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CC: "Dippo, Charles F. (cdippo@sjindustries.com)" <cdippo@sjindustries.com>, ...
Date: 3/4/2013 4:09 PM
Subject: Draft Memorandum of Agreement Between the New Jersey Pinelands Commission and the Board of Public Utilities Regarding the BL England Pipeline Project
Attachments: 14819616_5.doc

Dear Stacey:

Per our discussion, I enclose a draft MOA between the Commission and the Board. Please feel free to call if you have any questions about it.

The Petition for the pipeline route should be filed within the next few days. I will forward the petition to you upon filing.

Best regards,

Pete

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**MEMORANDUM OF AGREEMENT
BETWEEN
THE NEW JERSEY PINELANDS COMMISSION AND THE NEW JERSEY
BOARD OF PUBLIC UTILITIES**

I. PURPOSE

This Memorandum of Agreement (“MOA”) is entered into between the New Jersey Pinelands Commission (the “Commission”) and the New Jersey Board of Public Utilities (the “BPU”). The Commission is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act, N.J.S.A. 13:18A-1, et seq., and charged with the implementation of the Act and the Pinelands “Comprehensive Management Plan” (the “CMP”), N.J.A.C. 7:50. The Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978. The BPU is an independent political subdivision of the State of New Jersey charged with general supervision of and jurisdiction over New Jersey public utilities including the functions, powers and duties assigned to it pursuant to N.J.S.A. 48:2-1 et seq. and 52:18A-2.1 and is allocated in, but not part of, the Department of Treasury pursuant to Reorganization Plan No. 001-1994.

In order to comply with air quality standards, the New Jersey Department of Environmental Protection (“NJDEP”) ordered the B.L. England electrical generation plant at Beesleys Point, Upper Township, Cape May County (“the Facility”) either to cease operations or to repower its existing coal-and oil-fired boilers with natural gas combustion turbine technology to dramatically reduce air pollution from the Facility. The Facility, which is located within the service territory of the South Jersey Gas (“SJG”) and the boundaries of the Pinelands National Reserve, is outside of the state-designated Pinelands Area. The only feasible means for SJG to supply natural gas to the Facility is to construct a natural gas pipeline to the Facility (the “Project”). Following a detailed alternatives analysis, which assessed environmental impacts, reliability, and other criteria, SJG determined that the optimal route for the pipeline required the construction of a 22-mile pipeline, 15-miles of which will traverse state-designated Pinelands Area beneath existing paved portions and/or disturbed shoulders of Union Road (CR 671), NJ Route 49, Cedar Avenue, Mill Road (CR 557), NJ Route 50, Mt. Pleasant-Tuckahoe Road (CR 664) and New York Avenue.

According to the PJM Interconnection 2011 Regional Transmission Expansion Plan (RTEP), which annually assesses transmission facilities in New Jersey for compliance with NERC reliability criteria violations, a number of factors continue to impact reliability in New Jersey. PJM *2011 Regional Transmission Expansion Plan*, Book 5, Section 8, p. 143-144. Load growth, power exports to New York City and Long Island, deactivation/retirement of generation resources, sluggish development of new generating facilities, and continued reliance on transmission to meet load deliverability requirements all contribute to existing reliability criteria violations in New Jersey. *Id.* There is a critical need to expand natural gas electric generation within New Jersey, particularly with the impending retirement of the Oyster Creek Nuclear Generation Facility and with ongoing reliability criteria violations in the coastal area. *See 2011 New Jersey Energy Master Plan (“EMP”)* at 76; *Long-Term Capacity Payment Agreement Pilot Program to Promote Construction of Qualified Electric Generation Facilities*, P.L. 2011, c.9 (legislative finding that New Jersey is experiencing an electric power capacity deficit and high

power prices that may result in the loss of jobs and investment due to the necessity for the upgrade of the transmission system to the west of New Jersey to ensure a reliable supply of electricity and capacity from generators located outside of New Jersey and as a result of a lack of new, efficient electric generation facilities, New Jersey has become more reliant on out-of-state coal-fired power plants). Following the retirement of the Oyster Creek facility in 2019, the BL England Facility will be the only remaining baseload electrical generation plant along the New Jersey coast. Absent construction of the Project, the NJDEP consent order requires the Facility to shut-down, an outcome that most certainly will require the construction of new electrical transmission lines to the New Jersey coast.

