LOIs from two to five years. This extension will provide property owners with a longer period of time during which they may rely on their LOIs when deciding whether to sever their PDCs or, in the case of wetlands delineations, proceed with their development projects. It will also allow the Commission to focus more of its staff resources on the review of applications for development.

It should be noted that the CMP will continue to require no application fee for a PDC LOI, whether it is for an initial allocation of PDCs or for a renewal of an expired LOI. Applications for amended LOIs, submitted within five years of the date on which the original LOI was issued, will continue to require a small application fee. Also, as is the case under the current regulations, if a landowner changes the conditions associated with a parcel that has received an LOI for PDCs, the Commission will automatically issue an amended LOI. For example, if, after receiving a PDC LOI, a landowner decides to build a home on the parcel and receives approvals to do so, that new home would result in the need to decrease the PDC allocation to which the landowner is entitled, even if it were done within the five year life time of the original LOI. This practice will remain unchanged by the proposed amendment.

N.J.A.C. 7:50-4.74 is also being amended to eliminate the requirement that the Executive Director provide an analysis of all pending requests for LOIs to the Commission prior to issuance of any new LOIs. Over the years, such an analysis has proven to be unnecessary, given that most LOIs merely involve the allocation of PDCs. The Executive Director will simply continue the long-standing practice of providing copies of all LOIs, following their issuance, to the Commission for its information on a monthly basis.

PDC allocations

Pinelands Development Credits are typically bought and sold in $\frac{1}{4}$ increments because that increment equals one right. Therefore, the Commission established an administrative practice years ago to round allocations (except those that represent a fraction of $\frac{1}{4}$ PDC) to the nearest one-quarter of a Credit. A new N.J.A.C. 7:50-5.43(b)5 is being proposed to specify this practice in the CMP.

It has also been the Commission's longstanding practice to calculate a PDC allocation for all contiguous properties that are currently or were previously held in common ownership. This practice began many years ago in an effort to issue very precise PDC allocations and round fractional allocations (up or down as appropriate) for an entire ownership and not for individual properties. With the passage of time, researching prior ownership has become very time consuming, to the point where the costs of doing so are excessive. Therefore, a new N.J.A.C. 7:50- 5.43(b)4 is being proposed to end this administrative practice and calculate PDC allocations for an entire parcel as it exists at the time of the application for the LOI or, at the request of the applicant, for individual lots.

Corrections

A number of technical corrections are being made, involving the following sections: N.J.A.C. 7:50-4.2(b)6i, 4.52(e)vi, 6.68(a)10, 6.69(a)2 and 10.21(d). These revisions include updated cross-references to other sections of the CMP, as well as corrections of typographical errors.

Pilot Program for Alternate Design Wastewater Treatment Systems

In 2000, the Pinelands Commission formed a special Ad Hoc Septic System Committee to research alternate septic system technologies that might better meet the water quality standards of the CMP (N.J.A.C. 7:50-6, Part VIII) for residential development on lots smaller than 3.2 acres, where such lots were already authorized pursuant to N.J.A.C. 7:50-5. In its research efforts, the Committee consulted wastewater engineering professionals, state and regional on-site technology demonstration projects, alternate treatment system technology manufacturers, Pinelands Area county health departments and other state and local agencies. Based on this research, the Committee identified five technologies that it determined could be expected to meet Pinelands water quality standards for residential development on lots smaller than 3.2 acres in size. The identified technologies were the Amphidrome, Ashco RFS^{III}, Cromaglass, Bioclere and FAST treatment systems. Based upon nitrogen removal expectations and the Pinelands Septic Dilution Model, the Committee concluded the Amphidrome, Cromaglass, Bioclere and FAST systems could be permitted on lots of at least one acre and that the Ashco RFS^{III} system could be allowed on residential lots of at least 1.5 acres. All of the identified systems utilize proven biological nutrient removal processes to reduce nitrogen levels in treated wastewater. The water quality requirements of N.J.A.C. 7:50-6, Part VIII, include

provisions that are aimed at controlling the amount of nitrogen that enters the environment because nitrogen itself is a significant pollutant and because it often serves as an indicator of changes in overall water quality.

The Ad Hoc Septic System Committee unanimously recommended that an interim program be developed for the approval, installation and monitoring of the five identified wastewater treatment technologies and that the interim program include conditions and safeguards to govern their use. To implement these recommendations, the Pinelands Commission adopted a set of amendments to the CMP that authorized the use of the technologies through the establishment of the Alternate Design Treatment Systems Pilot Program (see 34 N.J.R. 2804(b)). These CMP amendments, which took effect on August 5, 2002, are codified at N.J.A.C. 7:50-10, Part IV. The Pilot Program was implemented to provide a means to test whether the five identified technologies could be maintained and operated so as to meet the water quality standards of the CMP in a manner that a homeowner can be reasonably expected to follow. Implementation of the Pilot Program commenced on August 5, 2002, with the first pilot program treatment system installed and brought on line in April of 2004.

