



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands

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



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

October 13, 2017

Mr. Robert Lupp
State Library – NJ Reference Section
185 West State Street
P.O. Box 520
Trenton, New Jersey 08625

Dear Mr. Lupp:

Enclosed is the Pinelands Commission meeting minutes and attachments for September 14, 2017 for your information.

Sincerely,

Teri Melodick
Principal Clerical Assistant

PC1
Enclosure: Minutes

PINELANDS COMMISSION MEETING
Patriots Theater at the War Memorial
Trenton, New Jersey

MINUTES

September 14, 2017

Commissioners Present

Giuseppe Chila, Paul E. Galletta, Ed Lloyd, Mark Lohbauer, Ed McGlinchey, Richard Prickett, Gary Quinn and Chairman Sean Earlen. Also present were Executive Director Nancy Wittenberg, Governor's Authorities Unit representatives Nicholas Kant and Craig Ambrose and Deputy Attorney General (DAG) Bruce Velzy.

Commissioners Participating by Phone

Candace Ashmun, Alan W. Avery Jr., Bill Brown, D'Arcy Rohan Green and Jane Jannarone.

Commissioners Absent

Bob Barr.

Chairman Earlen called the meeting to order at 9:46 a.m.

DAG Velzy read the Open Public Meetings Act Statement.

Executive Director Nancy Wittenberg called the roll and announced the presence of a quorum. (There were 13 Commissioners who participated in the meeting.)

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

Annual Re-organization

Chairman Earlen said the Commission will vote on a new Vice-Chair. Commissioner McGlinchey nominated Paul Galletta for Vice-Chair. Commissioner Quinn seconded the motion. The motion carried by a vote of 13 to 0.

Chairman Earlen said that the current Committee assignments will remain the same.

Minutes

Chairman Earlen presented the minutes from the August 11, 2017 Commission meeting. Commissioner Lloyd moved the adoption of the minutes. Commissioner McGlinchey seconded the motion.

The minutes of the August 11, 2017 Commission meeting were adopted by a vote of 8 to 0. Commissioner Ashmun, Commissioner Jannarone, Commissioner Rohan Green, Commissioner Quinn and Commissioner Chila abstained from the vote.

Committee Chairs' Reports

Commissioner McGlinchey provided an update on the August 29, 2017 Personnel and Budget Committee meeting:

The Committee adopted the minutes from the February 2, 2017 meeting.

Jessica Lynch reviewed the check registers, electronic disbursements and application fees covering January through June. The application fees were 31% below the budgeted amount. Michelle Russell provided an update on employee actions.

Nancy Wittenberg and Jessica Lynch reviewed the Draft FY2018 Budget Resolution. The Operating Budget, the Kirkwood Cohansey Aquifer Assessment Study Fund Budget and the Pinelands Conservation Fund Budget were discussed. The spending of the Kathleen M. Lynch-van de Sande Fund was also reviewed. The Committee members recommended Commission approval of the budgets.

There was no public comment.

Executive Director's Reports

Director Charles Horner said that in the past month staff conducted the following notable meetings:

- On September 10th, staff met with the applicant and the Mayor of Winslow Township to discuss a redevelopment project at a site referred to as the "Brickyard".
- On August 24th, staff met with Little Egg Harbor Township representatives to discuss the possibility of establishing a firing range for the police department. The

Township would like to transform a former municipal landfill site into a firing range.

- The Waterford Township Board of Education (BOE) requested an emergency determination from the Commission regarding a failing potable water well at the elementary school. The Executive Director confirmed the emergency approval determination with the Chairman. He added that the BOE is still required to file an application for the potable water well regardless of the emergency determination.

Director Liggett said there will be a meeting with Winslow Township to discuss its water conservation efforts. He said the Township would like to amend an existing Memorandum of Understanding (MOU) between the Commission, the Township and the Camden County Municipal Utilities Authority. He said the revised MOU will likely be on the October Policy and Implementation Committee meeting agenda. Director Liggett added that the annual Alternate Design Septic Systems report was recently mailed to Commissioners.

ED Wittenberg said that on October 4th, the Commission will hold a public hearing on the proposed amendments to the Comprehensive Management Plan (CMP) that the Commission authorized at the July Commission meeting.

Public Development Projects and Other Permit Matters

Chairman Earlen presented a resolution recommending the approval to demolish a building in Pemberton Township.

Commissioner Prickett said he would be recusing from the vote and left the dais.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions an Application for Public Development (Application Number 1989-0349.020) (See Resolution # PC4-17-26). Commissioner Lohbauer seconded the motion.

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

Commissioner Prickett returned to the meeting.

Chairman Earlen presented a resolution recommending approval of the installation of 12.1 miles of 30 inch natural gas main.

Commissioner Galletta moved the adoption of a resolution Approving With Conditions Pinelands Development Application Number 2014-0045.001(See Resolution # PC4-17-27). Commissioner Avery seconded the motion.

Commissioner Lloyd said he is recusing himself from the vote on this application because he is the President of the Board of Eastern Environmental Law Center and the firm is representing the Sierra Club in this matter.

ED Wittenberg said before she begins her presentation, Stacey Roth needs to read a statement.

Stacey Roth read the following statement into the record:

On August 29, 2017, the Pinelands Commission, its Ethics Liaison Officer and the Deputy Director, now Acting Executive Director, of the State Ethics Commission received a letter from a member of the public raising allegations that certain Pinelands Commissioners may have a conflict of interest requiring recusal from the vote on the New Jersey Natural Gas Company application. On September 11, 2017 and on September 13, 2017, the Commission's ELO received letters from other entities joining in the conflict of interest issues previously raised. After review of the information provided and consultation with the Commission's ELO, the State Ethics Commission staff determined that neither Commissioner in question has a conflict of interest requiring recusal in this matter.

ED Wittenberg delivered a presentation on the New Jersey Natural Gas application. She began by reviewing a timeline of the application. She then displayed a map, depicting the pipeline route. She reviewed the comments the Commission received. She went over the relevant CMP standards and permitted use standards by management area. (See presentation slides for further details).

Commissioner Lohbauer thanked the public for its participation who were on both sides of the application. He said he would be voting no on this resolution because he did not agree with some of recommendations in the Executive Director's Recommendation Report. (See attached statement).

Commissioner Prickett said the 1979 Pinelands Protection Act, which designated the Preservation Area due to its vulnerability to environmental degradation, was an important factor in his decision on this application. He said after reading the Executive Director's Recommendation Report, hearing public comment and reviewing the CMP, he is not convinced that the pipeline is associated with the function of the Joint Base and he will be voting no.

Commissioner Rohan Green said she agrees with both Commissioner Lohbauer and Commissioner Prickett's comments regarding this application. She said she will be voting no.

Chairman Earlen asked ED Wittenberg to call the role.

Commissioner Ashmun read a statement into the record, stating the route will go through sensitive areas of the Pinelands. She said the argument of redundancy has not been demonstrated. She voted no on the resolution. (See attached statement)

Commissioner Avery said he agrees with the application as it is outlined in the Executive Director's Recommendation Report. He voted yes.

Commissioner Brown voted yes.

Commissioner Chila said he agrees with the Executive Director's Recommendation Report and appreciated the work of staff on this application. He voted yes.

Commissioner Galletta voted yes. He said the base commanders said they need this project. He said for him national security was a deciding factor in his decision.

Commissioner Jannarone voted yes. She said she agrees with the Executive Director's Recommendation Report.

Commissioner Lohbauer voted no.

Commissioner McGlinchey voted yes.

Commissioner Prickett voted no.

Commissioner Quinn voted yes.

Commissioner Rohan Green voted no.

Chairman Earlen thanked ED Wittenberg and staff for the work on the New Jersey Natural Gas application. He said he agrees with the Executive Director's Recommendation Report. He voted yes.

The Commission adopted the resolution by a vote of 8 to 4.

Planning Matters

Commissioner Lloyd returned to the dais. Commissioner Prickett stated he was recusing himself from the next matter and left the dais.

Commissioner Lohbauer moved the adoption of a resolution Issuing an Order to Certify Ordinances 12-2011 and 15-2017 of Pemberton Township (See Resolution # PC4-17-28). Commissioner Avery seconded the motion.

Chief Planner Susan Grogan said the Township adopted an ordinance several years ago approving a Redevelopment Plan for the Browns Mills section of Pemberton Township. She said since that time, staff has worked with Pemberton Township on some minor revisions to the Plan. She said Pemberton Township is proposing about 200 residential units and some commercial development. She said the plan has met all the CMP standards and the Redevelopment Area is located in the Regional Growth Area. She said staff is recommending certification of these ordinances.

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

Commissioner Prickett returned to the dais.

Commissioner McGlinchey moved the adoption of a resolution Issuing an Order to Certify Ordinances 7-16 and 8-17 of the Borough of South Toms River (See Resolution # PC4-17-29). Commissioner Prickett seconded the motion.

Chief Planner Grogan said adoption of this resolution will approve two Redevelopment Plans in South Toms River Borough. She said Ordinance 7-16 relates to a Redevelopment Plan on a municipal landfill. She said Ordinance 8-17 relates to a Redevelopment Plan on a vacant area in the Borough on Dover Road. She advised the Commission that staff worked closely with the Borough. Both redevelopment plans are in the Regional Growth Area and will require the purchase of Pinelands Development Credits (PDCs).

Commissioner Lohbauer complimented staff on responding to concerns raised by the Pinelands Preservation Alliance about the Redevelopment Plan. He also noted that he was happy to see the use of PDC's. Lastly, he said that threatened and endangered habitat was destroyed by off road vehicle use.

The Commission adopted the resolution by a vote of 12 to 1.

Commissioner Avery ended participation in the meeting at 10:34 a.m.

Public Comment on Public Development Applications and Resolutions where the Record is Not Closed

Jeff Tittel, Director of the New Jersey Sierra Club, commended the Commission for its work on designating appropriate areas for motor vehicle use at Wharton State Forest.

Rosemarie Mason, a member of the Outdoor Club of South Jersey, said she is involved in the maintenance of the Batona Trail. She asked the Commission to help protect Wharton.

Diane Mason, a member of the Outdoor Club of South Jersey, said the Wharton map will be a valuable tool for enforcement.

Georgina Shanley of Ocean City, NJ, said that only emergency personnel vehicles should be permitted in Wharton but for now she supports the map.

Paula Yudkowitz said the adoption of the Wharton resolution is a step in the right direction but now the map must be enforced.

Mike Cannon asked the Commission to approve the Wharton map today.

Jason Howell, of the Pinelands Preservation Alliance, thanked the Commission for its work on the Wharton issue.

Emile DeVito, of the New Jersey Conservation Foundation, said the map is a step in the right direction. He said he hopes the Commission will pass the resolution unanimously so

it can be used to show the next administration that there is a need for more enforcement in the state forests.

Doug O'Malley, Director of Environment NJ, said he supports the off road vehicle resolution.

Hal Pschunder of Hainesport, NJ, commended the Commission for the Wharton resolution and asked if there were plans to publish trail and usage maps.

Hara Rola of Haddon Township, NJ, said she supports the Wharton resolution. She said the next step is to restore the damaged areas. She suggested creating a volunteer restoration project.

Anne Carroll of Collingswood, NJ read a poem into the record.

Jim Justnes, with Jeep Jamboree, thanked the Commission for its efforts with the Wharton map.

Dave Pringle, New Jersey Campaign Director for Clean Water Action, said the Wharton resolution is a step in the right direction.

Margo Pellegrino of Medford Lakes, NJ, said approving a map for ORV use at Wharton is important for many reasons including protecting our bodies of water.

Bill Ron-Miller of Pennsylvania commended the Commission for its efforts in protecting Wharton from ORV damage.

Ordinances Not Requiring Commission Action

Chairman Earlen asked if any Commissioners had questions regarding the ordinances not requiring Commission action:

- Berlin Borough 2017 Master Plan Land Use Element
- Egg Harbor Township Ordinance 25-2017
- Stafford Township 2017 Comprehensive Master Plan
- Waterford Township Ordinance 2017-21

No members of the Commission had questions.

Other Resolutions

Chairman Earlen presented a resolution regarding Wharton State Forest.

Commissioner Lloyd moved the adoption of a resolution to Designate Existing Roads within Wharton State Forest that are Appropriate for Recreational Use by Motor Vehicles (See Resolution # PC4-17-30). Commissioner Lohbauer seconded the motion.

ED Wittenberg explained staff had received a lot of comment from the Enduro community. She said she reached out to all Commissioners to see if they would accept the addition of the following language to the resolution: *This finding does not apply to the Commission's review of Off-Road Vehicle Event Route Maps. It is also not the intent of the Commission that the USGS Topographical maps be used by DEP as part of its review of Special Use Permits.*

She said Commissioners were not opposed to the language.

Chairman Earlen asked about the review process for Enduro events.

ED Wittenberg said the applicant submits a route map that is then reviewed to ensure the route does not go through deed restricted land, wetlands and threatened and endangered habitat. ED Wittenberg said that process will not change.

Commissioner Galletta said he can support the resolution.

Commissioner Lohbauer thanked ED Wittenberg, Commissioner Bob Martin at the New Jersey Department of Environmental Protection, the volunteers who offered suggestions on the Wharton resolution, Commissioner Lloyd who drafted the resolution and former Wharton State Forest Superintendent Rob Auermuller. He said he hopes that, in the future, other state parks can be addressed with similar maps and resolutions as suggested by Commissioner McGlinchey.

Commissioner Lloyd said it has taken a long time to finalize this resolution but it is something we can all be proud of. He thanked the members of the public who offered their input.

Chairman Earlen thanked Commissioner Lohbauer and Commissioner Lloyd for drafting the resolution. He also thanked staff for its hard work spent on this initiative.

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

Chairman Earlen asked for a motion to accept the Commission's 2016 Annual Report.

Commissioner Galletta moved the adoption of a resolution To Approve the New Jersey Pinelands Commission's 2016 Annual Report (See Resolution # PC4-17-31).
Commissioner Prickett seconded the motion.

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

Commissioner Lloyd left the meeting and Commissioner Brown ended participation in the meeting.

After a 10 minute break the meeting resumed at 11:29 a.m.

General Public Comment

The following members of the public expressed their objection to the resolution to approve the New Jersey Natural Gas application:

Jeff Tittel
Arnold Fishman
Virginia Tamuts
Temma Fishman
Carol Jones
Danielle Pla
Heather Warbuiton
Georgina Shanley
Steve Fenichel
Andrea Bonette
Margit Meissner- Jackson
Barbara Fox-Cooper
Carleton Montgomery
Doug O'Malley
Karlos Basak
Dave Pringle
Margo Pellegrino
Bob Filipczak (Provided written comment. See attached.)
Ann Kelly

The public comments included objections to burning fossil fuels and horizontal directional drilling (HDD), and concerns about the future of our children, climate change and the aquifer.

Emil Kaunitz, a representative from the Defense Enhancement Coalition, said he supports the Southern Reliability Link project. He said the BRAC (Base Realignment and Closure) found there was a gas supply deficiency at the Joint Base. He said the Joint Base is the second largest employer in New Jersey.

Other

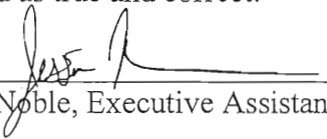
Commissioner Prickett suggested staff look into grant possibilities for restoration work at Wharton State Forest to address the damage created by off road vehicles.

ED Wittenberg said the Commission, the NJDEP and the Pinelands Preservation Alliance have partnered on an initiative to inventory ponds on all state lands. She said once we complete that project, it would be timely to look into corrective actions.