There also is a critical need to improve the reliability of natural gas service to eastern and southern portions of SJG's service territory. SJG serves approximately 61,000 natural gas customers in Cape May County via an existing 16-inch feeder line that is vulnerable to a single-contingency failure. A significant portion of SJG's system also is vulnerable to a single contingency failure of SJG's existing 20-inch pipeline from Union Road Station to Estell Manor Station, the primary major feeder line to the eastern and southern parts of the SJG service territory. Under design day conditions (2 degrees F), up to 142,000 customers located east and south of the Union Road Station could be vulnerable to a gas outage if this pipeline is interrupted. SJG reliability modeling shows that if this line were disrupted at even 30 degrees F, approximately 61,000 customers initially would lose gas service, with the number quickly growing to 120,000 customers when supply from SJG's McKee City LNG facility is exhausted. The construction of the Project will enhance greatly the reliability of the eastern and southern portions of SJG's service territory by enabling an alternative route for gas to be supplied to the coastal areas of Atlantic and Cape May County, which no longer would be subject to a single contingency. The Project also will improve gas supply availability and pressures to feed these areas on peak and near-peak days, thereby reducing the need for reinforcement pipe installations in the future, many of which would have to be located within the Pinelands Area.

The proposed gas main is defined as public service infrastructure by the CMP and is a permitted land use in a Pinelands Village and a Rural Development Management Area. In a Forest Management Area, the CMP permits public service infrastructure intended to primarily serve only the needs of the Pinelands. The Commission has determined that construction of the Project is not fully consistent with the requirements of the Pinelands CMP because the Project is not intended to primarily serve only the needs of the Pinelands. This MOA is intended to authorize the construction of the Project within the Pinelands Area in accordance with N.J.A.C. 7:50-4.52(c)2 and to establish alternative application procedures in accordance with N.J.A.C. 7:50-4.52(c)1.

II. BACKGROUND

A. The Proposed Route

The Project is a fifteen (15) mile, twenty-four (24)-inch natural gas pipeline originating at the intersection of Union Road and NJ Route 49 in Maurice River Township, Cumberland County and terminating at the eastern boundary of the state-designated Pinelands Area at the Cape May National Wildlife Refuge along Tuckahoe Road in Cape May County. A seven (7) mile segment of the pipeline is located outside state-designated Pinelands Area (but within the federally-

designated Pinelands National Reserve) and therefore is not considered part of the Project for purposes of this MOA. Eleven (11) miles of the Project will traverse Pinelands Forest and four (4) miles will traverse the Pinelands Rural Development Area and/or the Pinelands Village of Tuckahoe. The entire 15-mile segment within state-designated Pinelands Area will be constructed within existing road rights-of-way (“ROW”) beneath the existing paved portions and/or disturbed shoulder of Union Road (CR 671), NJ Route 49, Cedar Avenue, Mill Road (CR 557), NJ Route 50, Mt. Pleasant-Tuckahoe Road (CR 664) and New York Avenue.

B. Unique Components of the Project

The proposed Project and repowering of the Facility is unique for the following four reasons.

1. Reliable Electrical Supply

First, the Project is being proposed to address the critical need for ensuring a reliable electricity supply in both the Pinelands Area and in the coastal portions of Atlantic and Cape May Counties. The conversion of the Facility to natural gas will enable the Facility to continue supplying reliable electricity to Pinelands residents and businesses. The repowered Facility will provide a majority of its electrical output over its useful life to load within the Pinelands. According to the EMP, there is a critical need to promote a diverse portfolio of new, clean, cost-effective in-state electric generation, and thereby to secure a reliable supply of cost-effective energy and capacity, and to avoid transmission projects that import power from out-of-state generation sources far away from the State’s loads. According to PJM’s *2011 Regional Transmission Expansion Plan*, New Jersey is experiencing reliability criteria violations due to load growth, power exports to New York City and Long Island, deactivation/retirement of generation resources, sluggish development of new generating facilities, and continued reliance on transmission to meet load deliverability requirements and to obtain access to more economical sources of power west of the Delaware River. The impending retirement of the Oyster Creek Nuclear Generation Facility in 2019 will pose significant challenges to electric reliability within New Jersey and particularly within the coastal region. The BL England Facility will be the only remaining baseload electrical generation plant along the New Jersey coast between Cape May and Atlantic County. If the Project is not constructed, the NJDEP Order requires that the Facility be shut-down, an outcome that may necessitate the construction of new electrical transmission lines to the New Jersey coast through the Pinelands Area.