N.J.A.C. 7:50-10.23 of the CMP requires that the Executive Director review the Alternate Design Treatment Systems Pilot Program periodically and report the findings of that evaluation to the Pinelands Commission in a program implementation report. The criteria by which the Pilot Program is periodically evaluated are set forth at N.J.A.C. 7:50-10.23(b)1 through 6. The Executive Director has issued three program implementation reports to date. Links to all reports may be found on the Commission's web site at www.nj.gov/pinelands.

The first evaluation of the pilot program was completed in November 2006. In the November 2006 implementation report, the Executive Director determined that one of the

technologies (Ashco RFS^{III}) should be removed from the pilot program and that insufficient data was available to render a determination regarding the four other treatment technologies. The Executive Director recommended that the pilot program be extended by an additional three years to allow for the collection of additional data. The Commission adopted amendments to the CMP to implement this recommendation in 2007 (see 39 N.J.R. 5077(b)).

The second evaluation of the pilot program was completed in November 2009. In the November 2009 implementation report, the Executive Director recommended that the Amphidrome and Bioclere treatment technologies be granted permanent approval status, subject to special administrative controls, that the pilot program be extended for the Cromaglass and FAST treatment technologies by an additional three years (through August 2013) to allow for the collection and analysis of additional data from these technologies, and that the pilot program be expanded to permit additional prescreened technologies to participate in the pilot program through August 2016. The Commission adopted amendments to the CMP to implement these recommendations in 2010 (see 42 NJR 2422(a)).

The third evaluation of the pilot program was completed in November 2012. In the November 2012 implementation report, the Executive Director recommended that the Pilot Program once again be extended for two of the original five pilot program systems, Cromaglass and FAST, in order to provide an opportunity for continued installation of the systems and further evaluation of the systems through an ongoing assessment of monitoring and retrofits.

Subsequently, in August of 2013, the Executive Director recommended that the Cromaglass technology be removed from the Pilot Program entirely, with no further installations permitted. A temporary suspension barring new installations of the Cromaglass technology has been in place since November 15, 2006. This suspension was imposed as a result of the

Commission's prior finding that the Cromaglass technology had not met CMP groundwater quality standards. The Cromaglass technology produced a grand median total nitrogen concentration of 31.5 mg/l, failing to meet the CMP's 14.0 mg/l total nitrogen standard for unsewered residential development on a minimum one acre parcel.

The Alternate Design Treatment Systems Pilot Program requires technology manufacturers to troubleshoot and remediate substandard treatment system performance. At the Commission's direction, Cromaglass undertook studies to determine the cause of inadequate nitrogen attenuation and recommended a number of remedial measures to improve nitrogen attenuation in its existing Pinelands treatment units. After reviewing Cromaglass' findings and recommendations, the Commission issued correspondence in 2011 requiring that Cromaglass implement a two-phase remediation program. Phase I was to include the retrofitting of twenty-eight systems by March 1, 2012. Effluent sampling of the Phase I retrofit systems was to commence within two months of the completion of the Phase I retrofits and was to continue every two months for a total of six samples per system.

Cromaglass completed the Phase I retrofits by the March 1, 2012 deadline but has not complied with the system sampling requirements. The first round samples were collected on May 2, 2012 and produced a grand median total nitrogen value of 18.0 mg/l. The second round samples were collected five months later, included only twenty systems and resulted in a grand median total nitrogen value of 19.2 mg/l. A full ten months have now elapsed since Cromaglass' last sampling event. In summary, Cromaglass has been delinquent in sampling the retrofitted systems and has failed to demonstrate the Cromaglass technology's capability to meet CMP water quality standards.

The Commission has afforded the Cromaglass Corporation multiple opportunities to improve the technology's nitrogen attenuation. However, Cromaglass Corporation's inconsistent compliance with the pilot program's sampling and reporting requirements remains problematic. Further, the company has failed to fully comply with the Commission's sampling and reporting requirements applicable to retrofitted Cromaglass units. The Commission therefore has no choice but to find that the Cromaglass Corporation's participation in the pilot program has not been in substantial compliance with the sampling and reporting requirements of the CMP. Further the Cromaglass technology has not made satisfactory progress in attaining compliance with CMP water quality standards. As a result, the Executive Director recommended that the Cromaglass technology's continued participation in the pilot program should be discontinued at the end of August, 2013.

The Executive Director's recommendations were discussed at three public meetings of the CMP Policy & Implementation Committee in November 2012, February 2013 and August 2013. All of the input that the Committee received at these public meetings was in support of the Pilot Program, its further extension and the removal of the Cromaglass technology. The Commission thereafter decided to propose amendments to the CMP to implement the Executive Director's recommendations. Specifically, N.J.A.C. 7:50-2.11 is being amended to remove the Cromaglass technology from the definition of "alternate design pilot program treatment system". Similarly, N.J.A.C. 7:50-10.21(c) and 10.22(a)3 are being amended to reflect the removal of the Cromaglass technology from the pilot program. N.J.A.C. 7:50-10.22(a)4 and 10.23(i) are also being amended to remove the Cromaglass technology and provide an opportunity for installation of new FAST systems through August 5, 2018. The same installation deadline is also being established for any USEPA ETV or NSF/ANSI Standard 245 technologies approved by the

Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b). In recognition of the extended installation deadline, N.J.A.C. 7:50-10.23(c) is being amended to require a fourth review of the Pilot Program in August of 2017, with a program implementation report submitted to the Commission no later than November 5, 2017. Finally, N.J.A.C. 7:50-10.23(d) and (e) are being amended to provide the Executive Director with the ability to continue the evaluation of the Pilot Program in the event there are insufficient monitoring events for the FAST, USEPA ETV or NSF/ANSI Standard 245 technologies at the time of the required review in November of 2017. Should there be insufficient monitoring events for any of the technologies, an evaluation of the Pilot Program with respect to that technology will now be due to the Commission on August 5, 2019. The criteria by which the pilot program is to be reviewed remain unchanged.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

No adverse social impact is anticipated as a consequence of the adoption of the proposed amendments. Society as a whole benefits from the protection of the Pinelands and the proposed amendments are designed to do just that. Any social impacts that do result are expected to be positive.

Extension of the installation deadline to August of 2018 for the FAST and USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the

Alternate Design Treatment Systems Pilot Program will provide a continued opportunity for residential development in unsewered portions of the Pinelands that have already been planned and zoned for such development. The amendments do not in any way affect permitted residential densities or minimum lot size requirements in the Pinelands Area. Thus, no significant changes in land use patterns will result from the proposed amendments.

Economic Impact

The proposed amendments to N.J.A.C. 7:50-4.1, expanding the list of development activities that will no longer require application to the Commission, will decrease costs for applicants. As no application to the Commission will be required, no application fee will be necessary, nor will the submission of any other information. Such applicants may simply proceed to apply for and obtain all necessary municipal approvals without involvement by the Commission. While difficult to quantify, this expedited process should decrease the time required to obtain approvals and permits, which may in turn result in further cost savings for the landowner. In many cases, the applicants and landowners who will benefit from the expanded exemptions for home occupations, changes of nonresidential use and expansion of nonresidential structures will be local businesses. Thus, there should be a positive economic impact for these businesses through decreased bureaucracy, as well as a positive impact for the Commission through more efficient utilization of staff resources.

The economic impact of the proposed amendments to the Pilot Program for Alternate Design Wastewater Treatment systems will clearly be positive for those landowners seeking to develop their one to 3.2 acre properties in unsewered portions of the Pinelands Area. Without the proposed amendments, use of the FAST technology is not permitted after August 5, 2013. The proposed amendments extend by five years the period of time during which installation of the

FAST system may be installed, and extend by two years the period of time during which USEPA ETV or NSF/ANSI Standard 245 technologies approved by the Commission for participation in the pilot program may be installed. The continued ability to develop on unsewered lots between 1.0 and 3.2 acres, where permissible, will result in more efficient use of land, consistent with the lot size and density requirements set forth in certified municipal land use ordinances. It is the Commission's hope that by providing an opportunity for five technologies to be installed through August 5, 2018, competition among the system vendors will lead to lower prices for landowners.

Removal of the Cromaglass technology from the pilot program is not expected to have any negative economic impact. Homeowners in the Pinelands Area that currently use a Cromaglass system will not be required to replace it. They will have the option to continue to use their systems in a manner consistent with the operation and maintenance provisions of the CMP or if they so choose, to retrofit the system or otherwise replace it with a conventional septic tank meeting the current requirements of N.J.A.C 7:9A, the New Jersey Department of Environmental Protection's Standards for Individual Subsurface Sewage Disposal Systems.

The proposed amendments do continue to impose a number of maintenance, monitoring and reporting requirements on the manufacturers or their agents of those alternate design wastewater treatment systems authorized for use in the Pinelands Area pursuant to the Commission's Pilot Program. These requirements, spelled out at N.J.A.C. 7:50-10.22(a)6, involve the provision of operation and maintenance manuals and five-year warranties and maintenance contracts, all of which the manufacturers already have on hand. This is not to say that the requirements represent insignificant costs for the manufacturers, particularly for the five-year non-cancellable maintenance contract required by N.J.A.C. 7:50-10.22(a)6vii. In addition, manufacturers will continue to be responsible for the provision of resources for the collection

and analysis of effluent sampling. These requirements, which do represent a cost to the system manufacturers, are a critical part of the proposed pilot program and the Commission would not be able to extend or expand the program without them. In any case, it is likely that the associated costs will be passed on to the homeowner by the manufacturers. These costs represent a relatively small price to pay for the opportunity to develop lots that would otherwise not be developable.

Environmental Impact

The Commission does not anticipate that the proposed amendments will have any negative environmental impact. The proposed amendments do not modify the land use and environmental requirements of the CMP in any way.

The proposed additions to the list of exempt activities at N.J.A.C. 7:50-4.1(a) were carefully considered and limited to those that the Commission feels have little potential for impact on the environment. They include changes of nonresidential use and home occupations with no additional development, repaving with no increase in paved width or area and accessory structures and additions of limited size, where either sewer service is provided or wastewater flows are not involved. Pinelands municipalities will continue to review applications for these types of development, ensuring that an appropriate level of oversight continues to be exercised. The Commission will no longer need to spend its time reviewing these relatively minor activities, thereby freeing up time and resources to devote to the review of larger, more significant projects to ensure they meet all CMP environmental standards.