Adjournment

Commissioner Galletta moved to adjourn the meeting. Commissioner Rohan Green seconded the motion. The Commission agreed to adjourn at 12:28 p.m.

Certified as true and correct:



Jessica Noble, Executive Assistant

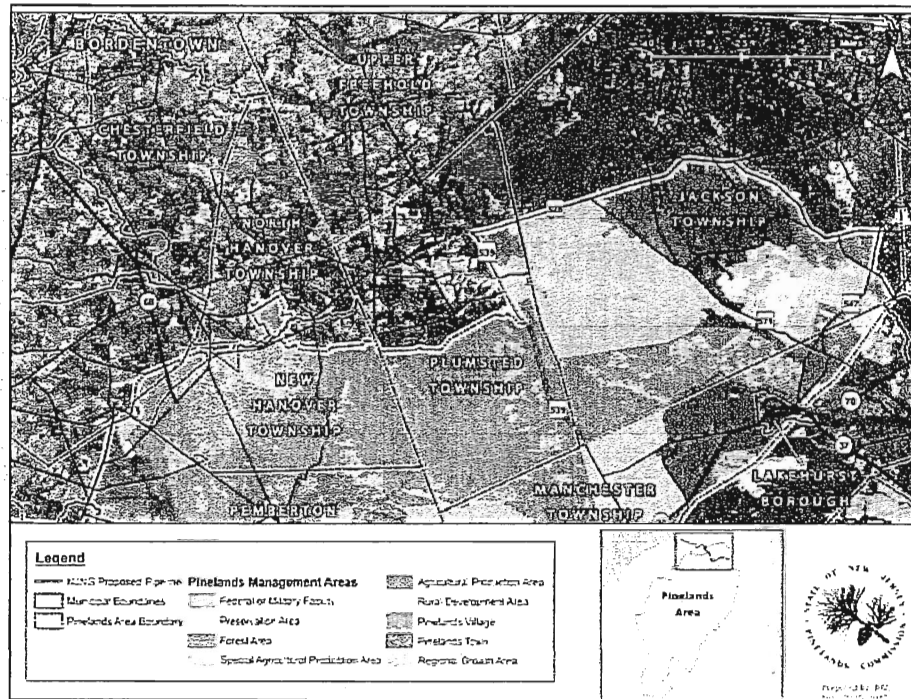
Date: September 20, 2017

New Jersey Natural Gas Southern Reliability Link

September 14, 2017

Timeline

- Pre Application meetings – May and October 2014
- Application Submitted – April 2015
- Certificate of Filing issued – December 2015
- Appeals filed April 2016
- Remanded to Commission - January and February 2017
- New process initiated by Resolution- June 9, 2017
- Public Meeting July 26, 2017
- Comment Period closed August 2, 2017
- Commission Meeting September 14, 2017 –
Consideration of the Executive Director's
Recommendation Report



Route

- **Total in Pinelands:** 12.1 miles of 30" gas main
 - 10.45 miles in Military and Federal Installation Area
 - 1.42 miles in Rural Development
 - .21 miles in RGA
- Jackson, Manchester and Plumsted townships
- Total length of project: 30 miles

Comprehensive Management Plan

- Public Service Infrastructure is a Permitted use in the Regional Growth Area and the Rural Development Area.
- Public Service Infrastructure is a Permitted use in the Military and Federal Installation Area provided that:
 - It is associated with the function of the Federal Installation
 - Where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area
 - The use shall not require any development including public service infrastructure in the Preservation Area District or in a Forest Area
 - All standards in the CMP at 7:50 – 6 are substantially met

Comments

Total: 1,319

Opposed: 777

Support: 542

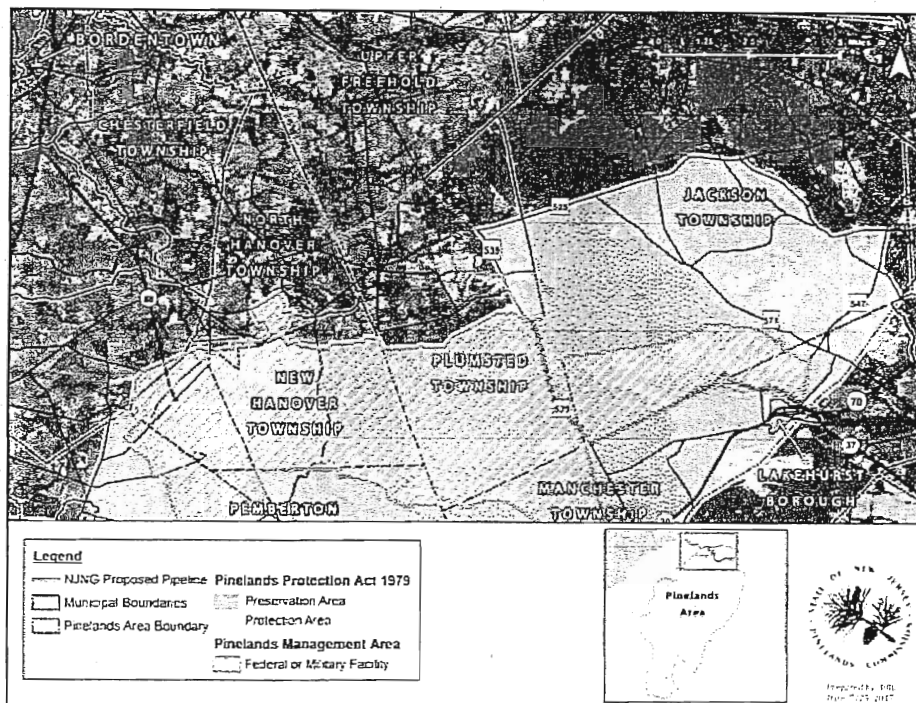
More than 90% of comments were form letters.

CMP Standards

- Minimum Standards Governing the Distribution and Intensity of development and land use in Military and Federal Installation Areas– 7:50-5.29 (a)
 - Any use associated with the function of the Federal Installation may be permitted in a Military and Federal Installation Area...
 - The pipeline will provide a redundant source of natural gas to the Base (Lakehurst)
 - The current and 2 prior Base Commanders have gone on record stating the importance of this redundancy to the function of the Base:
 - The SRL supports the Department of Defense and Air Force goals of increasing energy security, providing assurance that a critical energy source is available without interruption
 - The Joint Base has prioritized upgrades and resiliency projects in response to Superstorm Sandy. Gas supply to the eastern portion of JB MDL was identified as a critical system deficiency in the aftermath of Hurricane Sandy.
 - The SRL provides redundancy in gas supply and reduces the risk of degradation or failure of core missions.
 - The BPU found that the pipeline will increase overall system reliability and reinforcement in NJNG's service area which includes JB MDL.

CMP Standards

- Minimum Standards Governing the Distribution and Intensity of development and land use in Military and Federal Installation Areas– 7:50-5.29 (b)
 - Where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area



CMP Standards

- Minimum Standards Governing the Distribution and Intensity of development and land use in Military and Federal Installation Areas— 7:50-5.29 (b)
 - Where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area
 - The Joint Base and the BPU as part of its review of alternative routes eliminated routes through the Protection Area because they crossed military training and operation areas including airport hangars, hazardous material storage areas, jet engine fuels storage tanks, munitions storage and live artillery/firing ranges

CMP Standards

- 7:50-6 – Management Programs and Minimum Standards
 - Wetlands Protection Standards (7:50-6.13)
 - Linear improvements including transmission and distribution facilities are permitted in wetlands provided that certain conditions are met.
 - Most of the route will be within existing rights of ways and roads
 - One area of .009 acres of wetlands will be impacted. Staff review found the required conditions were met.

CMP Standards

- Threatened and Endangered Species Protection Standards (7:50-6.27 and 6.33)
 - A habitat suitability assessment and threatened and endangered species surveys for Pinelands designated T&E animals and plants were submitted.
 - No animal species identified
 - A population of Sickle-leaved golden aster was identified in the vicinity of the project. The project was redesigned to avoid any impact in this area.

Conditions

- In addition to Conditions imposed by the BPU and DEP, the Commission has required conditions on the applicant that include:
 - There shall be at least one independent biologist with relevant experience present at all times when clearing and/or construction occur
 - There shall be an independent licensed professional engineer present at all times HDD activities are being undertaken.

Procedural and Other Issues

- Failed to comply procedures set forth at 7:50-4.41 - Public Hearing including notice and the appeal process
 - The Commission followed the process established by Resolution PC4-17-10
 - Notice was provided
- Appeals

NJ Pinelands Commission

In re: Resolution PC 4-17-___, "Approving with conditions Pinelands Development Application Number 2014-0045.001" September 14, 2017

Applicant: New Jersey Natural Gas

Mark S. Lohbauer, Pinelands Commissioner

I am voting "no" on this resolution, in opposition to the application of NJ Natural Gas.

I would like to explain why I'm taking this position, contrary to the report and recommendation of our Executive Director. I agree with most of the conclusions drawn in the Executive Director's Report on this application.

However, I respectfully disagree with the Director's interpretation of a key provision of the Comprehensive Management Plan upon which this application turns. That provision is Section 7:50-5.29, which defines the conditions under which the Pinelands Commission is permitted to authorize development—even public service infrastructure, which this natural gas pipeline would be—within the "Military and Federal Installation Area." Let me first point out that the title of that section is "Minimum standards governing the distribution and intensity of development and land use in Military and Federal Installation Areas." "Minimum standards" means that these are the very least of protections that we are to provide, and that we could choose to impose even greater ones. It also signifies that military areas are not exempt from our protection.

Next, sub-section (a) of Section 5.29 states that "(a) Any use associated with the function of the Federal installation may be permitted." I draw the Commissioners attention to the phrase "use associated with the function of the Federal installation" as a basic criterion of permitting the use. In my opinion, the applicant has not demonstrated on the record that the pipeline that is the subject of this application is in any way "associated with the function of the Federal installation." In fact, the record indicates that this pipeline will not supply gas to the military base. It will not even be connected to the military facility at all; it merely passes under it. The applicant has not represented how this pipeline will advance the function of the federal installation. The Executive Director has provided us with comments, some quoted, some paraphrased, of base commanders Thaden, Hodges, and Richardson. Hodges' comment on "the improvement of energy reliability and redundancy at the Joint Base," summarizes what they see as the benefit for the Base. Yet it was never established how this might occur without a direct connection of this pipeline to the base. In other words, the new pipeline would place an alternative source of natural gas energy in the region, but it will not be connected to the base. Is this project actually associated with the Base? The obligation to demonstrate that falls on the applicant, and it has not been demonstrated. Neither have we Commissioners had the opportunity to question the applicant, or any of the Base Commanders, on this key issue.

Next, development in the Military and Federal Area is restricted. Section 5.29 (a) 2 states that "The use shall not require development, including public service infrastructure, in the Preservation Area District." This would seem to be a clear bar to this project, as the proposed site of the pipeline within the Military Base is designated as preservation area. However, the Executive Director goes on to differentiate the Preservation Area District from the Military and Federal Installation Area, saying that the two are distinct, and

NJ Pinelands Commission

In re: Resolution PC 4-17-____, "Approving with conditions Pinelands Development Application Number 2014-0045.001" September 14, 2017

Applicant: New Jersey Natural Gas

Mark S. Lohbauer, Pinelands Commissioner

therefore the pipeline project is not precluded by this language. I find that argument to be disingenuous, for two reasons:

First, Section 5.29 was written to address only projects in the Military and Federal Installation Area. It would make no sense to refer to the Preservation Area District within this section, unless it had meaning within the Military and Federal Installation Area.

Second, the distinction of "Preservation Area" has meaning and legal significance under both the Pinelands Preservation Act and the Comprehensive Management Plan. That designation was applied to lands within the Military and Federal Installation Area not to be meaningless, but so the Pinelands Commission could do its duty to protect the Preservation Area there. Section 7:50-5.29 applies only to the Military and Federal Installation Area; the language in this section is intended specifically for it. Therefore, where it refers to "Preservation Area District," the authors were speaking directly to the preservation area within the Military and Federal Installation Area.

The Executive Director notes on page 9 of her report that the Preservation Area District and the Military and Federal Installation Area are designated in Section 7:50-5.12 of the CMP. She argues that "[t]hey are geographically discrete areas, meaning that the Preservation Area District and the Forest Areas are located entirely outside of the Military and Federal Installation Area." Section 5.12 of the CMP does not indicate that they are discrete areas; in fact, I cannot find any justification for this assertion anywhere in the CMP.

Moreover, we do know that all of the land within the Joint Military Base has been mapped according to its land use management zones of the Pinelands Protection Act, and the CMP. The Executive Director's report acknowledges this, in footnote 7 ("Two-thirds of JB-MDL is located within the Preservation Area as delineated in the in the Pinelands Protection Act at N.J.S.A. 13:18A-11.b.") In the body of her report, on page 8, she notes that "[t]he portion of NJNG's proposed natural gas pipeline project located within the Base is located entirely within the Preservation Area of the Pinelands."

The report goes on to say that if development is infeasible in the Protection Area, then it may occur within the Preservation Area. I disagree with this interpretation of the CMP, also. Sub-section (a) 2 is clear:

"The use **shall not** require development, including public service infrastructure, in the Preservation Area District."

NJ Pinelands Commission

In re: Resolution PC 4-17-____, "Approving with conditions Pinelands Development Application Number 2014-0045.001" September 14, 2017

Applicant: New Jersey Natural Gas

Mark S. Lohbauer, Pinelands Commissioner

This language stands alone; it is not contingent upon the "where feasible" clause of sub-section 1. We are not permitted to authorize public service infrastructure in the Preservation Area, even within the Military and Federal Installation Area.

The CMP sets forth goals that the Pinelands Commission is obligated to pursue, and our goals for the Preservation Area District are defined in Section 7:50-5.13 (a):

- (a) The Preservation Area District is the *heart of the Pinelands environment* and represents *the most critical ecological region in the Pinelands*. It is an area of significant environmental and economic values that are *especially vulnerable to degradation*. This large, contiguous, wilderness-like area of forest, transected by a network of pristine wetlands, streams and rivers, supports diverse plant and animal communities and is home to many of the Pinelands' threatened and endangered species. The area must be protected from development and land use that would adversely affect its long-term ecological integrity. (Emphasis added.)

That is a very clear mandate to us to protect the Preservation Area District from development such as the one before us that would adversely affect its integrity.

That section also speaks to our goals for the Military and Federal Installation Area, under sub-section (h):

- (h) Military and Federal Installation Areas are federal enclaves within the Pinelands. They represent a unique element of the Pinelands landscape and are a substantial resource to the region and the state, *provided that their activities preserve and protect the unique natural, ecological, agricultural, archaeological, historic, scenic, cultural and recreational resources of the Pinelands.* (Emphasis added.)

The CMP does not give federal installations a blank check to do whatever they want. Whatever they seek to do, their activities must protect the ecological resource, and in that regard, we must refer back to our goals in sub-section (a): "The area must be protected from development and land use that would adversely affect its long-term ecological integrity."

This application does not comply with the Comprehensive Management Plan. I vote "no."