2. Reliable Gas Supply

Second, the Project will significantly improve the reliability of natural gas service to eastern and southern portions of SJG service territory, which serves 142,000 customers who currently are vulnerable to a significant disruption in service. SJG serves approximately 61,000 natural gas customers in southern Cape May County via a single 16-inch, 250 psig feeder line. Approximately 142,000 customers located east and south of the Union Road depend upon a single 20-inch pipeline from Union Road Station to Estell Manor Station. This 20-inch line is the primary major feeder line to the eastern and southern parts of the SJG service territory. Virtually all of SJG’s customers located east and south of the Union Road Station are vulnerable to a gas outage if this 20-inch pipeline is interrupted during winter heating months. The Project will enhance the reliability of SJG’s eastern and southern portions of its service territory

especially if an outage were to occur on the 20-inch line just east of Union Road Station, or on the 16-inch line between Cape May Station and the Reliability Interconnection. Finally, the Project will improve gas supply availability and pressures to feed these areas on peak and near-peak days, thereby reducing SJG's future need for reinforcement pipe installations.

3. Environmental Improvement

Third, the repowering of the Facility with natural gas not only will satisfy a public need for electricity and reliable natural gas service in the Pinelands, but presents a unique opportunity to dramatically reduce air and water pollution burdens on the Pinelands. The elimination of the storage and combustion of coal at the Facility will dramatically reduce the quantity of air pollution released to the Pinelands environment. In fact, the Facility specifically was identified as a major contributor of air pollution to the Pinelands in the *1980 Air Quality Assessment of the New Jersey Pinelands*. Also, the quantity of water needed to operate the repowered facility will be substantially reduced and the environmental risks posed by the need to transport coal and oil through the Pinelands to the Facility would cease.

4. Economic Benefits

Fourth, the proposed Project and Facility repowering will provide several direct economic benefits to the Pinelands. Because the Facility itself is located within the Pinelands National Reserve, the continued operation of the repowered Facility will enable the survival of a Pinelands employer. The *EMP* acknowledges that the construction of in-state generation brings economic development, jobs, and property taxes to New Jersey, unlike out-of-state generation. Furthermore, the repowering project will enable Upper Township, a Pinelands municipality, to continue receiving millions of dollars in property tax and host fee revenue, upon which the Township depends to fund essential services. These direct economic benefits to the Pinelands and to New Jersey will be sustained only through the repowering and continued operation of the Facility, along with the necessary pipeline Project.

C. Public Need for the Proposed Project

As discussed above, the *EMP* expresses a firm State goal of promoting a diverse portfolio of new, clean, cost-effective in-state electric generation to ensure a reliable supply of energy and capacity at reasonable rates while advocating for policies that help control electricity costs, maintain system reliability, and adhere to environmental objectives. The Project and the repowering of the Facility directly serves these goals. The *EMP* specifically acknowledges the challenge of finding baseload generation to replace Oyster Creek and targets the expansion of natural gas-fired power generation as a less carbon-intensive fossil fuel that also comes with significant air quality benefits, including reduced emissions of sulfur dioxide, fine particulates, volatile organic compounds, and greenhouse gases. To further this goal, the *EMP* directs State agencies to accelerate the decommissioning of older, less efficient coal- and oil-fired electrical generation plants and to rely more upon natural gas for electricity generation, and to promote the expansion of pipelines to supply natural gas. The repowered Facility will supply the majority of its electricity to the Pinelands Area and will provide reliable baseload power generation. The continued operation of the Facility is critical to ensuring adequate electric supply to the New Jersey coastal areas and helps the State directly to achieve the goals of the *EMP*.

The extension of the natural gas pipeline to the Facility also will improve the reliability of natural gas service to eastern portions of Atlantic County and to Cape May County. Currently, Cape May County only has one feeder line for 65,000 customers. This additional benefit of the Project will correct this service vulnerability by providing redundant natural gas service.

D. Basis for the MOA

The Pinelands CMP (N.J.A.C. 7:50-4.52(c)2) authorizes the Commission to enter into intergovernmental memoranda with any agency of the Federal, State or local government which authorizes s specified development activities that may not be fully consistent with the provisions of the CMP, specifically the land use and environmental standards set forth at N.J.A.C. 7:50-5 and 6. The agency must demonstrate, and the Commission must find, that any proposed development that is not fully consistent with the standards of the CMP is accompanied by measures that will, at a minimum, afford an equivalent level of protection of the resources of the Pinelands as would be provided through strict application of the CMP's standards.