Extension of the Alternate Design Wastewater Treatment Systems Pilot Program through 2018 for the FAST and USEPA ETV or NSA /ANSI Standard 245 technologies approved by the

Commission is expected to provide significant environmental benefit. Extension of the program will provide an additional opportunity for the Commission to collect data and monitor the FAST technologies and will authorize new prescreened advanced wastewater treatment systems to be installed and monitored. The installation of additional systems will result in more monitoring and testing of effluent and this will ultimately provide the Commission with sufficient data to be evaluated as part of the pilot program. Provided they are maintained properly, these systems provide the potential for improved water quality when compared with conventional septic systems.

Removal of the Cromaglass technology from the Pilot Program recognizes that this technology has proven incapable of meeting CMP water quality standards. No further installations of the Cromaglass technology for residential development on lots less than 3.2 acres in size will be permitted in the Pinelands Area. Instead, one of the other technologies authorized for use under the Pilot Program will need to be used, providing a better opportunity for compliance with CMP water quality standards. This should have a positive environmental impact.

Federal Standards Statement

Section 502 of the National Parks and Recreation Act of 1978 (16 U.S.C. §471i) called upon the State of New Jersey to develop a comprehensive management plan for the Pinelands National Reserve. The original plan adopted in 1980 was subject to the approval of the United States Secretary of the Interior, as are all amendments to the plan.

The Federal Pinelands legislation sets forth rigorous goals that the plan must meet, including the protection, preservation and enhancement of the land and water resources of the

Pinelands. The proposed amendments are designed to meet those goals by allowing for the continued installation and monitoring of alternate design wastewater treatment systems for residential development. The other proposed amendments may be categorized as largely procedural in nature.

There are no other Federal requirements that apply to the subject matter of these amendments.

Jobs Impact

The proposed amendments extending the Alternate Design Wastewater Treatment Systems Pilot Program through 2018 provide for the continued opportunity for new home construction in areas that are zoned for such use but are not served by public sewerage infrastructure. The proposed amendments therefore are expected to result in the creation of jobs associated with new home construction. Conversely, non-adoption of the proposed amendments would have a negative impact on job creation.

The remainder of the proposed amendments are not expected to have any impact on the creation or loss of jobs, as they are largely administrative measures being implemented to make implementation of the CMP more effective and efficient.

Agriculture Industry Impact

The proposed amendments are expected to have a small, but positive, impact on the agriculture industry. Two of the PDC program's existing "sending" areas represent the largest and most concentrated centers of farming in the Pinelands. Since farm landowners are eligible for allocations of PDCs, the proposed amendments involving the allocation of PDCs are likely to

have a positive impact on the industry. The proposed amendments extend the duration of LOIs from two to five years, giving farmers and other property owners the ability to rely on these allocations for a longer period of time and eliminating the need for frequent renewals. This should reduce paperwork for both farmers and the Commission. The proposed amendments also streamline the process by which PDCs are calculated by eliminating the need to complete complicated common ownership analyses of contiguous properties. This should result in quicker processing of LOI applications.

Agriculture and activities that are exclusively for agriculture remain exempt from the Commission's application process. The proposed amendments clarify that this exemption applies to horticulture as well.

The proposed amendments related to the continued use of alternate design wastewater treatment systems affect residential development on lots between one and 3.2 acres that have been zoned for such purposes. These amendments will have no impact on the agriculture industry in the Pinelands.

Regulatory Flexibility Analysis

The proposed amendments continue the imposition of reporting, recordkeeping and compliance requirements on the manufacturers or their agents of those alternate design wastewater treatment systems authorized for use in the Pinelands Area pursuant to the Commission's Pilot Program. It is believed that at least some of these manufacturers may be small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. In meeting the standards for use of the authorized technologies that would continue to be authorized under the pilot program, these businesses may continue to incur costs relative to ensuring

compliance with the maintenance and monitoring requirements of N.J.A.C. 7:50-10.22(a)6. It is unlikely, however, that engaging professional services will be necessary in order to do so. The design of systems for approval by County health departments and other agencies requires the services of a professional engineer under existing State law; that requirement is not changed by the proposed amendments. Furthermore, the requirements at N.J.A.C. 7:50-10.22(a)6 merely involve the provision of certain manuals, maintenance guarantees and other documents that the manufacturers already have on hand, as well as the provision of resources for the collection and analysis of effluent sampling. This is not to say that the requirements represent insignificant costs for the manufacturers, particularly for the five-year non-cancellable maintenance contract required by N.J.A.C. 7:50-10.22(a)6vii. However, these requirements are a critical part of the proposed pilot program and the Commission would not be able to extend or expand the program without them. In any case, it is likely that the associated costs will be passed on to the homeowner by the manufacturers. These costs represent a relatively small price to pay for the opportunity to develop lots that would otherwise not be developable.

No differing requirements have been established for small businesses under the pilot program. Instead, the same maintenance and monitoring requirements will continue to be imposed relative to the authorized technologies, regardless of business size. This is necessary to balance protection of Pinelands resources with the Commission's desire to provide a continued opportunity for residential development on lots of less than 3.2 acres in size in unsewered areas of the Pinelands. In fact, the Commission has identified proper system maintenance as the primary factor in ensuring that the alternate technologies will function in a manner that is consistent with CMP water quality standards. It is therefore critical that the requirements continue to be imposed on all of the manufacturers or their agents.