9/14/2007

7/5/2007
S. Ash

This is in fact a private company purchasing a right of way through public lands. Secondly the route passes through sensitive areas of the Pinelands as delineated on the Pinelands CMP map. Furthermore though there is much talk of the advantages to redundancy both on the base and for the company's customer base in Ocean County. There are no studies to demonstrate that need and no discussion of the other natural gas line on the base run by PSEG as it relates to redundancy for the base system

We are being asked again to set a dangerous precedent overruling the CMP and providing an advantage to a private natural gas line running from Pennsylvania to New Jersey's coast in the name of redundancy. This would seem more a project "to get through the Pines" than anything else. I see no proven public good coming from this project and therefore I vote no on the Resolution *Wendee M. Ash*

Pinelands Commission Testimony by Robert Filipczak 9/14/17, Trenton, NJ.

!. There is no carbon dioxide reduction per kilowatt/hr by changing from coal/oil to natural gas. DEP and the energy industry salesmen have not invented a perpetual motion machine. To get energy, electricity, you need to provide energy, heat. Methane has one-fifth of the heat of coal and produces one fifth the energy for electricity. No CO2 benefit is provided, other than giving Exxon/Mobile a huge new customer. Residents will be locked into paying more for electricity. This is just like other DEP engineering schemes, Resource Recovery and Stormwater Management. A similar brand-new gas turbine plant like those proposed by South Jersey Industries, but smaller in size, at Revel Casino went bankrupt. DEP was not successful in strong-arming Glenn Stroud to pay more for its costly electricity.


The so-called efficiency numbers for the plant are lost when you add the energy costs to move a ton of gas versus a ton of coal. Gas comes off the field at only a couple of psi. To compress it to move it in a pipeline at 600 psi, you must expend energy, which aren't include in their efficiency numbers. Either a gas turbine is used to run compressors, making more CO2, or you must subtract the electricity needed to run the compressor. Gas transmission isn't free, like sunlight is.

New Jersey is committing to burn fossil fuels for the production of electricity into the foreseeable future and moving away from truly clean energy; solar and wind.

2. Sulfur emissions are nearly meaningless in South Jersey. Any SO2 that escapes the scrubber goes over the Atlantic Ocean which could care less, from an environmental perspective. DEP has no numbers on ground concentration levels to say there is a public health threat, or even an annoyance to anyone. OSHA TLV values, allowable concentrations in the workplace are 5ppm and DEP has shown absolutely nothing to justify the expense of the project nor any benefits provided.

3. Staff subsumed authority they did not have, get smacked down in court and are still driving the bus. They seem to have independent expertise on not much of anything, besides fancy word craft. They sign away Pinelands Commission authority, by giving DEP a "memorandum of understanding". Pinelands Commission now says it's fine to bulldoze holes and destroy woodlands where ever DEP insists. Then everybody pays DEP for their permission to do so. Favored contractors are provided with lucrative business.

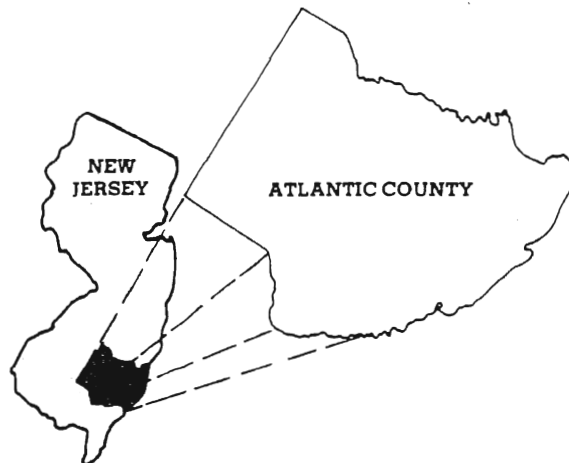
Staff is little more than highly paid political insulation for the atrocious environmental decisions by our Governor and his DEP. Science makes them very uncomfortable.


9/14/17 2001 Shore Rd
Linwood NJ 08221
609-927-4291

ATLANTIC COUNTY, NEW JERSEY RESOURCE RECOVERY FEASIBILITY STUDY

FINAL REPORT

JULY, 1984



Prepared For:

ACUA ATLANTIC COUNTY UTILITIES AUTHORITY

1701 Absecon Boulevard
Atlantic City, New Jersey 08401

Prepared By:

A Joint Venture

STV/SANDERS & THOMAS, INC.
CONSULTING ENGINEERS, 11 ROBINSON STREET, POTTSTOWN, PENNSYLVANIA 19464

THE TARQUINI ORGANIZATION
ARCHITECTS AND PLANNERS, 1812 FEDERAL STREET, CAMDEN, NEW JERSEY 08105

ROGERS, GOLDEN & HALPERN
*ENVIRONMENTAL, ENERGY & LAND USE CONSULTANTS
1427 VINE STREET, PHILADELPHIA, PENNSYLVANIA 19102*

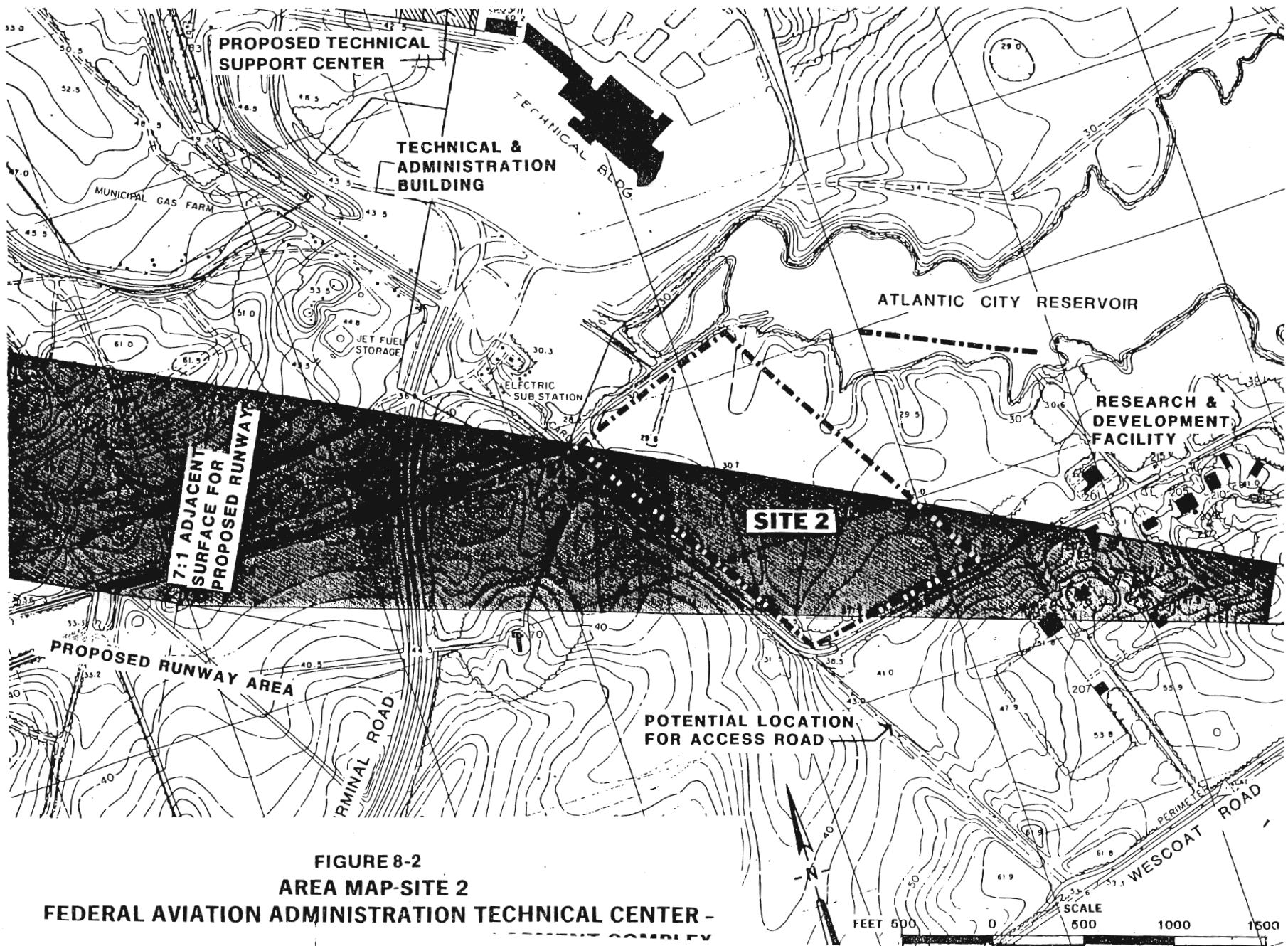
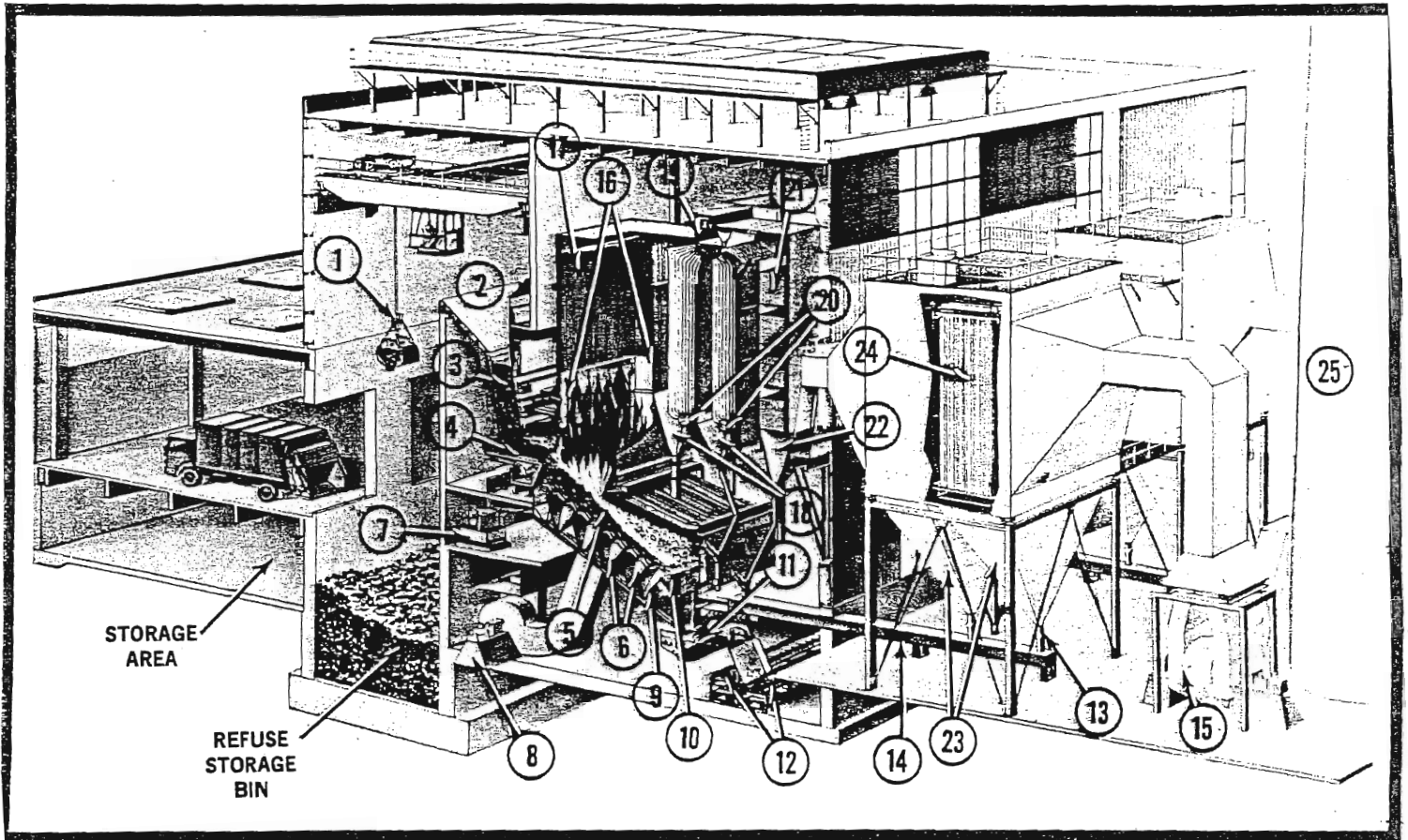


FIGURE 8-2
AREA MAP-SITE 2
FEDERAL AVIATION ADMINISTRATION TECHNICAL CENTER -
INSTRUMENT COMPLEX



- | | |
|---------------------------------------|---------------------------------|
| 1. Crane | 13. Rotary Valve |
| 2. Feed Hopper | 14. Fly Ash Conveyor |
| 3. Feed Chute | 15. Induced Draft Fan |
| 4. Feed Rams | 16. Overfire Air Nozzles |
| 5. Reverse Reciprocating Stoker | 17. Waterwalls |
| 6. Undergrate Air Plenum Chambers | 18. Boiler Fly Ash Hoppers |
| 7. Hydraulic Pump | 19. Steam Drum |
| 8. Forced Draft Fan | 20. Bottom Boiler Drum |
| 9. Automatic Siftings Removal Systems | 21. Economizer |
| 10. Residue Roller | 22. Economizer Fly Ash Hopper |
| 11. Residue Discharger | 23. Fly Ash Hoppers |
| 12. Residue Conveyors | 24. Electrostatic Precipitators |
| | 25. Stack |

FIGURE 5-1

MASS-FIRED WATERWALL FURNACE SYSTEM ARRANGEMENT

1. INTRODUCTION

Purpose of Study

Atlantic County, like all counties within the state, is required by the New Jersey Solid Waste Management Act to develop a plan for environmentally sound disposal of all solid waste generated within the County. In an effort to comply with this legal requirement, the County has selected a team of engineering firms to investigate the environmental, technical and economic feasibility of resource recovery implementation within the County. Resource recovery is intended to provide energy and materials recovery from the waste stream, while reducing its volume to minimize landfill space needed. The study would also determine the effects of resource recovery on future landfilling requirements. A parallel study would investigate the siting and development of a new regional landfill, with and without resource recovery, to serve the county in the future. The results of these studies will form a basis for modifications to the Atlantic County Solid Waste Management Plan.

Scope of Study

The County developed a Request for Proposals in which they enumerated their areas of concern, the availability of data from previous studies, the need to investigate landfilling as a least cost option and they listed the deliverables expected at the conclusion of the study.

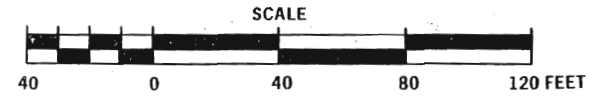
Based on the responses to the RFP received by the Atlantic County Utilities Authority (ACUA), they selected the Joint Venture of Sanders & Thomas, Inc., The Tarquini Organization, and Rogers, Golden & Halpern to perform the feasibility study.