As part of this MOA, the BPU is agreeing that the public utility proposing to construct the proposed natural gas pipeline project will undertake certain measures that will afford, at a minimum, equivalent levels of protection to the resources of the Pinelands.

1. Contribution to Pinelands Protection

Pursuant to a subsequent Order issued by the BPU and an MOA between the BPU and the public utility proposing to construct the proposed Project, the public utility shall contribute _____ (\$____) dollars to the Pinelands Commission to further the Pinelands protection program and ensure a greater level of protection for the unique resources of the Pinelands Area. This amount was determined by the Pinelands Commission based upon the nature of the regulatory deviations. These funds will be utilized by the Pinelands Commission to protect, preserve and enhance the unique resources of the Pinelands Area. The payment would provide a source of funds that would be used by the Pinelands Commission for activities that advance the protection of the Pinelands Area and that have a direct nexus to the preservation of the resources of the Area. Such activities could include: 1) the acquisition of land or interests therein, 2) environmental improvement measures (such as the retrofitting of stormwater facilities), 3) smart growth initiatives that advance conservation objectives within Pinelands development areas, particularly those that address Regional Growth Areas, and 4) research, planning and conservation projects designed to improve Pinelands protection practices.

2. Improved Air and Water Quality in the Pinelands Area

The Project will further the environmental needs of the Pinelands Area, by improving air and water quality which has long been negatively impacted by the Facility. Enhancement of the air quality is a clear need of the Pinelands, as set forth in Part IX of the CMP, which is dedicated to "Air Quality." The conversion of the Facility to natural gas will yield substantial reductions in air emissions, which long has been a need of the Pinelands. The NJDEP first identified this need in its 1980 *Air Quality Assessment of the New Jersey Pinelands*, which specifically identified the Facility as a source of air pollution within the Pinelands. Furthermore, the Commission also has recognized the need to promote less polluting forms of energy production within the Pinelands in

its 2011 solar energy amendments to the CMP, which acknowledge the societal benefit of reducing the emission of air pollutants associated with fossil fuel based electricity production. Natural gas produces less than ten (10) percent of the criteria air pollutants and hazardous air pollutants produced by coal. Converting the Facility to natural gas will dramatically reduce a host of air pollutants, including sulfur dioxide which produces acid rain, nitrogen oxides which produce smog, carbon dioxide which contributes to climate change, and mercury which bioaccumulates in Pinelands fish. The Project and repowering of the Facility will reduce air quality impacts on the Pinelands, thus providing a significant environmental benefit to the Pinelands Area and minimizing the impact of the Project.

The Facility repowering will also reduce water quality impacts on the Pinelands. The enhancement of water quality in the Pinelands is also a Commission priority, as set forth in Part VIII of the CMP, which is dedicated to "Water Quality." Currently, the Facility withdraws substantial amounts of water each day from the Great Egg Harbor estuary to use as cooling water. The Facility also discharges pollutants to the Great Egg Harbor estuary, pursuant to a permit, through several outfalls. The repowering of the Facility will reduce water withdrawals and water pollution discharges by approximately forty-four (44) percent, respectively. Additionally, the repowering project will eliminate the coal pile and its associated stormwater runoff, along with the use of lime, gypsum, slag and sorbent, all of which can be harmful to aquatic life. The Facility repowering, along with the necessary pipeline, will substantially reduce the current Facility impacts on water quality in the Pinelands, thus providing an environmental benefit and minimizing the environmental impacts of the Project.

3. Minimizing Impacts to Environmental, Historical and Cultural Resources

Because the construction of the proposed Project would be primarily within previously filled and/or maintained ROW, impacts to wetland areas will be minimal. Additionally, because of the use of ROW for the proposed pipeline route, no clearing of forest areas will be necessary. Moreover, provisions are included in this MOA to minimize the impact of the proposed development on wetlands and threatened or endangered flora or fauna. Such provisions will also minimize the impact upon and ensure proper treatment of historic resources of significance to the Pinelands. Additionally, advanced directional drilling technology will be utilized for stream crossings, to ensure minimal environmental impacts.

In accordance with N.J.A.C. 7:50-4.52(c)1, the Commission also may enter into intergovernmental memoranda with any agency of the Federal, State or local government which authorizes specified development activities without securing individual development approvals from the Commission, provided that the specified development activities are consistent with the provisions of N.J.A.C. 7:50-5 and 6. As discussed above, the BPU, as part of this MOA, has agreed that the public utility shall undertake measures that will afford an equivalent level of protection to the resources of the Pinelands. As a result, entry of an MOA authorizing alternative application procedures is warranted.