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Commission has determined that the proposed amendments to N.J.A.C. 7:50-4.1(a) will also positively impact a number of small businesses as they will no longer be required to submit development applications to the Commission for various activities. The activities in question, listed in amended N.J.A.C. 7:50-4.1(a), include changes of use, home occupations and expansions of existing nonresidential uses, provided certain conditions are met. Small businesses seeking to undertake these activities in the Pinelands Area will be able to proceed directly to the municipality in which they are located in order to obtain any necessary permits or approvals; they will no longer be subject to the Commission's application requirements. This will simplify and streamline the permitting process for small businesses. Costs will also be reduced as the small businesses will no longer be required to pay an application fee to the Commission.

The proposed amendments will not impose any other reporting, recordkeeping or compliance requirements on small businesses, as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Housing Affordability Impact

In accordance with N.J.S.A. 52:14B-4, as amended effective July 17, 2008 by P.L. 2008, c. 46, the Commission has evaluated the proposed amendments to determine the impact, if any, on the affordability of housing. Because the proposed amendments consist primarily of efficiency measures and do not affect the land use or environmental standards applicable to residential development in the Pinelands Area, it is extremely unlikely the proposed amendments would evoke a change in the average costs associated with housing.

Smart Growth Development Impact

N.J.S.A. 52:14B-4, as amended effective July 17, 2008, by P.L. 2008, requires that proposed amendments be evaluated to determine their impacts, if any, on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan (State Plan). Planning Areas 1 and 2 do not exist in the Pinelands Area. Likewise, the State Plan does not designate centers within the Pinelands Area. Instead, N.J.S.A. 52:18A-206.a provides that the State Plan shall rely on the Pinelands CMP with respect to the Pinelands. Therefore, the Commission has evaluated the impact of the proposed amendments on Pinelands management areas that are equivalent to Planning Areas 1 and 2 and designated centers (i.e., Regional Growth Area, Pinelands Villages and Pinelands Towns), as designated by the CMP.

The proposed amendments are not anticipated to have any significant impact on housing production. The amendments relative to the Alternate Design Treatment Systems Pilot Program will allow for the continued installation and monitoring of innovative alternate design wastewater treatment systems in unsewered areas of the Pinelands that are zoned for residential development on lots of less than 3.2 acres in size. With few exceptions, these areas are located in Regional Growth Areas, Pinelands Villages and Pinelands Towns, management areas designated for development by the Comprehensive Management Plan and equivalent to designated centers under the State Plan. Successful testing could have positive results for other non-sewered areas in the State, outside the Pinelands Area.

No other smart growth impacts are anticipated from the proposed amendments.

Full text of the proposal follows (additions indicated in **bold**; deletions indicated in [brackets]):

7:50-2.11 Definitions

When used in this Plan, the following terms shall have the meanings ascribed to them.

...

“Alternate design pilot program treatment system” means an individual or community on site waste water treatment system that has the capability of providing a high level of treatment including a significant reduction in the level of total nitrogen in the wastewater and includes the systems listed below, as described in the report prepared by Anish R. Jantrania, PH.D., P.E., M.B.A. entitled “Performance Expectations for Selected On-site Wastewater Treatment Systems,” dated December, 2000, incorporated herein by reference, and available at the principal office of the Commission, that have been authorized for residential development by the pilot program established in N.J.A.C. 7:50-10, Part IV. In addition, alternate design pilot program treatment system shall also include any technology or technologies that have been approved by the Commission for participation in the alternate design wastewater treatment systems pilot program pursuant to N.J.A.C. 7:50-10.23(b). Detailed plans and specifications for each authorized technology are available at the principal office of the Commission.

1. FAST; **or**
2. [Cromaglass; or]
- [3.] Other nitrogen reducing technologies approved by the Commission pursuant to N.J.A.C. 7:50-10.23(b).

...

“Immediate family” means those persons related by blood or legal relationship in the following manner: [husbands and wives,] **spouses, domestic partners**, great-grandparents,

grandparents, great-grandchildren, grandchildren, parents, sons, daughters, brothers and sisters, aunts and uncles, nephews, nieces and first cousins.

...

7:50-4.1 Applicability

(a) For the purposes of this subchapter only, the following shall not be considered development except for development of any historic resource designated by the Pinelands Commission pursuant to N.J.A.C. 7:50-6.154:

1.-7. (No change.)

8. The construction of any addition or accessory structure for any non-residential use or any multi-family residential structure provided **that:**

i. [said] **If the** addition or structure will be located on or below an impervious surface, [and] **either** the existing use is served by public sewers **or the addition or structure will generate no wastewater flows,** and said addition or structure will cover an area of no more than [1,000] **4,999** square feet[.]; **and**

ii. **If the addition or structure will not be located on or below an impervious surface, said addition or structure will generate no wastewater flows and will cover an area of no more than 1,000 square feet.**

9.-10. (No change.)