2. ENVIRONMENTAL IMPACTS

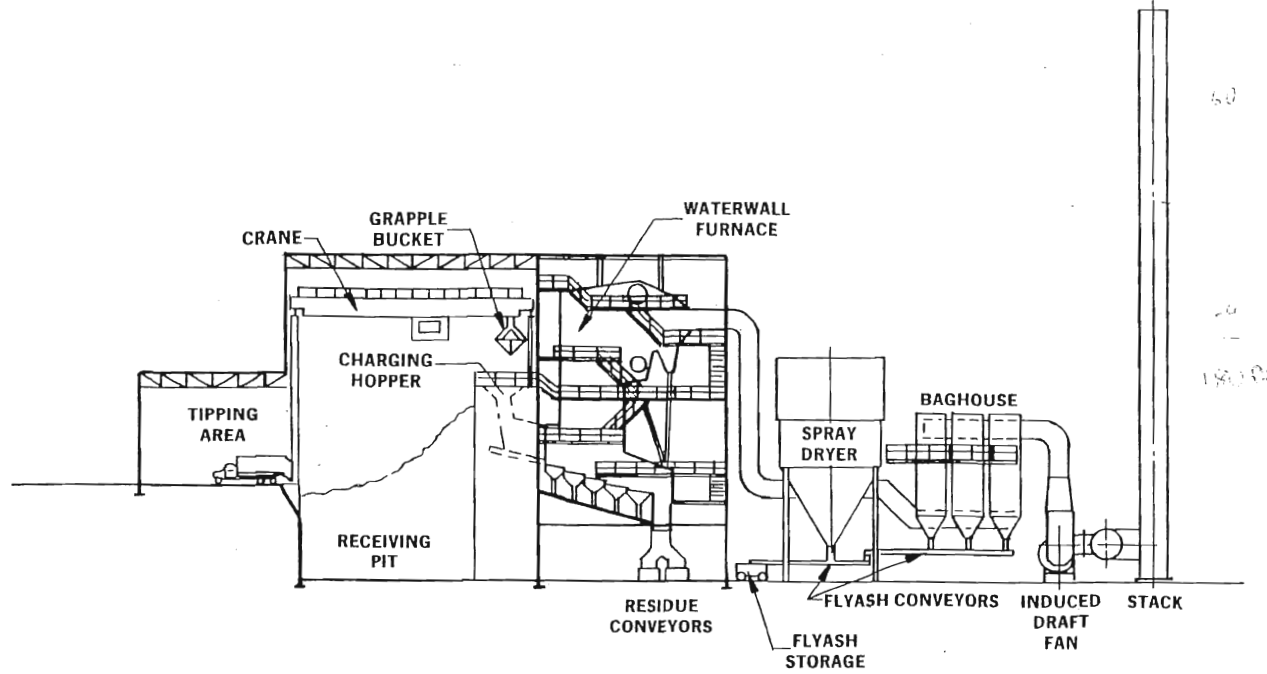
Potential environmental impacts of a resource recovery facility (RRF) and their duration are displayed graphically in Figure 2-1. It shows the pre-operation and operation and maintenance (O&M) activities which relate to air emissions, water quality, residue disposal, socioeconomic impacts and land use effects.

All environmental impacts associated with a RRF can be mitigated to an acceptable level.

Figure 2-2 lists all environmental permits and approvals required to implement a resource recovery project in a projected timeline.



36



DRAWING NO. 4

ATLANTIC COUNTY, NEW JERSEY
RESOURCE RECOVERY FEASIBILITY STUDY

RESOURCE RECOVERY FACILITY —
EQUIPMENT ARRANGEMENT SECTION

PROJECT ALTERNATIVES I, II & III

 STV/SANDERS & THOMAS, INC.
 THE TARQUINI ORGANIZATION
 ROGERS, GOLDEN & HALPERN
 A Joint Venture

TABLE 2-1
CALCULATIONS OF APPROXIMATE ANNUAL EMISSION RATES
FROM A 700-TPD RESOURCE RECOVERY FACILITY A,B,C

Hydrocarbons

Assume 40 ppm in flue gas, or about .3 lb hydrocarbons per ton of refuse for uncontrolled emissions and assume no removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times .90 \times .3 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 34 \text{ TPY}$$

Sulfur Dioxide

Assume average sulfur content of .10% by weight of refuse and that 50% of sulfur will be returned in bottom ash; thus average flue gas concentration of 67 ppm, or about 2 lb/T of refuse for uncontrolled emissions and 70% removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times .90 \times 2 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 230 \text{ TPY}$$

$$230 \text{ TPY} \times (1-0.70) = 69 \text{ TPY}$$

Nitrogen Oxides

Assume 140 ppm in flue gas, or about 3 lb/T for uncontrolled emissions and assume no removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times .90 \times 3 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 345 \text{ TPY}$$

Carbon Monoxide

Assume 170 ppm in flue gas, or 2.2 lb/T for uncontrolled emissions and assume no removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times .90 \times 2.2 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 253 \text{ TPY}$$

Hydrochloric Acid

Assume 250 ppm in the flue gas, or 4.2 lb/T for uncontrolled emissions and 90% removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times .90 \times 4.2 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 483 \text{ TPY}$$

$$483 \text{ TPY} \times (1-0.90) = 48 \text{ TPY}$$

Fluorides

Assume 13 ppm in flue gas, or .12 lb/T for uncontrolled emissions and 70% removal for controlled emissions:

$$700 \text{ TPD} \times 365 \text{ days/yr} \times 0.90 \times .12 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 14 \text{ TPY}$$

$$14 \text{ TPY} \times (1-0.70) = 4.2 \text{ TPY}$$

Lead

Ultimate lead emissions will depend on efficiency of the electrostatic precipitator or baghouse; literature sources suggest .017 lb/T for controlled emissions.

$$700 \text{ TPD} \times 365 \text{ days/yr} \times 0.90 \times .017 \frac{\text{lb}}{\text{T}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 2.0 \text{ TPY}$$

Particulate

Assume 3,500 $\frac{\text{dscfm}}{\text{TPH}}$ is the flue gas rate firing at 100% excess air (Literature sources vary from 3,000 to 4,000 $\frac{\text{dscfm}}{\text{TPH}}$; $\frac{.015 \text{ gr}}{\text{dscf}}$ is the lowest achievable controlled emission rate using an electrostatic precipitator or baghouse.

$$700 \text{ TPD} \times 365 \text{ days/yr} \times 0.90 \times .015 \frac{\text{gr}}{\text{dscf}} \times \frac{1 \text{ lb}}{7,000 \text{ gr}} \times 3,500 \frac{\text{dscfm}}{\text{TPH}}$$

$$60 \frac{\text{min}}{\text{hr}} \times \frac{1 \text{ T}}{2,000 \text{ lb}} = 52 \text{ TPY}$$

NOTES:

- A. .90 = Assumed RRF processing availability factor
 700 TPD = Continuous refuse burning rate in tons per day
 T = Tons
 TPY = Tons per year
 TPH = Tons per hour
 dscfm = Dry standard cubic foot per minute
 ppm = Parts per million (volume)
- B. Estimated uncontrolled emissions are for a mass-fired, waterwall furnace with a reciprocating stoker.
- C. Estimated controlled emissions are for a dry scrubber with lime slurry injection and an electrostatic precipitator or baghouse to provide air pollution control.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 26

TITLE: Approving With Conditions an Application for Public Development (Application Number 1989-0349.020)

Commissioner Galletta moves and Commissioner Lohbauer seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Public Development Application Report and the recommendation of the Executive Director that the following application for Public Development be approved with conditions:

1989-0349.020

Applicant:	County of Burlington
Municipality:	Pemberton Township
Management Area:	Pinelands Agricultural Production Area Pinelands Regional Growth Area
Date of Report:	August 15, 2017
Proposed Development:	Demolition of an existing 2,500 square foot building, 50 years old or older.

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

WHEREAS, the Pinelands Commission hereby adopts the Conclusion of the Executive Director for the proposed development; and

WHEREAS, the Pinelands Commission hereby determines that the proposed public development conforms to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed; 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.

NOW, THEREFORE BE IT RESOLVED that Application Number 1989-0349.020 for public development is hereby **approved** subject to the conditions recommended by the Executive Director.

Record of Commission Votes

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*				
Ashmun	X			Galletta	X			Prickett				R
Avery	X			Jannarone	X			Quinn	X			
Barr		X		Lloyd	X			Rohan Green	X			
Brown	X			Lohbauer	X			Earlen	X			
Chila	X			McGlinchey	X							

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: September 14, 2017

Nancy Wittenberg
Nancy Wittenberg
Executive Director

Sean W. Earlen
Sean W. Earlen
Chairman

974 905 P750



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

Sean W. Earlen
 Chairman

Nancy Wittenberg
 Executive Director

August 17, 2017

Joseph T. Brickley, PE, CME, CPWM
 County of Burlington
 1900 Briggs Road
 Mount Laurel, NJ 08054

Re: Application # 1989-0349.020
 Block 812, Lot 9.01
 Pemberton Township

Dear Mr. Brickley:

The Commission staff has completed its review of this application for demolition of an existing 2,500 square foot building, 50 years old or older. Enclosed is a copy of a Public Development Application Report. On behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2017 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.

Prior to any development, the applicant shall obtain any other necessary permits and approvals.

Sincerely,

Charles M. Horner, P.P.
 Director of Regulatory Programs

Enc: Appeal Procedure

- c: Secretary, Pemberton Township Planning Board (via email)
- Pemberton Township Construction Code Official (via email)
- Pemberton Township Environmental Commission (via email)
- Secretary, Burlington County Planning Board (via email)
- Edwin Steck





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

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

PUBLIC DEVELOPMENT APPLICATION REPORT

August 15, 2017

Joseph T. Brickley, PE, CME, CPWM
County of Burlington
1900 Briggs Road
Mount Laurel, NJ 08054

Application No.: 1989-0349.020
Block 812, Lot 9.01
Pemberton Township

This application proposes demolition of an existing 2,500 square foot building, 50 years old or older, located on the above referenced 351.92 acre parcel in Pemberton Township. The building was formerly utilized as a "Nurses Quarters" and associated with the Buttonwood Hospital located on the parcel.

STANDARDS

The Commission staff has reviewed the proposed demolition for consistency with all standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

Land Use (N.J.A.C. 7:50-5.24 & 5.28)

The parcel is located partially in a Pinelands Agricultural Production Area (250 acres) and partially in a Pinelands Regional Growth Area (101.92 acres). The demolition of the building is permitted by the CMP.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

The evidence of cultural activity on the parcel, including the existing building, lacks any potential for designation as a historic resource. Based upon this determination, a cultural resource survey was not required.

PUBLIC COMMENT

The CMP defines the proposed demolition as "minor" development. The CMP does not require public notice for minor public development applications. The application was designated as complete on the Commission's website on July 24, 2017. The Commission's public comment period closed on August 11, 2017. No public comment was submitted to the Commission regarding this application.

CONDITIONS

1. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
2. Prior to any demolition, the applicant shall obtain any other necessary permits and approvals.

CONCLUSION

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission **APPROVE** the proposed demolition subject to the above conditions.



Chris Christie
Governor

Kim Guadagno
Lt. Governor

State of New Jersey

THE PINELANDS COMMISSION

PO Box 359

NEW LISBON, NJ 08064

(609) 894-7300

www.nj.gov/pinelands



Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

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

PINELANDS COMMISSION APPEAL PROCEDURE

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-4.91) provides an interested party the right to appeal any determination made by the Executive Director to the Commission in accordance with N.J.A.C. 7:50-4.91. An interested party is someone who has a specific property interest sufficient to require a hearing on constitutional or statutory grounds. Only appeal requests submitted by someone meeting the definition of an interested party will be transmitted to the New Jersey Office of Administrative Law for a hearing. Any such appeal must be made in writing to the Commission and received at the Commission office no later than 5:00 PM on September 4, 2017 and include the following information:

1. the name and address of the person requesting the appeal;
2. the application number;
3. the date on which the determination to be appealed was made;
4. a brief statement of the basis for the appeal; and
5. a certificate of service (a notarized statement) indicating that service of the notice has been made, by certified mail, on the clerk of the county, municipal planning board and environmental commission with jurisdiction over the property which is subject of this decision.

Within 15 days following receipt of a notice of valid appeal, the Executive Director shall initiate the procedures for assignment of an Administrative Law Judge to preside at the hearing pursuant to the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq., and the procedures established by the Office of Administrative Law. The time, date and location of such hearing shall be designated by the Office of Administrative Law.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 27

TITLE: Approving With Conditions Pinelands Development Application Number 2014-0045.001

Commissioner Galletta moves and Commissioner Avery seconds the motion that:

WHEREAS, the following application was remanded to the Pinelands Commission to determine whether it conforms with the standards of the Pinelands Comprehensive Management Plan:

2014-0045.001	
Applicant:	New Jersey Natural Gas
Municipality:	Jackson Township Manchester Township Plumsted Township
Management Area:	Pinelands Military/Federal Installation Area Pinelands Regional Growth Area Pinelands Rural Development Area
Date of Report:	August 29, 2017
Proposed Development:	Installation of 12.1 miles of 30 inch natural gas main within Ocean County Route 539 & 547 rights-of-way.

WHEREAS, in response to the Appellate Division’s remand, the Pinelands Commission passed Pinelands Resolution No. PC4-17-10 on June 9, 2017, setting forth the process it would utilize to review the application; and

WHEREAS, in accordance with Pinelands Resolution No. PC4-17-10, the Pinelands Commission accepted verbal comments at its July 26, 2017 Special Commission meeting and accepted written comments until August 2, 2017; and

WHEREAS, the Pinelands Commission has had the opportunity to review the public comments submitted, the record and the Executive Director’s Recommendation Report dated August 29, 2017; and

WHEREAS, the Pinelands Commission hereby finds that there is ample evidence in the record that demonstrates that the proposed development with the conditions recommended by the Executive Director conforms to the minimum standards of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission hereby finds that the proposed development with the conditions recommended by the Executive Director is consistent with the intent and objectives of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and the Pinelands Comprehensive Management Plan, N.J. A.C. 7:50; 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.

NOW, THEREFORE BE IT RESOLVED that the Pinelands Commission **Adopts** the recommendation of the Executive Director including the conditions contained within the Executive Director’s Recommendation Report dated August 29, 2017; and

BE IT FURTHER RESOLVED that the Pinelands Commission hereby determines that the development proposed in the Pinelands Development Application No. 2014-0045.001 is consistent with the minimum standards of the Pinelands Comprehensive Management Plan.

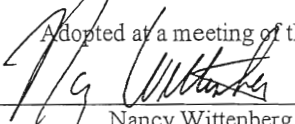
Record of Commission Votes

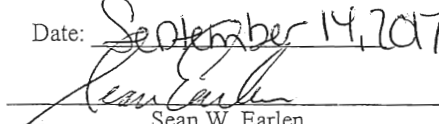
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun		X			Galletta	X				Prickett		X		
Avery	X				Jannarone	X				Quinn	X			
Barr			X		Lloyd				R	Rohan Green		X		
Brown	X				Lohbauer		X			Earlen	X			
Chila	X				McGlinchey	X								

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: September 14, 2017


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 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@njpinelands.state.nj.us
Application Specific Information: AppInfo@njpinelands.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

EXECUTIVE DIRECTOR'S RECOMMENDATION REPORT

August 29, 2017

Application No.: 2014-0045.001

Location: County Routes 539 & 547
Block 23601, Lot 1
Jackson Township
Block 70, Lot 18; Block 71, Lot 13; Block 72.01, Lot 14.03 & Block 200,
Lot 2
Manchester Township
Block 76, Lots 82.02 & 83.01; Block 91, Lot 1 & Block 92, Lot 1
Plumsted Township

This application proposes the installation of a 12.1-mile portion of an approximately 30-mile, 30-inch, high pressure natural gas transmission pipeline that runs through the Townships of Chesterfield and North Hanover in Burlington County; the Township of Upper Freehold in Monmouth County; and the Townships of Plumsted, Jackson and Manchester in Ocean County. Only 12.1 miles of this natural gas pipeline is proposed to be constructed within the Pinelands Area and is the only part of the pipeline subject to the Commission's regulatory authority. Therefore, only the 12.1 mile portion of the proposed natural gas pipeline project is discussed in this report.