III. AGREEMENTS

A. The BPU agrees that:

1. It will issue an Order to the public utility proposing to construct the project delineated in Paragraph II.A above incorporating the requirements of Paragraphs III.A.1 through 8 of this MOA and the Environmental Conditions set forth in Attachment B.
2. It will require the public utility proposing to construct the project delineated in Paragraph II.A above to construct the project in accordance with the list of documents set forth in Attachment A attached hereto and made a part hereof.
3. It will require the public utility proposing to construct the project delineated in Paragraph II.A above to satisfy all of the obligations of this MOA and the Pinelands CMP, unless a deviation therefrom is expressly authorized by this agreement.
4. It will require the public utility proposing to construct the project delineated in Paragraph II.A above to obtain any and all certificates, licenses, consent, approvals or permits required from any local, State and/or Federal entity prior to commencing construction of the project. No part of this MOA is intended to release the public utility from its responsibility to obtain all other required local, State and/or Federal approvals.
5. It will require the public utility proposing to construct the project delineated in Paragraph II.A above to comply with all of the environmental conditions set forth in Attachment B, attached hereto and made a part hereof, and the terms of this agreement.
6. It will require the public utility proposing to construct the project delineated in Paragraph II.A above to provide notice to the Pinelands Commission staff seven (7) days prior to commencing any clearing or construction activities for the project.
7. Any significant deviation from or modification to the proposed project as delineated in Paragraph II.A above and the documents listed in Attachment A will require formal application to the Pinelands Commission in accordance with the Pinelands CMP and no clearing or construction activities regarding such deviation may occur until an application has been completed and the Pinelands Commission has approved the project.
8. It agrees that the public utility proposing to construct the project delineated in Paragraph II.A above shall contribute ____ (\$____) dollars to the Pinelands Commission to further the Pinelands protection program and ensure a greater level of protection for the unique resources of the Pinelands Area. These funds may be paid in installments over two years as follows:

- a. A payment of \$_____ shall be paid to the Pinelands Commission, unless advised otherwise pursuant to Paragraph III.A.8.c. below, every six months for the two years following the effective date of this MOA;
- b. The first payment of \$_____ shall be paid within sixty (60) days of the effective date of this MOA; and
- c. All payments shall be made to the Pinelands Commission unless the Commission notifies the public utility, in writing, fifteen (15) days prior to the due date of such installment payment that such installment payment or a portion thereof shall be made to another entity. The Pinelands Commission may, in its sole discretion, authorize the public utility to make an installment payment or portion thereof to a third-party of the Commission's choosing. The third-party shall utilize such funds as directed by the Pinelands Commission to protect, preserve and enhance the unique resources of the Pinelands Area.

B. The Pinelands Commission agrees that:

1. Based on its review of the documents listed in Attachment A, the provisions of the Pinelands CMP and the terms of this MOA, including the Environmental Conditions delineated in Attachment B, and with the exception of those standards for which a deviation is being granted pursuant to this MOA, the project as proposed is consistent with the minimum requirements of the Pinelands CMP. The proposed construction project is deemed approved and no further action by the Commission, or its staff, shall be required regarding the proposed construction project unless there is a deviation from or modification to the proposed project as discussed in Paragraph III.A.7 above.
2. This MOA shall constitute a conditional Certificate of Appropriateness pursuant to N.J.A.C. 7:50-6.156. Provided the public utility complies with the conditions contained within Attachment B that pertain to cultural/historic resources, no further action by the Commission or its staff shall be required unless there is a significant deviation from or modification to the proposed project as discussed in Paragraph III.A.7 above.
3. It agrees to use the _____ (\$_____) dollar contribution made by the public utility in accordance with Paragraph III.A.8 above, to further the Pinelands protection program and ensure a greater level of protection for the unique resources of the Pinelands Area. Specifically, the contribution will provide a source of funds that would be used by the Pinelands Commission for activities that advance the protection of the Pinelands Area and that have a direct nexus to the preservation of the resources of the Area.

C. The Commission and the BPU agree:

1. To meet periodically to discuss this MOA, the status of the electric transmission line project and other issues of mutual concern.