11. The repaving of existing paved roads **and other paved surfaces,** provided no increase in the paved width **or area** of said roads **and surfaces** will occur;

12. The clearing of land solely for agricultural **or horticultural** purposes;
- 13.- 19. (No change.)
20. The installation of an accessory solar energy facility on any existing structure or impervious surface; [or]
21. The installation of a local communications facilities antenna on an existing communications or other suitable structure, provided such antenna is not inconsistent with any comprehensive plan for local communications facilities approved by the Commission pursuant to N.J.A.C. 7:50-5.4(c)6[.];
- 22. The establishment of a home occupation within an existing dwelling unit or structure accessory thereto, provided that no additional development is proposed; and**
- 23. The change of one nonresidential use to another nonresidential use, provided that the existing and proposed uses are or will be served by public sewers and no additional development is proposed.**

7:50-4.2 Pre-application conference; application requirements

- (a) (No change.)
- (b) Application requirements.
 - 1.-5. (No change.)
 6. Application for resource extraction: Unless the submission requirements are modified or waived pursuant to (b)3 above, an application filed pursuant to N.J.A.C. 7:50-4.13 or 4.33 for resource extraction shall include at least the following information:

- i. All information required by (b)4i through vi[.];
- ii.-x. (No change.)

7.-9. (No change.)

(c) (No change.)

7:50-4.18 Report requirements of local permitting agency with respect to applications for development

(a)-(d) (No change.)

(e) Notice of final determination. Notice of any final determination approving or denying any application for development shall be given to the Commission by the local agency, by certified mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1.-2. (No change.)

3. The application number of the Certificate of Completeness issued by the Executive Director and the date on which it was issued; [and]

4. The date on which the final approval or denial was granted;

5. Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and

[4]6. A copy of the resolution or other documentation of the local permitting agency approving or denying the [applicant] **application** and, if the application was

approved, a copy of any final site or subdivision plan or plat or similar plan which was approved by the local permitting agency.

(f) (No change.)

7:50-4.19 Commission review following preliminary approval

(a)-(b) (No change.)

(c) Notices to interested persons: If the Executive Director determines that a preliminary approval shall be reviewed by the Commission and a hearing has been requested **before an Administrative Law Judge** pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission, that they may participate in any proceedings held pursuant to this Part.

(d)-(e) (No change.)

7:50-4.25 Commission review following local denial

(a)-(b) (No change.)

(c) Notices to interested persons: If the Executive Director determines that a denial shall be reviewed by the Commission and a hearing **before an Administrative Law Judge** has been requested pursuant to (b) above, he shall notify all persons who actively participated in the proceedings before the local permitting agency and all persons who submitted information on the application to the Commission that they may participate in any proceedings held pursuant to this Part.

7:50-4.35 Report requirements of local permitting agency with respect to applications for development

(a)-(d) (No change.)

(e) Notice of final determination: Notice of any final determination with respect to any application for development shall be given to the Commission, by certified mail, within five days following such determination and shall be in such form as the Executive Director shall from time to time specify; but such notice shall contain at least the following information:

1.-2. (No change.)

3. The application number of the Certificate of Filing or Notice of Filing issued by the Executive Director and the date on which it was issued; [and]

4. **The date on which the final approval was granted;**

5. **Any written reports or comments received by the local permitting agency on the application for development which have not been previously submitted to the Commission; and**

[4.]6. A copy of the resolution or other documentation of the local permitting agency approving or denying the application and, if the application was approved, a copy of any final plan, plot or similar document which was approved by the local permitting agency.

(f) (No change.)

7:50-4.37 Commission review following preliminary approval

(a)-(b) (No change.)

(c) Notices to persons participating in local permitting process; opportunity to comment: If the Executive Director decides to review a preliminary approval **and a hearing before an Administrative Law Judge has been requested pursuant to (b) above**, he shall notify all persons who actively participated in the proceedings before the local permitting agency of such determination and inform them that they may participate in any proceedings held pursuant to this Part.

(d)-(e) (No change.)

7:50-4.52 General requirements

(a)-(d) (No change.)

(e) State agency plans:

1. Any agency of the State of New Jersey may submit to the Commission for review and approval a comprehensive plan of its existing and planned land use, resource management and development activities within the Pinelands. Such plans shall:

i.-v. (No change.)

vi. Be compatible with [surrounded] **surrounding** land uses and certified municipal and county master plans; and

vii. (No change.)

2.-3. (No change.)

7:50-4.74 Interpretation by Executive Director

Except as provided in N.J.A.C. 7:50-4.75, the Executive Director shall, within 45 days following the receipt of a completed request for clarification or interpretation, review the

application and all information submitted by the applicant or any other person relating to the application and upon completion of such review issue a letter of clarification or interpretation. [Prior to the issuance of the letter, an analysis of all pending requests for letters of interpretation will be submitted to the Commission for its review at its regular monthly meeting.] A copy of the letter shall be provided to the appropriate municipal or county planning board, environmental commission, if any, interested persons, including all persons who have submitted information concerning the application, as well as all persons who have requested a copy of said determination and any person, organization or agency, which has registered under N.J.A.C. 7:50-4.3(b)2i(2). The letter issued by the Executive Director shall specify the grounds, reasons and analysis upon which the clarification or interpretation is based. In the event the Executive Director fails to render a letter of clarification or interpretation within 45 days of receipt of a completed application or such longer period of time as may be agreed to by the applicant, the applicant is entitled to request a hearing pursuant to N.J.A.C. 7:50-4.91. Nothing in this section shall be construed to prevent any person from resubmitting a request for clarification or interpretation.