The portion of the proposed natural gas pipeline to be constructed in the Pinelands Area will be located almost entirely within existing rights-of-way and roads. Specifically, the proposed pipeline will enter the Pinelands Area in Plumsted Township within Pinehurst Road (CR 539) and will continue into Jackson Township along Pinehurst Road (CR 539), which turns into Whiting-New Egypt Road (CR 539). Just before the border between Jackson and Manchester Townships, the pipeline will turn east into the fenced portion of Joint Base McGuire-Dix-Lakehurst (JB-MDL or the "Base) and follows the Base's southern fence line along access roads, East Boundary Road, East Clubhouse Lake Road, Lakehurst Naval Air Center Taxiway, Broome Road, Lakehurst Naval Air Center Access Road and Lakehurst-Whitesville Road, before exiting the Base along County Road 547. The proposed natural gas pipeline will then cross CR 547, continue through several easements through private properties, at which point it leaves the Pinelands and follows Lowell Road and NJ State Route 70 before terminating by tying into NJNG's existing transmission system south of Route 70 in Manchester. The proposed natural gas pipeline will be located within three Pinelands Management Areas; a Rural Development Area

(1.42 miles), a Military and Federal Installation Area (10.45 miles) and a Regional Growth Area (0.21 miles).

As held by the Board of Public Utilities (BPU) in its January 27, 2016 Reliability & Security Order, the entire length of the proposed natural gas pipeline is intended to provide adequate supply and reliability (i.e. redundancy) to the southern portion of New Jersey Natural Gas (NJNG) Company's service territory, which includes JB-MDL, by interconnecting the proposed pipeline with NJNG's existing 24-inch transmission line located on Colonial Drive in Manchester Township. As confirmed by JB-MDL, NJNG currently maintains a gas distribution system throughout the Lakehurst part of JB-MDL that serves a majority of its buildings and facilities. This existing natural gas distribution system begins near the Base's entrance on County Route 547 and extends west to the National Guard Center on County Route 539.

BACKGROUND

NJNG is a gas public utility, regulated by the BPU pursuant to NJSA 48:2-23, that supplies natural gas to customers in Morris, Middlesex, Monmouth, Ocean and Burlington Counties. NJNG differs from the other natural gas utilities in New Jersey in that no interstate pipelines run through its primary service territory located in Monmouth and Ocean Counties. As a result, NJNG provides natural gas to its customers in these counties, through its own network of transmission pipelines, that receive natural gas supply from two existing interstate natural gas supply mains, (Texas Eastern Transmission, LP (TETCO) and Transcontinental Gas Pipeline Co. (Transco)), both of which are located to the north and west of these counties. Currently, over 85% of NJNG's winter season peak day gas supply is provided by a single interstate pipeline, i.e. the TETCO line. The remaining 15% is provided by the two smaller connections to the Transco line located in Sayreville and Morgan, New Jersey.

On April 10, 2015, NJNG submitted a Pinelands Development Application to the Pinelands Commission for the installation of a 12.1-mile, 30-inch natural gas transmission pipeline within the Pinelands Area in Jackson, Plumsted and Manchester Townships, all in Ocean County. The proposed pipeline constitutes a portion of an overall 30-mile, 30-inch pipeline project known as the Southern Reliability Link (SRL)¹. The SRL is intended to provide redundancy and resiliency by providing connections to two separate interstate natural gas mains, one located at each end of NJNG's system².

Prior to submitting its application, NJNG, in accordance with N.J.A.C. 7:50-4.2(a), requested two pre-application conferences with the Pinelands Commission staff, which occurred on May 6, 2014 and October 14, 2014, respectively. The purpose of these pre-application conferences was to discuss the proposed project and the applicable standards of the Pinelands Comprehensive Management Plan (CMP) to which such project was subject. Pre-application conferences are

¹ NJNG submitted petitions to the BPU on April 2, 2015 and amended petitions on June 5, 2015, seeking to have BPU authorize construction and operation of the Southern Reliability Link pursuant to N.J.A.C. 14:7-1.4. Additionally, NJNG also petitioned BPU for preemption of municipal review of the proposed project pursuant to N.J.S.A. 40:55D-19 and to have it designate the route of the proposed pipeline in accordance with N.J.S.A. 48:9-25.4

² "[T]he Board finds that the project [the SRL] will ... add a significant, diverse source of natural gas, while also increasing overall system reliability and reinforcement in NJNG's service area." BPU Energy Decision and Order, Docket No. GO15040403, dated March 18, 2016 at 40.

informal meetings intended to facilitate open consideration of development proposals and the views and concerns of the applicant and the Commission. N.J.A.C. 7:50-4.2(a)3

Because NJNG is a private entity, Commission staff review normally would have proceeded in accordance with the regulatory process for private development. Specifically, once the application was deemed complete in accordance with N.J.A.C. 7:50-4.2(c), staff would have issued a Certificate of Filing (COF) in accordance with N.J.A.C. 7:50-4.34. Although not an approval, the COF authorizes a local permitting agency (municipality or county) to begin its review of the proposed development. *Id.* In addition, once the local permitting agency issues its approval for the private development, that approval must be submitted to the Commission's Executive Director for a determination as to whether it raises a substantial issue with respect to its conformance with the CMP. Only if the Executive Director finds that the local approval raises a substantial issue, does the application go before the full Commission for a vote, following the development of the record before the Executive Director or the OAL. N.J.A.C. 7:50-4.37 & 4.42.³

However, in this matter, NJNG petitioned the BPU pursuant to N.J.S.A 40:55D-19 to preempt municipal review of its proposed natural gas pipeline project. Accordingly, the application was reviewed under the coordinated state agency permitting provisions of the CMP at N.J.A.C. 7:50-4.81 through 4.85, which required the Executive Director to issue a COF to the applicant for submission to the BPU.

On December 9, 2015, the Commission staff issued a COF for the application pursuant to N.J.A.C. 7:50-4.34 and 4.82. Commission staff reviewed the proposed natural gas pipeline project for compliance with all applicable CMP standards, specifically permitted land uses, wetlands, threatened or endangered plants and wildlife, stormwater, and cultural resources. The staff determined that the proposed natural gas pipeline project was consistent with all of these standards. In the COF, however, it identified two CMP standards (wetlands and permitted land use) for which it provided guidance. Specifically, because of wetland impacts associated with the proposed natural gas pipeline, staff included a condition within the COF that the applicant obtain freshwater wetlands permits from the NJDEP prior to commencing development that would result in the disturbance of any wetlands area. Likewise, staff provided guidance as to why the proposed natural gas pipeline project was consistent with the CMP's permitted use standards. Additionally, although not a CMP compliance issue⁴, the staff identified the on-going site remediation activities occurring along the proposed route, to ensure that, prior to the commencement of any construction, the United States Environmental Protection Agency or the New Jersey Department of Environmental Protection determined that the proposed development would not affect these activities.

³ If the Executive Director determines the local approval does not raise issue of CMP conformance, the approval may go into effect. However, if further review ("call-up") is necessary, an adjudicatory hearing is conducted by either the Executive Director or the Office of Administrative Law, followed by a vote of the Commission. Conversely, with regard to public development applications, which typically do not include a corresponding local permitting approval, the determination of CMP compliance is made by vote of the Commission.

⁴ In accordance with a Memorandum of Agreement between the New Jersey Department of Environmental Protection and the New Jersey Pinelands Commission dated October 1994, the New Jersey Department of Environmental Protection is the lead agency and acts as the Commission's agent with regard to site remediation activities conducted in the Pinelands Area, including site remediations conducted under the Comprehensive Environmental, Response, Compensation and Liability Act, pursuant to which the United States Environmental Protection Agency is acting as the lead agency.

By letter dated February 4, 2016, the Executive Director transmitted a copy of the COF to the BPU. In that letter, the Executive Director requested that BPU provide the Commission with copies of documents issued and filed with BPU as part of its N.J.S.A. 40:55D-19 (Municipal Land Use Law preemption) petition proceedings, including copies of the petition; notice of any hearing, public meetings or other formal proceedings pertaining to that petition; copies of any written reports or comments that the BPU may receive that raise issues concerning the standards of the CMP and copies of any draft orders. BPU subsequently submitted its record to the Commission staff, including all public comments and documents submitted as part of its public and evidentiary hearings. After reviewing these materials, the Executive Director sent a letter to BPU, on March 10, 2016, indicating that based on the Commission staff's expertise and experience in administering the CMP and its review of the record, the finding of CMP consistency contained within the December 9, 2015 COF remained valid.

On April 21, 2016 and April 28, 2016, the Sierra Club and the Pinelands Preservation Alliance, respectively, each filed a Notice of Appeal of the Executive Director's March 10, 2016 letter.

On November 7, 2016, the Appellate Division, in three unrelated, consolidated appeals involving a petition to the BPU for municipal preemption pursuant to N.J.S.A. 40:55D-19 submitted by the South Jersey Gas Company, issued a published decision remanding that application to the Commission for its review of the Executive Director's consistency determination on that application and for further proceedings in conformity with its decision. In re petition of South Jersey Gas Company, 447 N.J. Super. 459 (App. Div., November 7, 2016). The decision afforded the Commission wide discretion in what procedures it chose to undertake such review provided the Commission afforded the public notice and the opportunity to be heard before it rendered its final decision. *Id.* at 479.

Given the Appellate Division's decision in the South Jersey Gas appeals and that the same review process was used for both the NJNG and the South Jersey Gas applications, the Commission determined that it should seek to have the NJNG appeals remanded so that it could conduct a review of the staff's consistency determination consistent with the Appellate Division's decision in *In re: South Jersey Gas*. Consequently, at its December 9, 2016 meeting, the Commission passed Resolution PC4-16-43. This resolution authorized the Division of Law to file motions in the Appellate Division to have the two appeals related to the Commission's consideration of the NJNG's proposed pipeline project remanded. On January 10, 2017, motions to remand the two appeals related to the NJNG application were filed with the Appellate Division.

Both the Sierra Club and the Pinelands Preservation Alliance filed responses to the Commission's remand motions on January 19, 2017. The Sierra Club concurred in this remand, but asked that the Appellate Division order an evidentiary hearing on remand. The Pinelands Preservation Alliance, however, also filed a Cross Motion to Invalidate Resolution PC4-16-42, Amend the Comprehensive Management Plan in Compliance with the Administrative Procedure Act and Provide a Hearing.

By Order dated January 31, 2017, the Appellate Division granted the Commission's remand motion, without ordering an evidentiary hearing, and dismissed the Sierra Club's appeal. In addition, as was the case with the South Jersey Gas application, the Appellate Division directed the Commission, on remand, to determine whether to render its decision based on the record developed before the BPU or to allow the parties to present additional evidence. The Appellate

Division ordered the Pinelands Commission, to also determine whether to refer the matter to the Office of Administrative Law for an evidentiary hearing before an Administrative Law Judge.

Likewise, on February 15, 2017, the Appellate Division issued an order granting the Commission's remand motion and denying the Pinelands Preservation Alliance's cross motion and motion to amend.

On May 11, 2017, the Executive Director received a letter from Kevin Marino, Marino, Tortorella & Boyle, counsel for New Jersey Natural Gas with respect to the Southern Reliability Link, requesting that the Commission review the Executive Director's prior determination, "without further delay." Mr. Marino stated that not only would this delay raise specific legal issues, it would also "unduly and improperly delay the SRL project..." Further, Mr. Marino explained that a delay "could have devastating consequences" with regard to the ability of NJNG to supply gas to its customers.

At its June 9, 2017 meeting, the Commission unanimously passed Resolution PC4-17-10, detailing the review process that would be followed to implement the Appellate Division's remand instructions and govern its review of the NJNG application. Additionally, in accordance with the Appellate Division's January 31, 2017 Order, the Commission, in that resolution: 1) determined that it would rely on the record developed before the BPU; 2) decided not to refer the matter to the Office of Administrative Law, because an additional evidentiary hearing was not necessary at this time given the limited regulatory issues involved in the application and the extensive record already developed both as part of the Commission's review of the application and the public and evidentiary hearings conducted before the BPU; and 3) permitted the former appellants to submit any additional information that they wished as part of the public comment process.

Following that meeting, the Commission posted notice on its website that the public would have the opportunity to provide oral comment regarding the NJNG application at a special Commission meeting that would be held on July 26, 2017 and through submission of written comments until the close of business on August 2, 2017⁵.

The July 26, 2017 meeting was conducted at the Pine Belt Arena in Toms River, New Jersey. The Pine Belt Arena is located approximately 9 miles from the proposed portion of the NJNG natural gas transmission pipeline subject to the Commission's jurisdiction. During this meeting, the Commission received public comment on the NJNG natural gas pipeline from 45 individuals over approximately 4 hours. Additionally, the Commission received 1,319 written comments on the application prior to the August 2, 2015 close of the written comment period.

STANDARDS

The Commission staff has reviewed the proposed development for consistency with all applicable standards of the Pinelands Comprehensive Management Plan (CMP). The following reviews the CMP standards that are relevant to this application:

⁵ Notice of the public's opportunity to comment was provided to the Asbury Park Press, Press of Atlantic City, Burlington County Times and the Cherry Hill Courier on June 12, 2017. Moreover, the Commission provided newspaper notice of its July 26, 2017 Special Meeting to the same newspapers on June 20, 2017.

Land Use (N.J.A.C. 7:50-5.28(a), 7:50-5.26(b)10 and 7:50-5.29(a))

As indicated in the Commission's December 9, 2015 Certificate of Filing for this application, the portion of the project to be constructed within the Pinelands Area consists of 12.1 miles of a 30-inch, high pressure natural gas transmission pipeline, which is proposed to be constructed almost entirely within existing rights-of-way and roads located in Plumsted, Jackson and Manchester Townships.

The proposed natural gas pipeline will be located in a Rural Development Area (1.42 miles), a Military and Federal Installation Area (10.45 miles) and a Regional Growth Area (0.21 miles). The CMP defines a natural gas pipeline as "public service infrastructure" N.J.A.C. 7:50-2.11. Public service infrastructure is a permitted use⁶ in a Regional Growth Area (N.J.A.C. 7:50-5.28(a)) and a Rural Development Area (N.J.A.C. 7:50-5.26(b)10).

Public service infrastructure is also a permitted use in a Military and Federal Installation Area provided the development meets certain conditions. N.J.A.C. 7:50-5.29. In fact, any use associated with the function of the Federal Installation may be permitted in a Military and Federal Installation Area, provided that: 1) where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area; and 2) the use shall not require development, including public service infrastructure, in the Preservation Area District or in a Forest Area. N.J.A.C. 7:50-5.29(a).

NJNG currently maintains a natural gas distribution system within the Lakehurst section of JB-MDL that serves a majority of its buildings and facilities. NJNG's proposed new natural gas pipeline will enter JB-MDL in Plumsted along Route 539. Just before the border between Jackson and Manchester Townships, it turns east into the fenced portion of the Base. It then traverses the Base's southern fence line along various access roads until it exits the Lakehurst section of JB-MDL at County Road 547, where it will continue and connect with NJNG's existing 24-inch transmission line located on Colonial Drive in Manchester Township. The proposed natural gas pipeline thus provides redundancy and resiliency to the Lakehurst section of JB-MDL by providing a direct connection to a second interstate transmission main at the southern end of NJNG's territory. Consequently, should NJNG experience a disruption in its existing TETCO interconnection in Jamesburg, New Jersey, it would be able to use this new connection to Transco, in Chesterfield Township, to provide gas to the Lakehurst section of JB-MDL through the existing natural gas distribution system already located on that section of the Base.