ATTACHMENT B

Environmental Conditions

General Conditions

1. Any areas disturbed as a result of construction activities shall be graded to natural conditions and seeded with native Pinelands grass species.
2. Only native Pinelands species shall be used for revegetation purposes.
3. The use of herbicides for future vegetation management purposes shall be prohibited in any portion of the ROW.
4. All vegetation (timber, woodchips) removed during construction shall be lawfully disposed of unless the property owners adjacent to the ROW can promptly remove this debris for their personal use or the Executive Director approves the disposition of vegetative material on sites within the Pinelands Area prior to the disposition of any such material.
5. No construction debris or excess fill shall be disposed of in the Pinelands Area without the prior approval of the Pinelands Commission Executive Director.
6. No off-site storage/staging areas (i.e. locations for the storage, temporary or otherwise, of equipment or materials) for the project shall be located within the Pinelands Area unless approved by the Pinelands Commission Executive Director prior to their use.
7. The Pinelands Commission staff shall be permitted to inspect construction activities to ensure compliance with the conditions set forth in this agreement.
8. Any minor modifications to the construction plans located within the Pinelands Area shall be submitted to the Pinelands Commission Executive Director for review and approval prior to any construction commencing in such areas.

Cultural Resources

9. All recommendations set forth in the Cultural Resource Survey report shall be implemented.
10. In accordance with N.J.A.C. 7:50-6.158(b), if, at any time after construction of the project has commenced, archeological data is discovered on the project site, the public utility will immediately cease construction, notify the Pinelands Commission and take all reasonable steps to protect the archeological data.

Wetlands

11. No disposal of wood chips shall be permitted during construction nor shall any temporary stockpiling or placement of woodchips occur in wetlands or within 300 feet of wetlands.
12. Appropriate measures, such as installation of hay bales, shall be taken during construction to preclude sedimentation from entering wetlands.
13. When activities will occur in wetlands the construction contractor shall utilize palettes, mats, or other appropriate devices to prevent tire rutting by construction vehicles. Vegetation may be cut prior to placement of palettes or matting. These devices shall be removed promptly upon completion of the construction of the portion of the line necessitating the use of such tire rutting prevention devices.
14. Vegetation clearing in wetlands shall be accomplished by techniques developed to minimize impacts to the wetlands. Such techniques include but are not limited to hand clearing, low impact vehicles (i.e. balloon tired all-terrain vehicles) designed for mechanical clearing, and mechanical clearing with equipment placed on mats.
15. All cut vegetation shall be removed from wetlands and areas within 300 feet of wetlands.
16. Any wetlands disturbed as a result of construction activities shall be graded to natural conditions and seeded with native Pinelands grass species suitable for wetland areas.
17. No storage/staging areas (i.e. locations for the storage, temporary or otherwise, of equipment or materials for the project) shall be located within wetlands or areas within 300 feet of wetlands unless approved by the Pinelands Commission Executive Director prior to utilization of such areas.
18. No culverts or fill, with the exception of devices to prevent tire rutting discussed in Paragraph 14 above, may be placed or deposited into wetlands or areas within 300 feet of wetlands to create access roads, temporary or otherwise, for the construction of new pipeline.
19. No refueling shall occur within wetlands or areas within 300 feet of wetlands unless approved by the Pinelands Commission Executive Director prior to the initiation of any refueling activities.

Threatened or Endangered Species

20. At least one biologist qualified in the identification of threatened and endangered plants and animals and their habitats, as delineated at N.J.A.C. 7:50-6.27 and 6.33, shall be present at each site of the project where clearing and/or construction activities are being undertaken. The biologist(s) shall ensure that clearing and/or construction techniques being utilized do not adversely impact any habitat critical to the survival of any threatened and/or endangered species of animals or plants and that any such plants and animals discovered during construction are protected.

All clearing and/or construction activities shall be performed in accordance with the recommendations as to field measures, construction practices and/or time restrictions and protocols discussed in the report entitled, _____ shall be conducted according to the protocols set forth in such report. No clearing or construction activities may commence in any areas requiring additional survey work until such survey work is completed, the results of such work are submitted to the Pinelands Commission and accepted by the Executive Director and the public utility receives written confirmation of the Executive Director's acceptance of such results.

21. The Pinelands Commission shall be notified immediately if any threatened and/or endangered species of plants or animals or habitat critical to their survival, the report entitled, _____ are identified or discovered during construction. All clearing or construction activities in the vicinity of such species or critical habitat shall immediately cease pending direction from the Pinelands Commission Executive Director. During that time, the public utility shall authorize the biologists to take all reasonable steps to ensure that such species or critical habitats are protected.