7:50-4.76 Effect of and limitation on favorable interpretation

- (a) (No change.)
- (b) No letter of clarification or interpretation shall be valid for a period longer than [two] **five** years from the date of issuance, unless a final approval pursuant to this Plan has been granted within that period, and development is thereafter diligently pursued to completion, or the use is legally commenced within that period.

7:50-5.43 Pinelands Development Credits established

(a) (No change.)

(b) Pinelands Development Credits are hereby established at the following ratios:

1.-3. (No change.)

- 4. Pinelands Development Credit allocations shall be calculated for an entire parcel as it exists at the time an application for a Letter of Interpretation is submitted to the Commission pursuant to N.J.A.C. 7:50-4.73 or, at the request of the applicant, for individual lots specified in the application.**
- 5. Pinelands Development Credit allocations exceeding one-quarter of a Pinelands Development Credit shall be rounded to the nearest one-quarter of a Credit.**

[4]6. If the allocations established in (b)1 [and 2] **through 4** above are less than one-quarter of a Pinelands Development Credit, the allocation shall be increased to one-quarter of a Pinelands Development Credit if the owner of record of one-tenth or greater acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979 owns a vacant parcel of land that was not in common ownership with any contiguous land on or after February 7, 1979, and the parcel has not been sold or transferred except to a member of the owner's immediate family.

[5]7. The provisions of [(b)4] **(b)6** above shall also apply to owners of record of less than one-tenth acres of land in the Preservation Area District, Agricultural Production Areas and Special Agricultural Production Areas, as of February 7, 1979, provided that said owners acquire vacant, contiguous lands to which

Pinelands Development Credits are allocated pursuant to (a) and (b) above which lands, when combined with the acreage of the parcel owned prior to February 7, 1979, total at least one-tenth of an acre.

[6]8. The total allocations made pursuant to [(b)4 and 5] **(b)6 and 7** above to any owner of record shall not exceed one-half of a Pinelands Development Credit. At such time as the application of [(b)4 and 5] **(b)6 and 7** above would exceed a total allocation of one-half of a Pinelands Development Credit to an owner, all remaining lands of that owner in excess of that needed to yield the one-half Pinelands Development Credit allocation shall be entitled to an allocation of Pinelands Development Credits according to the allocation formulas specified in (b)1, 2 and 3 above.

(c) (No change.)

7:50-6.68 Resource extraction standards

(a) Resource extraction operations shall be approved only if the applicant can demonstrate that the proposed resource extraction operation:

1.-9. (No change.)

10. Will involve restoration of disturbed areas at the completion of the resource extraction operation in accordance with the requirements of N.J.A.C. 7:50-[6.67] **6.69**, and the implementation of the restoration plan is secured by a letter of credit, surety bond or other guarantee of performance; and

11. (No change.)

7:50-6.69 Restoration standards

(a) All parcels of land which are used for resource extraction operations shall be restored as follows:

1. (No change.)
2. Restoration shall proceed in the same sequence and time frame set out in the extraction schedule required in N.J.A.C. 7:50-[6.66(a)9]6.68(a)9;
- 3.-10. (No change.)

7:50-10.21 Purpose

(a)-(b) (No change.)

(c) In 2000, the Commission formed a special committee to investigate alternate septic system technologies that would better meet the water quality requirements of N.J.A.C. 7:50-6, Part VIII, for residential development on lots smaller than 3.2 acres where such lots are currently authorized by N.J.A.C. 7:50-5. After conducting extensive research, the Committee identified five technologies that can be expected to meet these water quality requirements for residential development. The Committee recommended that an interim program be developed for the approval, installation and monitoring of the five technologies for use under certain conditions and safeguards. Based on the available information, the Committee recommended that the Ashco RFS III system be allowed on residential lots of at least 1.5 acres and the other four systems be allowed on residential lots of at least one acre. In November 2006, the Commission decided to remove the Ashco RFS III system from the Alternate Design Treatment Systems Pilot Program. The Commission made this decision due to the manufacturer's failure to make systems

commercially available in the Pinelands during the initial five year period of the pilot program or to otherwise demonstrate the ability or intention for future participation in the pilot program. Residential development using any of the authorized systems would still have to conform to the lot size and density requirements contained in the municipal land use ordinances that have been certified by the Commission pursuant to N.J.A.C. 7:50-3. In 2010, the Commission decided to release two of the original pilot program technologies (Amphidrome and Bioclere) from the pilot program and authorize them for permanent use, subject to the provisions of N.J.A.C 7:50-6.84(a)5iv(3). The Commission also decided to provide an opportunity for expansion of the pilot program to include certain other residential nutrient reducing onsite wastewater treatment technologies that have attained verification and/or certification through the United States Environmental Protection Agency Environmental Technology Verification (USEPA ETV) Program or the National Sanitation Foundation/ American National Standards Institute (NSF/ANSI) Standard 245 testing program. Information regarding the USEPA ETV Program is available from the United States Environmental Protection Agency website at: <http://www.epa.gov/etv/vt-wqp.html#dwtt> and <http://www.epa.gov/etv/pubs/600s07004.pdf>. Information regarding the NSF/ANSI Standard 245 testing program is available from the National Sanitation Foundation website at: http://www.nsf.org/business/wastewater_certification/standards.asp?program=WastewaterCer#245. **In 2013, the Commission decided to remove the Cromaglass technology from the Alternate Design Treatment Systems Pilot Program. The Commission**

made this decision based on the Cromaglass technology's inability to meet the water quality standards contained in N.J.A.C. 7:50-6, Part VIII.