This need for redundancy is confirmed in a November 6, 2015 letter from the former Commander of JB-MDL, Colonel Fredrick D. Thaden, to Assemblyman Ronald S. Dancer wherein he stated "Gas supply to the eastern portion of JB-MDL was identified as a critical system deficiency in the aftermath of Hurricane Sandy. This project provides a primary benefit of natural gas redundancy gained by looping the delivery pipeline, in addition to potentially converting facilities from liquid energy sources to gas. The current proposed route will provide direct service to the installation whereas, under the current state, JB-MDL is near the terminus of the existing pipeline." Colonel Thaden made a similar statement in a November 7, 2015 letter to

⁶ A permitted use is a land use authorized by the CMP in a particular Pinelands management area pursuant to Subchapter 5, Minimum Standards for Land Uses and Intensities.

Executive Director Nancy Wittenberg wherein he acknowledged that the proposed natural gas pipeline addresses a known natural gas deficiency on JB-MDL and assures the Base's ability to address national security requirements by providing energy resiliency and redundancy.

Similarly, both the Base Commander before Colonel Thaden (Colonel James C. Hodges) and the present Base Commander (Colonel Neil R. Richardson) have confirmed that the proposed natural gas pipeline project is associated with the function of JB-MDL. Specifically, Colonel Hodges, in a letter dated February 13, 2015 to a concerned citizen stated "[The Base's] interest in this important project is the improvement of energy reliability and redundancy at the Joint Base" and that "any disruption in service adversely impacts the installation." Colonel Hodges went on to state "[e]nergy reliability and redundancy at this installation is absolutely critical to our local, regional, national and international missions. A recent example of the combination of these issues was our response to Superstorm Sandy where the Joint Base provided crucial emergency and logistical support to the local area and region. However, our natural gas supply was at critically low levels after the storm and increased the risk to our ability to support the recovery and other ongoing missions."

Likewise, the current Base Commander Neil R. Richardson, in comments emailed to Nancy Wittenberg dated August 2, 2017, stated "[t]he Southern Reliability Link project, as proposed by New Jersey Natural Gas, is an initiative that supports the Department of Defense and Air Force goals of increasing energy security, providing assurance that a critical energy source is available without interruption. Hurricane Irene and Superstorm Sandy provided an excellent, albeit unwelcome opportunity to assess our vulnerability to interruptions in energy supply due to natural or manmade events. Colonel Richardson also stated that "[t]he Southern Reliability link project provides an alternative source of gas in the event the current one is compromised. Any loss of gas supply will cripple the missions carried out by Naval Air Systems Command, which are Fleet Support functions critical to national security. Other organizations reliant upon that energy source are the Army Communication-Electronic Research, Development and Engineering Center, the New Jersey National Guard Aviation and Logistics Training functions, as well as the FBI and state police. The Southern Reliability Link provides redundancy in our gas supply and reduces the risk of degradation or failure of our core missions."

Thus, NJNG's proposed natural gas pipeline is clearly associated with the function of the Base. Although each used different words, all three commanders acknowledged that the proposed natural gas project provides a redundant natural gas supply to the Base and that the Base uses natural gas as part of its various missions. Additionally, all three commanders identified a real life incident, the aftermath of Superstorm Sandy, where the Base's existing natural gas supply was critically low and discussed the impact that loss of natural gas would have to the Base and its on-going missions. As demonstrated by these letters, NJNG's proposed natural gas pipeline provides redundancy to JB-MDL by providing an alternate natural gas supply from the SRL's interconnection with NJNG's existing transmission line located on Colonial Drive in Manchester Township. In contrast, under the current state, JB-MDL is near the terminus of the existing pipeline. As discussed by BPU in its March 18, 2016, Energy Order, Dkt. No. G01504040403, any supply disruption in the TETCO interconnection, that outstrips the capacity of the existing Transco interconnections and NJNG's existing LNG facilities' ability to maintain adequate system pressure, will result in the loss of service to customers in the southern portion of NJG's service territory. Id. at 39.

N.J.A.C. 7:50-5.29(a)1 requires that where feasible, development shall be located in that portion of the installation located within the Pinelands Protection Area. The portion of NJNG's proposed natural gas pipeline project located within the Base is located entirely within the Preservation Area of the Pinelands⁷. The CMP, however, does not prohibit development within the Preservation Area. Rather, it requires that if it is feasible, such development must be constructed in the Protection Area. If that is infeasible, development may occur in the Preservation Area⁸.

As part of its review of NJNG's municipal preemption petition pursuant to N.J.S.A. 40:55D-19, the BPU examined alternative routes for the SRL pipeline project. In its March 18, 2016 Energy Order, the Board discussed one route that would have traversed the Base from State Route 68. BPU noted that this route would present undesirable operational impacts to JB-MDL⁹. *Id.* at 41. BPU also cited Burlington County's acknowledgement that the Joint Base has informed Assemblyman Dancer that this alternative presents numerous impacts to operational requirements of the Joint Base and that, as a result, Burlington County was unable to present any other viable routes. *Id.* Thus, BPU found that the record reflected evidence of review and analysis of alternate routes and that the NJNG's proposed route was the most appropriate. *Id.* at 42.

The November 6, 2017 letter from former Commander Colonel Fredrick D. Thaden to Assemblyman Dancer, cited by BPU, advised the Assemblyman that the route proposed by NJNG, that crosses portions of JB-MDL from Ocean County Route 539 through the southern edge of the former Lakehurst Naval Air Station, was developed in close coordination with Air Force Engineering, environmental and legal experts. Colonel Thaden also advised that this "is the best on-base route available because it presents minimal impact to our [JB-MDL's] mission, the people working and residing on JB-MDL and to the environment." Colonel Thaden's letter recounted the alternative on-base route considered, including an entrance point for the pipeline in proximity to the JB-MDL Route 68 gate near Wrightstown and concluded that "[b]ringing the pipeline from this area, across the installation to the Lakehurst side presents numerous impacts to operational requirements.... Moreover, a route from the east side to the west side of the installation [i.e. from the protection area], would have to transverse the range complex"; an area that has the potential for encountering unexploded ordinance.

Additionally, JB-MDL, in the March 2017 Draft Environmental Assessment for the easement for the proposed NJNG natural gas pipeline project, discussed two other areas that were considered as alternative easement locations, one of which traversed the Protection Area. The screening criteria used to evaluate these potential locations included avoiding areas used for military

⁷ Two thirds of JB-MDL is located within the Preservation Area as delineated in the Pinelands Protection Act at N.J.S.A. 13:18A-11.b. The dividing line between the Preservation Area and the Protection Area is Cookstown-Browns Mills Road (CR 667), with the Protection Area to the west of the road and the Preservation Area to the east. Thus, the entire Lakehurst section of JB-MDL is located within the Preservation Area.

⁸ The Preservation Area however, is not the same as the Preservation Area District. The terms Preservation Area and Protection Area refer to those portions of the Pinelands Area expressly delineated by the Pinelands Protection Act, N.J.S.A. 13:18A-1 *et seq.*; the boundaries of the Preservation Area are delineated in N.J.S.A. 13:18A-11.b and the Protection Area is defined by the Act as that portion of the Pinelands Area not included within the Preservation Area. N.J.S.A. 13:18A-3.j-k. The term Preservation Area District refers to a Pinelands Management Area designation found at N.J.A.C. 7:50-5.12(a)1. It is separate from the Military and Federal Installation Area designation found at N.J.A.C. 7:50-5.12(a)8.

⁹ Likewise, BPU, in its January 27, 2016 Reliability & Security Order, stated "[t]he additional primary alternative routes also included routes which would travel through the Joint Base but were ultimately determined to be unviable by Joint Base management as they would cross the operational areas of McGuire Air Force Base as well as the artillery/firing ranges in Fort Dix." Dkt. No. GE15040402, p.8.

training and operations and areas where unexploded ordinance sweeps would be required. Specific examples of military training and operations that eliminated potential pipeline easement locations listed in the EA included aircraft hangars, hazardous materials storage areas, jet engine fuel storage tanks, munitions storage, live fire ranges and military housing units. In addition, JB-MDL excluded any locations that would not meet the CMP standard at N.J.A.C. 7:50-5.29(a)2, that prohibits construction of a proposed pipeline within the Preservation Area District or in a Forest Area.

The review of alternate on-base routes by JB-MDL validates that construction of NJNG's proposed natural gas pipeline in the Protection Area is infeasible. The proposed project, therefore, is consistent with N.J.A.C. 7:50-5.29(a)1.

As noted above, N.J.A.C. 7:50-5.29(a)2 provides that permitted uses in the Military and Federal Installation Area shall not require development, including public service infrastructure in the Preservation Area District or in a Forest Area. The Preservation Area District and Forest Areas, similar to the Military and Federal Installation Areas, are separate land use management area designations included in the CMP. N.J.A.C. 7:50-5.12(a)1 (Preservation Area District), -5.12(a)2 (Forest Areas) and 5.12(a)8 (Military and Federal Installation). They are geographically discrete areas, meaning that the Preservation Area District and Forest Areas are located entirely outside of the Military and Federal Installation Area. These management area designations are assigned specific land uses and development intensities by Subchapter 5 of the CMP. N.J.A.C. 7:50-5.21-5.36.

Any alternative that would have placed the proposed natural gas pipeline in the portion of JB-MDL located in the Protection Area also would have required development in the Preservation Area District or a Forest Area, which is expressly prohibited by 7:50-5.29(a)2. This also rendered construction of NJNG's proposed natural gas pipeline in the Protection Area infeasible.

NJNG's proposed natural gas pipeline does not include any development within the Preservation Area District or a Forest Area. Given this, the proposed pipeline project is consistent with N.J.A.C. 7:50-5.29(a)2. Thus, the record demonstrates that NJNG's proposed natural gas pipeline is a permitted use in a Military and Federal Installation Area, i.e. JB-MDL.

Wetlands Protection Standards (N.J.A.C. 7:50-6.7 & 6.13)

The CMP prohibits most development in wetlands and requires a 300 foot buffer to wetlands unless it is demonstrated that a lesser buffer will not result in a significant adverse impact to the wetland. NJNG's proposed natural gas pipeline project is to be constructed almost entirely within existing rights-of-way and roads. There is one point, however, on JB-MDL, where the proposed natural gas pipeline exits an existing roadway and crosses portions of an upland forest and wetland before it exits the Base along County Road 547.

Portions of these rights-of-way or roads are located within 300 feet of wetlands. However, in all of these areas, the proposed pipeline will be constructed under existing road pavement or, in the vicinity of Lakehurst Naval Air Center Taxiway, under existing, adjacent already disturbed and maintained grass shoulders. To the extent that the proposed natural gas pipeline will be installed under existing road pavement or disturbed and maintained grass shoulders, it will not result in a significant adverse impact on wetlands.

With regard to the one proposed wetlands crossing, the CMP (N.J.A.C. 7:50-6.13) permits the installation of utility transmission and distribution facilities in wetlands provided the following conditions are met: 1) there is no feasible alternative route for the linear improvement that does not involve development in a wetland, or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist; 2) the need for the proposed linear improvement cannot be met by existing facilities or modification thereof; 3) the use represents a need which overrides the importance of protecting the wetland; 4) development of the linear improvement will include all practical measures to mitigate the adverse impact on the wetland; and 5) the resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstances.

The proposed natural gas pipeline will be installed under the wetland by HDD. The proposed crossing, however, would result in the permanent removal of 0.42 acres of upland trees (predominately pitch pines) and the disturbance of 390.3 sq. ft. (.009 acres) of forested wetlands. The 390.3 square feet of wetland disturbance is necessary to provide for ongoing operation and maintenance of the natural gas pipeline as it is not located under or adjacent to a road. After construction, the 390.3 square feet of forested wetland will be an emergent wetland.

The information submitted as part of NJNG's Pinelands Development Application, which was verified by the Commission staff, demonstrates compliance with the 5 conditions of N.J.A.C. 7:50-6.13. Specifically, based upon the staff's review, there is no feasible alternative route for the proposed natural gas pipeline that does not involve development in wetlands or another feasible route which results in an impact to less than 390.3 square feet of wetlands. The proposed pipeline will provide a second redundant supply of natural gas; the need for which cannot be met by existing facilities or modifications thereof. The provision of a second redundant supply of natural gas represents a need which overrides the importance of protecting 390.3 square feet of wetlands. Development of the pipeline will include all practical measures, including HDD, to avoid earth disturbance in the wetland and the hand cutting of trees, to mitigate any adverse impact on the wetland. The conversion of the 390.3 square feet of wetland from a forested wetland to an emergent wetland will not result in the resources of the Pinelands being substantially impaired.

Vegetation Management Standards (N.J.A.C. 7:50-6.23 & 6.26)

The proposed natural gas pipeline will be located almost entirely within existing rights-of-way and roads. In accordance with N.J.A.C. 7:50-6.23(a), the proposed clearing and soil disturbance in the vicinity of the JB-MDL gate at County Road 547 is limited to that which is necessary to accommodate the proposed development.

The Landscaping and Revegetation guidelines of the CMP (N.J.A.C. 7:50-6.26) recommend the use of grasses that are tolerant of droughty, nutrient poor conditions. N.J.A.C. 7:50-6.26 lists grass species that meet this standard. To stabilize the disturbed areas associated with the remote operating valve station, the applicant proposes to utilize a seed mixture which meets that recommendation.

Threatened and Endangered Species Protection Standards (N.J.A.C. 7:50-6.27 & 6.33)

The applicant completed a habitat suitability assessment and threatened and endangered (T&E)

species surveys for Pinelands designated T&E animals and plants. No T&E animal species were identified by NJNG within the immediate vicinity of the proposed development. Nonetheless, as an additional precaution, NJNG intends to install safety fencing during construction to protect threatened or endangered species habitat from disturbance and will use silt fence as an exclusion barrier in areas adjacent to suitable habitat areas. Thus, there will be no irreversible adverse impacts on habitats that are critical to the survival of any local populations of threatened or endangered animal species designated by the Department of Environmental Protection pursuant to N.J.S.A. 23:2A-1 *et seq.*

With regard to threatened or endangered plant species, the survey identified a population of Sick-leaved golden aster in the vicinity of the proposed natural gas project to be constructed on JB-MDL. As initially designed, a small portion of this population (0.20 acres) would have been impacted as part of the work area for a proposed Horizontal Directional Drilling (HDD) operation. However, as a result of discussions with Commission staff, and in order to avoid impacts to this population, the design of the project was revised on November 25, 2015, to eliminate the HDD in this area and, thus, the impacts to the Sick-leaved golden aster population were eliminated. Instead of the HDD, the applicant is using a conventional bore that shortens the length of the construction impact and avoids the plants. Thus, given the redesign, and that the proposed natural gas pipeline will be constructed almost entirely within existing rights-of-way and roads, the proposed project will not result in irreversible adverse impact on the survival of the local population of this T&E plant species.

Stormwater Management Standards (N.J.A.C.7:50-6.84(a)6)

The CMP at N.J.A.C. 7:50-4.2(b)5x requires the submission of a stormwater management facilities map for applications for major development. The CMP stormwater standards at N.J.A.C. 7:50-6.84(a)6 require that applicants address any changes to the rate of runoff and increase of runoff volume for any major development application. The proposed natural gas pipeline will be located almost entirely within existing rights-of-way and roads. In these instances, there will be no change to the surface conditions, changes to stormwater runoff rates or increases in stormwater volume. Thus, stormwater management facilities are not required.