- (d) The Alternate Design Waste Water Treatment Systems Pilot Program is authorized as a means to test whether specifically authorized systems can be maintained and operated so as to meet the water quality standards contained in N.J.A.C. 7:50-6, Part VIII with maintenance requirements that a homeowner can be reasonably expected to follow. Since these systems do require maintenance beyond that which would be required for a standard septic system in order to optimize treatment efficiencies, municipalities were originally encouraged, but not required, to adopt ordinances incorporating the requirements of N.J.A.C. 7:50-10.22 into their own land use ordinances. The use of the pilot program systems was then allowed only in those municipalities which had adopted such ordinances. Although most municipalities did adopt ordinances, several did not. This led to situations where owners of unsewered parcels under 3.2 acres in size were denied the ability to develop those parcels in an manner consistent with all other municipal land use and environmental standards, due simply to a municipality's failure to adopt an ordinance allowing for the installation of the pilot program systems. This resulted in considerable hardship to landowners, an outcome which was never the intent of the pilot program. The program has therefore been revised to authorize use of the pilot program systems in all municipalities for the duration of the program, whether or not the specific terms of the program are reflected in a municipal ordinance. Municipalities will continue to be encouraged to allow community systems to be installed in larger residential developments where densities between one and 3.2 acres are currently authorized. Since insufficient data is available to determine a particular efficiency of

these alternate design pilot program treatment systems for non-residential development, the use of these systems for non-residential development will be evaluated on a case by case basis pursuant to N.J.A.C. 7:50-[6.84(a)1]6.84(a)5 if any such system is proposed to reduce total nitrogen in the effluent for non-residential development.

7:50-10.22 General standards

(a) Alternate design pilot program treatment systems shall be authorized for residential use in all municipalities provided that the following standards are met:

1.-2. (No change.)

3. Subject to being increased during the pilot program based on the results of a hearing conducted pursuant to (a)5 below, each FAST [or Cromaglass] system shall be located on a parcel containing at least one acre for each dwelling unit that will be served by the system. Each USEPA ETV or NSF/ANSI Standard 245 technology approved by the Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) shall be located on a parcel containing sufficient land area to comply with the two parts per million nitrogen requirement and the water quality standards contained in N.J.A.C. 7:50-6, Part VIII, as calculated using the Pinelands Septic Dilution Model and the expected effluent total nitrogen value for the technology based upon the findings of the USEPA ETV and /or NSF/ANSI Standard 245 test data.

4. The [Cromaglass and] FAST alternate design pilot program treatment system[s] identified in (a)3 above [are authorized to be installed until August 5, 2013] and the USEPA ETV or NSF/ANSI Standard 245 technologies approved by the

Commission for participation in the pilot program pursuant to N.J.A.C. 7:50-10.23(b) are authorized to be installed until August 5, [2016] **2018**.

5.-6. (No change.)

(b)-(c) (No change.)

7:50-10.23 Pinelands Commission approval and evaluation

(a)-(b) (No change.)

(c) The Executive Director shall review this pilot program relative to the FAST [and Cromaglass] treatment technology[ies] **and** [no later than August 5, 2012 and shall report to the Commission within three months of that date on its implementation. The Executive Director shall review this pilot program relative to] any approved USEPA and NSF/ANSI Standard 245 treatment technologies no later than August 5, [2015]**2017** and shall report to the Commission within three months of that date on its implementation. The Executive Director shall determine whether the pilot program is successful in accordance with the following criteria:

1.-6. (No change.)

(d) If the Executive Director finds that the number of monitoring events for the FAST [and Cromaglass] treatment technology[ies] is not adequate to evaluate that technology under this pilot program in accordance with (c) above, the Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, [2014] **2019**.

(e) If the Executive Director finds that the number of monitoring events for any approved USEPA and NSF/ANSI Standard 245 treatment technologies is not adequate to evaluate any of those technologies under this pilot program in accordance with (c) above, the

Executive Director shall so inform the Commission and, upon receiving the Commission's approval, initiate a second review to be completed no later than August 5, [2017]2019.

(f)-(h) (No change.)

(i) Nothing in this section shall be construed to authorize the installation of a FAST [or Cromaglass] alternate design pilot program treatment system [after August 5, 2013 or to authorize the installation of] **or** any USEPA ETV and NSF/ANSI Standard 245 treatment technology approved by the Commission for participation in the pilot program after August 5, [2016]2018 as set forth in N.J.A.C. 7:50-10.22(a)4, unless a rule has been adopted by the Commission which expressly authorizes such installation pursuant to (g) or (h) above.