As discussed above, however, there is one segment of the proposed project that will result in the clearing of forest. The definition of major development includes any grading, clearing or disturbance of an area in excess of 5,000 sq. feet. N.J.A.C. 7:50-2.11. The Commission staff reviewed the stormwater management plan and calculations submitted as part of the application to demonstrate compliance with the stormwater requirements of the CMP and determined that the proposed natural gas project is consistent with these standards.

Cultural Resource Standards (N.J.A.C. 7:50-6.151)

A Phase 1 Cultural Resource Surveys was completed for this application. The submitted survey concluded that no archaeological resources or historic properties eligible for Pinelands Designation will be adversely impacted by the proposed development. Commission staff reviewed the survey and concurred with its findings. The proposed development is consistent with the CMP cultural resource standards.

PUBLIC COMMENT

As noted above, the Commission provided an opportunity for the public to provide comment in person at a Special Meeting conducted on July 26, 2017, and through the submission of written comments until the end of the day on August 2, 2017. Notice of these public comment opportunities was provided on the Commission's website on June 9, 2017 and sent to the Asbury Park Press, Press of Atlantic City, Burlington County Times and Cherry Hill Courier Post on June 12, 2017, announcing the opening of the public comment period, and on June 20, 2017 for the July 26, 2017, Special Commission Meeting.

The July 26, 2017 meeting was conducted at the Pine Belt Arena in Toms River, New Jersey. The Pine Belt Arena is located approximately 9 miles from the proposed portion of the NJNG natural gas transmission pipeline subject to the Commission's jurisdiction. During this meeting, the Commission received public comment on the NJNG natural gas pipeline from 45 individuals over approximately 4 hours. Additionally, the Commission received 1,319 written comments on the application prior to the August 2, 2017 close of the written comment period.

As is evident from the transcript of the Commission's July 26, 2017 Special Meeting and the written comments the Commission received, commenters cited a variety of reasons for supporting or for opposing NJNG's proposed natural gas pipeline. Because the Pinelands CMP does not contain standards regarding some of these comments (such as job creation benefits, fracking, impacts of aviation activities on the proposed pipeline, alternative routes outside of the Pinelands Area, issues pertaining to construction of the proposed SRL outside of the Pinelands (i.e. Bordentown, Chesterfield and North Hanover Townships), focusing on renewables rather than permitting fossil fuel infrastructure, etc.), they are not germane to the Commission's decision as to whether the 12.1-mile portion of NJNG's proposed natural gas pipeline that is to be constructed within the Pinelands Area is consistent with the standards and objectives set forth in the Pinelands CMP and the Pinelands Protection Act that are addressed below.

A number of other points were raised by commenters that do bear upon the Commission's decision in this matter. These generally relate to the consistency of the proposed natural gas pipeline with the standards and objectives of the Pinelands CMP and the Pinelands Protection Act: whether the proposed natural pipeline is associated with the function of JB-MDL; an allegation of avoiding regulatory compliance; concerns regarding Horizontal Directional Drilling; objections to the review process and potential environmental impacts as a result of construction and operation of the proposed natural gas pipeline. To more fully inform the Commission's decision making process, the Executive Director has focused the response to public comment on these issues that directly pertain to the conformance of the proposed natural gas pipeline with the standards of the Pinelands CMP.

I. The Proposed Natural Gas Pipeline is Not Associated with the Base

Comment:

Numerous comments were submitted to the effect that the proposed natural gas pipeline is not a permitted use in the Military and Federal Installation Area because it is not associated with the function of the Base. These comments generally fell into the following categories: 1) the use of the Base is a ruse, because there is no actual connection from the proposed natural gas pipeline to the Base or its activities; 2) there is no benefit to the Base; 3) there is no demonstrated military

need or purpose for the proposed natural gas pipeline; and 4) there are alternatives to the proposed route.

Commenters stated that the proposed natural gas pipeline project violates the permitted use standards for the Military and Federal Installation Area (N.J.A.C. 7:50-5.29(a)), because there is no actual connection from the proposed pipeline to the Base or to any activity on the Base at any point. Others stated that the use of the Base is a ruse; the connection to the Base is a cover to build the pipeline; the proposed natural gas pipeline just uses the Base as a path to get from one side of the Base to the other; and there is no provision for a service feed to exist on the base.

Other commenters noted that there are no plans to construct an interconnect station to allow for a connection from the proposed natural gas pipeline to the Base. Another commenter stated that the proposed pipeline has no value or tie in to the Base and, as a result, there is no provision to provide service to the Base. Other commenters noted that the plans did not include pressure lowering equipment to make the gas available to the base and that the total demand for gas at the Base is less than $\frac{1}{2}$ of 1% of the total capacity of the pipeline.

Commenters felt that the proposed natural gas pipeline failed to provide a benefit to JB-MDL and therefore, was inconsistent with the permitted use standards of the CMP. These commenters noted that there had been no demonstration of substantial benefit or an analysis of the benefit to the Base. Comments noted that only the Lakehurst section of JB-MDL is served by NJNG, that a portion of the Base is served by PSE&G and that there are no plans to create redundant service to the other sections of the base, which is larger than Lakehurst. Another commenter stated that JB-MDL derives no benefit from the proposed natural gas pipeline because the project does not serve any actual or demonstrated purpose on the Base.

Comment was submitted that there is no military need for the proposed natural gas project. A number of commenters, citing the 2012 Air Force Installation Plan, stated that the Air Force has already acknowledged that the existing gas supply at the Base is adequate, the gas supply to JB-MDL is non-interruptible and supply capacity is not an issue for future growth at the Base. Other commenters note that the letters received from the Base Commanders do not say that the project is for a military purpose. One commenter stated that there has not been a single word from the new Base Commander as to the Base's need for the project. Other commenters noted the lack of any analysis for the need for gas supply redundancy at JB-MDL. Another Commenter indicated that the Base is receiving \$50,000 per year from NJNG as a rental fee for an easement for the proposed natural gas pipeline. This commenter stated that this payment is proof that the project is not needed for the Base, because if it were the Base would have waived that fee.

Comments were received challenging the need for the proposed project generally. These commenters submitted a report prepared by Skipping Stone entitled "Analysis of the Southern Reliability Link as a Response to a Single Point of Failure" dated July 2017.

Response:

The comments received seem to be premised on a misinterpretation of the CMP's permitted use standards for a Military and Federal Installation Area (N.J.A.C. 7:50-5.29(a)). That standard permits the development of any use "associated" with the function of the Federal installation, provided such use complies with the stated conditions. The CMP does not require that the proposed use benefit the Federal installation or that such installation demonstrate a need, let

alone a substantial need or a true military need for the use. Nor does the CMP require that the land use serve a military purpose. Rather, the use need only be related to the function of the installation.

The fact that PSE&G serves other parts of the Base and there are no plans to provide redundant service to those areas also has no bearing on whether the proposed natural gas pipeline is associated with the function of the Base. It is sufficient that NJNG serves the Lakehurst section of the Base and that the proposed natural gas pipeline will provide an alternate supply source to that portion of the Base.

Moreover, the record fully supports the finding that NJNG's proposed natural gas pipeline is associated with the function of JB-MDL. The proposed natural gas pipeline does not solely pass through the base, but as stated by Former Base Commander Fredrick D. Thaden, in his letter dated February 13, 2015, the project addresses a known natural gas deficiency on JB-MDL. This redundancy is gained by looping the pipeline that serves the Base. Looping occurs when a pipeline is paralleled (looped) by a second pipeline, both of which serve the same gas source and destination. This "looping" would occur because the proposed natural gas pipeline would provide an alternative supply feed from Transco's interstate natural gas supply main in Chesterfield to NJNG's existing transmission line located on Colonial Drive in Manchester Township. This is an alternative to the current gas supply from TETCO and further away parts of smaller Transco pipeline. From there, NJNG would be able to serve the Lakehurst section of JB-MDL through its existing natural gas transmission system and its existing connection to its distribution system on Lakehurst.

The former and current Commanders of JB-MDL have all discussed JB-MDL's vulnerability to interruptions in energy supply due to natural or manmade events and the need for energy reliability and redundancy. Colonel Thaden, in particular, identified gas supply to the eastern portion of JB-MDL as a critical system deficiency. Furthermore, all three base commanders acknowledged that NJNG's proposed natural gas project provides a redundant natural gas supply to the Base and that the loss of gas supply would cripple its ability to perform its various missions. In fact, Colonel Thaden, in his letter to Assemblyman Dancer dated November 6, 2015, discussed JB-MDL's location near the terminus of the existing pipeline (i.e. in the southern portion of NJNG's service territory) and how the proposed project would provide natural gas redundancy to the Base by looping the delivery pipeline.

Moreover, despite comments to the contrary, it is a fact that there is an existing natural gas distribution system on the Lakehurst section of JB-MDL. This distribution system begins near the Base's entrance on CR 547 and extends west to the National Guard Center on County Route 539. Thus, it is of no consequence that the proposed pipeline does not contain an interconnection directly on the Lakehurst section of JB-MDL, that the plans do not include pressure lowering equipment, that the plans identify a valve site on CR 539 for a future regulator station or that the capacity of the SRL is greater than the demand for gas on the Base. The CMP does not require that a land use solely serve the Federal installation in order to permit its development on a Military and Federal Installation. See N.J.A.C. 7:50-5.29(a).

As discussed in the BPU's January 27, 2016 Reliability & Security Order, "[t]he entire length of the Pipeline is designed to provide adequate supply and reliability to the southern portion of the Petitioner's service territory by interconnecting with an existing twenty four (24) inch transmission line in Manchester." This additional redundancy benefits JB-MDL, which is served

from this system. BPU Energy Order, Dkt. No. G015040403, page 40. Thus, JB-MDL, which currently is at the end of NJNG's existing transmission system, from TETCO and smaller, separate parts of Transco, will now be at the beginning of the transmission system supplied by Transco at the new interconnection at Colonial Drive. Following the construction of the SRL, natural gas from this alternate supply would be able to serve the base, through the existing natural gas distribution system on the Lakehurst section of JB-MDL. As stated in the BPU Energy Order, "[t]he current TETCO interconnection, at the northern end of NJNG's transmission system servicing the Counties, essentially equates to a single point of failure. The design of SRL, and the fact that it provides an alternate interstate supply source to the southern portion of NJNG's transmission system, mitigates the potential of impacts of this failure point." Id. at 39.

The July 2017 Skipping Stone report does not alter this finding. The focus of the Skipping Stone report is to demonstrate why the SRL is not necessary in general and to also provide what Skipping Stone presents as a better and more cost effective solution to address a single point of failure on the one section of the entire TETCO network across which a major failure would substantially disrupt supplies to NJNG. Skipping Stone identified this alternative as a 12-mile stretch of existing pipeline known as the Freehold Lateral. Skipping Stone proffers a remedy to this single point failure through the construction of an interconnection to Transco near where it crosses the TETCO lateral in Freehold, New Jersey. Skipping Stone refers to this solution as the Freehold Back-Up Reliability Solution (FBURS)¹⁰.

This fundamental premise of the Skipping Stone report is fatally flawed. The report states that the scenario of a single point of failure upstream from the NJNG TETCO connection that would result in a disruption of the supply of gas to the NJNG system is incorrect. The report suggests that supply could be brought in from another direction on the line as it allows for gas to flow in two directions. Therefore, a single point of failure upstream could be resolved without disruption in service. Secondly, the report notes that the NJNG system is itself highly redundant such that the SRL is not needed.

Contradicting these statements, a failure on the TETCO mainline west of New Jersey occurred on April 29, 2016 near TETCO's Delmont Compressor Station in Westmoreland County, Pennsylvania. This disruption resulted in the closure of TETCO's line 27 as well as three other pipelines running through the same corridor, which resulted in the inability of 1 billion cubic feet of natural gas per day to reach mid-Atlantic markets, including New Jersey. This disruption impacted supply not only to NJNG, but to other regional customers. Over 80% of supply was lost the first two days and over 54% of supply was lost over the next nine days. In fact, the TETCO¹¹ pipeline system did not return to full service until November 1, 2016.

Significantly, following the TETCO disruption, the BPU, at its July 26, 2017 meeting discussed a table top exercise involving a hypothetical disruption of natural gas supply in parts of Central New Jersey that was patterned after the TETCO Delmont disruption. Minutes, July 26, 2017, BPU meeting, Item 6A Reliability & Security, 3. The table top exercise was named New Jersey Pilot Light 2017 and presented a scenario of a catastrophic explosion of a major interstate line within the state, during peak demand in the cold of winter, which resulted in a 14-day disruption

¹⁰ The Skipping Stone report does not conclude that the SRL will not provide redundancy to JB-MDL, but rather that the FBURS is just as reliable.

¹¹ This information comes from the Minutes of the BPU July 26, 2017 Board Meeting. This TETCO pipeline provides gas supply to E-Town Gas, NJNG and PSE&G. Id. at 4

of this natural gas feed until the damaged line could be repaired. *Id.* at 5. One of the lessons learned by the BPU staff from the exercise was that identification of more diverse gas supplies and interconnection to multiple interstate sources could improve resiliency in the gas sector. *Id.* at 6. Significantly, the BPU staff identified the SRL as an example of how an alternate supply could help mitigate a disaster of this magnitude. *Id.* In fact, in discussing the Delmont disruption as part of this exercise, BPU noted that based on that scenario NJNG would have been the most impacted and that had the incident occurred in peak demand season rather than April, it is likely it would have resulted in some immediate gas curtailments for parts of the Eastern Region of NJNG's service area.

The Skipping Stone report also fails to provide an alternate supply interconnection at the southern end of NJNG's service area. Although the FBURS provides an interconnection to an alternate interstate natural gas main, Transco, that connection also would occur north and west of Ocean, Burlington and Monmouth Counties (i.e. the northern end of NJNG's territory). As such, the FBURS would not address a disruption within NJNG's own transmission system, which the SRL does provide.

As discussed in BPU's March 18, 2016 Energy Order, Dkt. No. G0105040403, NJNG services customers in Monmouth, Ocean, Morris, Middlesex and Burlington Counties. NJNG's network consists of two-hundred and twenty-seven (227) miles of large diameter transmission lines, approximately 6,930 miles of distribution mains, and approximately 473,000 service lines.

Customers in parts of Ocean, Burlington and Monmouth Counties (the Counties) are most vulnerable to an interruption of supply, because they are served by a TETCO connection that provides approximately eighty-five (85%) of NJNG's winter peak day gas supply. *Id.* at 38. NJNG has a contract volume of 591,855 dekatherm Dth/day, with a total system capacity of 771,112 Dth/day at that interconnection. *Id.* BPU found that in the event of a disruption in the TETCO supply, it is evident that NJNG's existing two remaining interconnections with Transco, which are also in the northern end of NJNG's transmission system servicing the Counties, lack the ability to maintain adequate pressure at the southern end of the system. *Id.* at 39. According to BPU, these two Transco interconnections have an approximate capacity of 76,500 and 124,500 Dth/day and their expansion is limited by existing Transco transportation capacity available. Additionally, although NJNG has LNG facilities to help maintain system pressure, BPU found that these facilities have a maximum send-out of 170,000 Dth/day. *Id.* At maximum send-out with a full tank, NJNG's current LNG supplies will last approximately seven (7) to ten (10) days. Thus, BPU found that any disruption in the TETCO interconnection, that outstrips the capacity of the existing Transco interconnection and NJNG's existing LNG facilities' ability to maintain adequate system pressure, will result in the loss of service to customers in the southern portion of NJNG's service territory. *Id.*

II. The Commission Staff Advised the Applicant to Locate the Proposed Pipeline on JB-MDL in order to Avoid Regulatory Requirements

Comments:

Several commenters submitted copies of emails that they stated were between NJNG and the Base. Commenters noted that the emails were obtained by a FOIA request. All names on the emails have been redacted so one cannot identify the senders and recipients or their affiliations.

Based on these emails, commenters stated that the Pinelands Commission staff advised the applicant to locate the pipeline on the Base in order to avoid regulatory requirements.

Response:

The Pinelands Commission held two pre-application meetings regarding the proposal to install a natural gas transmission pipeline. These pre-application meetings were held on May 6, 2014 and October 14, 2104. Attendees at both meetings included representatives for the applicant, NJNG, and the Pinelands Commission. The point of pre-application meetings is to have a preliminary discussion regarding a potential project and its consistency with the requirements of the CMP. At the time these meetings are held, projects are not fully designed. At the May 6, 2014 meeting, the pipeline routes being considered by the applicant were discussed. Commission staff outlined the CMP standards that would apply, including the Minimum Standards for Land Use Distribution and Intensities (Land Use) at N.J.A.C. 7:50-5 and the Management Programs and Minimum Standards at N.J.A.C. 7:50-6. At the May 6, 2014 meeting, the Commission staff explained the Land Use standards associated with each of the Pinelands Management Areas located along the alternate routes being considered. Public service infrastructure, such as a natural gas pipeline, may be permitted, permitted with certain restrictions or conditions, or not permitted, depending on the Pinelands Management Area in which it is located. The route alternatives discussed included several Pinelands Management Areas: Forest Area, Preservation Area District, Rural Development Area, Pinelands Town, Regional Growth Area and Military and Federal Installation. The Land Use standards for each Management Area were discussed. The applicant was made aware where public service infrastructure was permitted, where it was prohibited and where additional standards would need to be met.

Based on select emails, commenters are suggesting that there is no need for the project on the Base and that the route through the Base was chosen based on a suggestion made by the Pinelands Commission staff. Commenters claim that the need for the pipeline on the Base was “fabricated”. The facts do not support this claim. At the first pre-application meeting held on May 6, 2014, the applicant had four route alternatives. Three of these alternatives were routed though the Base. These routes were identified by the applicant prior to any discussion with the Commission. Further, at that first meeting, the applicant noted that they had already had discussions with the Base regarding this matter. At the second pre-application meeting on October 14, 2014, representatives from the Base were in attendance and noted their concerns regarding energy reliability.

The applicant included potential routes through the Joint Base at its initial pre-application meeting with the Commission staff. As a result of discussion at that meeting regarding the CMP Land Use standards, a modification to one of the proposed routes was made to avoid going through a Pinelands Forest Area, because the applicant was told that public service infrastructure would not be permitted in that area.

III. NJNG’s Payment of \$50,000 per year to JB-MDL for an Easement Undermines the Military Need for the Project

Comment:

Comments were made regarding the \$50,000 per year NJNG is paying to the Base for an easement. Commenters associated the payment for the easement as confirmation that there was no need for the pipeline by the Base. Commenters suggested that if the Base truly had a need for the pipeline, it would have waived the payment for the easement.

Response:

The contention that the pipeline will not benefit the base because the consideration for the easement (easement fee) was not waived is erroneous. Although it is true that an easement fee may be waived in certain circumstances, failure to waive the fee does not mean that the project does not benefit the Base. That is simply not the case.

It is the policy of the Base to impose an easement fee. Air Force guidance on this matter (as set forth in the Air Force General Easement Template, which is available on-line) notes that easements are not required to be granted to a company that provides utilities for installation use only. The Air Force obtains necessary utilities such as water, electric, gas, sewer, by means of a Utility Services Contract. However, easements are required for utility lines that also provide commercial service to the general public. The easement can be waived, but as one commenter noted this can occur only when the use is “primarily for the benefit of the Government” (from the Air Force General Easement Template). In this instance, the pipeline provides clear benefit to the Base but benefits are also provided to the general public. The decision on whether to require payment for the easement was not based on whether the project benefits the base. Moreover, as discussed above, whether the proposed natural gas pipeline benefits the Base is irrelevant. The CMP at N.J.A.C. 7:50-5.29(a) only requires that use be “associated” with the function of the Federal Installation.

IV. Comments by NJNG’s General Counsel Undermines the Military Need for the Proposed Project

Comment:

Several commenters, including one who claims to be a former New Jersey Natural Gas employee, stated that the Board of Directors of New Jersey Natural Gas was advised by its then general counsel in May 2014 that “it could not legally claim a military designation for the project by simply moving it onto the base and thereby evading compliance with the CMP”. No documentation in support of this claim was submitted by any of the commenters.

Response:

The Pinelands CMP does not include any standard related to a military designation nor is such a designation required for application to the Commission.

To address the specific comment regarding a NJNG Board Meeting, New Jersey Natural Gas has responded that the statement is false; no such advice was given. NJNG stated that New Jersey Resources will not reveal confidential information discussed at a meeting of its Board of Directors, but it can confirm that none of the commenters were present at the May 2014 Board Meeting.

V. Pipeline Safety: Leaks/Explosion

Comment:

Commenters expressed concern regarding safety issues associated with the pipeline. One area of concern expressed related to homes, schools, churches and other establishments being located in close proximity to the pipeline. Commenters provided examples of pipeline explosions that have occurred throughout the country from natural gas and oil pipelines, as well as other facilities. Commenters expressed concerns regarding the proximity of the pipeline to airport runways on the Base and heavy duty trucks using nearby roads.

Comments were submitted expressing concern with unexploded ordnances on the Base that could be encountered during construction. Commenters stated that the Base was unaware of the location of all of these ordnances.

Commenters raised concerns regarding the potential for corrosion to the pipeline due to the presence of the acidic water and soil typically found in the Pinelands.

Commenters noted that there will be impacts to the Kirkwood/Cohansey aquifer and drinking water.

Response:

New Jersey requirements governing the construction, operation and maintenance of transmission and distribution lines for the portions of natural gas carried by intrastate natural gas pipeline operators are included in N.J.A.C. 17:7 Natural Gas Pipeline Rules. These rules are implemented by the BPU. As part of its review of the project, BPU staff reviewed the design and construction plans associated with the project and performed field inspections for the entire proposed route and various alternative routes.

Based on its review, the BPU staff found the pipeline to be in compliance with all relevant State and Federal Safety regulations. To further ensure the safety of the pipeline the BPU, in its January 27, 2016 Reliability and Security Order, required NJNG to install remote controlled valves for emergency shutdown and have a comprehensive transmission pipeline integrity management program which includes performing inline inspections with “smart pigs¹²”. Dkt. No. GE1504040402m p.3 In addition, NJNG is to have full time inspectors qualified by training and experience overseeing the work in the field to ensure that it is constructed and installed in accordance with State and Federal requirements. This is in addition to the pipeline safety compliance inspection that will be done by BPU staff during and after construction. In addition, once the pipeline is in operation, NJNG will monitor the pipeline 24 hours a day, 7 days a week from their control room from which they can operate all the remotely controlled valves and if necessary shut down the flow of natural gas. According to the BPU Pipeline Safety Rules, N.J.A.C. 14:7 et. seq., NJNG is also required to have Emergency Response and Operating and Maintenance Procedures in place and to coordinate them with state, county and local emergency management personnel.

¹² Smart Pigs are Pipeline Inspection Gauges (hence the acronym “PIG”), which travel internally through a pipeline to detect stress corrosion cracking, general and pitting corrosion. <http://smartpigs.net/>

With regard to the issue of unexploded ordnances, based on historical uses of the Base, it is known that there are unexploded ordnances located at the Base. The Base has identified where these use areas are and the proposed pipeline easement is outside of the areas designated by the Base as having a high or moderate potential for having unexploded ordnances.

It is possible, however, that unexploded ordnance could be encountered outside these areas. To address this, the Base Safety Office will provide safety briefs to the construction personnel to provide guidance on how to identify unexploded ordnances. In addition, NJNG will hire an expert in identifying unexploded ordnances and a Base expert will be available to handle any unexploded ordnance that may be found.

With regard to corrosion, the industry standard for preventing corrosion of the pipe due to acidic water or soils is to use pipe that has a polyethylene coating. This coating separates the pipe from the surrounding soil and protects the pipe from corrosion. In addition, NJNG will test the pipeline by applying an induced current that will identify any corrosion that might be occurring. This testing is done on a bi-monthly basis.

There are many protections in place to ensure the Kirkwood/Cohansey aquifer will not be impacted by pipeline leaks. The pipe is designed to meet standards developed to ensure the integrity of the pipeline. The pipes are coated with polyethylene to protect against corrosion that could lead to a leak occurring. The pipeline will have safety valves installed that are remotely controlled by the utility that will limit any leak should it occur. The pipeline will be monitored and inspected on a regular basis by the utility and the BPU. Further, the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA) has overall regulatory reasonability for pipelines and they oversee the inspections done by the States. These many layers of protection provide assurances that significant leaks of natural gas will not occur. Should there be an incident resulting in a release, the response mechanisms including remote control valves will limit the scope.

VI. Horizontal Directional Drilling (HDD)

Comment:

Commenters expressed concern regarding the proposed use of HDD on this project. Commenters stated there are risks associated with HDD, the most notable being inadvertent returns. An inadvertent return is the unintended transfer of drilling mud to the surface during boring machine operations. Commenters identified recent incidents associated with pipeline construction using HDD in Pennsylvania. Commenters stated that there is a need for more studies on the local conditions including soil type, geology, hydrology and local soil and groundwater contamination in order to ensure that the HDD will not have impacts.

Response:

The use of HDD for construction of underground infrastructure is the preferred method of installing pipe. N.J.A.C. 7:7-12.15. See also, N.J.A.C. 7:7A-5.2(a). In fact, the NJDEP recommends HDD beneath any wetlands or stream crossings to avoid adverse land use impacts. See, N.J.A.C. 7:7A-5.2(a). HDD has been in use for over 50 years to install gas mains, water mains, electric lines and other facilities. The NJDEP Freshwater Wetland General Permit 2 pertains to Underground Utility Lines and authorizes activities in freshwater wetlands, transition

areas, and/or State open waters, necessary for the construction and/or maintenance of an underground utility line. See, N.J.A.C. 7:7A-5.2. The Department has the authority to adopt Freshwater Wetland General Permits when, after conducting an environmental analysis, the Department determines that the regulated activities will cause only minimal adverse environmental impacts when performed separately, will have only minimal cumulative adverse impacts on the environment, and will cause only minor impacts on freshwater wetlands and State open waters. (See N.J.A.C. 7:7A-4.1). The GP 2 provides that Department approval is not required for a utility line that is jacked or directional drilled underground, if there is no surface disturbance of any freshwater wetlands, transition areas, or State open waters and there is no draining or dewatering of freshwater wetlands. Otherwise, the GP 2 requires a streamlined review. See N.J.A.C. 7:7A-5.2. The DEPs regulatory adoption of the GP 2 evidences the DEP's determination that jacking or directional drilling underground for utility lines has a de minimis impact on the environment. To provide further assurance of protection there are limitations included in GP 2 that address total permanent disturbance, width of permanent clearing, and post construction elevation. There is also a Nationwide General Permit 12 for Utility Line Activities. This Nationwide General Permit states that directional drilling is the preferred method of installation when possible, especially in tidal waters. On February 25, 2017, NJDEP issued a FWPA General Permit 2 to NJNG for its proposed pipeline.

The HDD incidents in Pennsylvania were HDD inadvertent returns. As a result, documents issued by the Pennsylvania Department of Environmental Protection imposed a temporary partial halt to the drilling. To minimize the potential of such incidents in New Jersey, the BPU requires at N.J.A.C. 14:7-1.22 that NJNG provide on-site inspection oversight immediately prior to and during any excavation and backfilling, and for the bored or horizontally directional drilled installations performed by other excavators in the vicinity of the pipeline. Further the Pinelands Commission staff recommends several conditions regarding HDD activities that include having an independent licensed professional engineer with proven experience in HDD installation, be present at all times HDD activities are being undertaken in the Pinelands Area. This individual will ensure that all HDD activities: are conducted in accordance with all approved plans; will monitor drill hole pressures and walk the area in which HDD is being conducted to identify any potential break outs of bentonite; will ensure that appropriate measures, such as installation of silt fences, hay bales, inflatable berms, etc. are taken during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site; and implement the HDD Mitigation Contingency Plan and will be responsible for implementation of the Plan.

VII. Wetland Impacts Associated with Installation of the Proposed Natural Gas Pipeline

Comment:

Commenters stated that the project violates N.J.A.C. 7:50 -6.13 – Linear improvements – in that it poses significant risks to the natural resources within the Pinelands without demonstrated need.

Response:

While most of the route is to be constructed within existing rights-of-way and roads, there is one location on the Base where the pipeline crosses portions of an upland forest and wetland.

The CMP (N.J.A.C. 7:50-6.13) permits the installation of utility transmission and distribution facilities in wetlands provided the following conditions are met: 1) there is no feasible alternative route for the linear improvement that does not involve development in a wetland, or, if none, that another feasible route which results in less significant adverse impacts on wetlands does not exist; 2) the need for the proposed linear improvement cannot be met by existing facilities or modification thereof; 3) the use represents a need which overrides the importance of protecting the wetland; 4) development of the facility will include all practical measures to mitigate the adverse impact on the wetland; and 5) the resources of the Pinelands will not be substantially impaired as a result of the facility and its development as determined exclusively based on the existence of special and unusual circumstance. The proposed crossing would result in the permanent removal of 0.42 acres (18,295 sq. ft.) of upland trees (predominately pitch pines) and the disturbance of 390.3 sq. ft. (.009 acres) of wetlands.

The pipeline will be horizontal directionally drilled under the wetlands area. However, as discussed above, the 390.3 square feet of wetland disturbance is necessary to provide for the ongoing operation and maintenance of the proposed natural gas pipeline given it is not located under or adjacent to a road. After construction, the 390.3 square feet of forested wetland will be an emergent wetland.

The information submitted as part of NJNG Pinelands Development Application and which was verified by the Commission staff demonstrates compliance with the 5 conditions of N.J.A.C. 7:50-6.13. Specifically, based upon the staff's review, there is no feasible alternative route for the proposed natural gas pipeline that does not involve development in wetlands or another feasible route which results in an impact to less than 390.3 square feet of wetlands. The proposed pipeline will provide a second redundant supply of natural gas; the need for which cannot be met by existing facilities or modifications thereof. The provision of a second redundant supply of natural gas represents a need which overrides the importance of protecting 390.3 square feet of wetlands. Development of the pipeline will include all practical measures, including HDD, to avoid earth disturbance in the wetland and the hand cutting of trees, to mitigate any adverse impact on the wetland. The conversion of the 390.3 square feet of wetland from a forested wetland to an emergent wetland will not result in the resources of the Pinelands being substantially impaired.

VIII. Concerns Regarding Dewatering

Comment:

Comment was received regarding the need for a dewatering assessment of the route. Commenters identified the need for such an analysis as there could be impacts to wetlands. Also, such an analysis was noted as needed to determine if dewatering would increase the vertical hydraulic gradient in the areas of known groundwater contamination.

Response:

The Department of Environmental Protection, Bureau of Water Allocation and Well Permitting issued six (6) Water Use Registrations for this project. Water Use Registrations were issued for each of the municipalities where the pipeline is proposed to be installed, of which three (3) are located in the Pinelands; Manchester, Jackson and Plumsted Townships.

The applicant has advised that the pipeline route is shallow so that, in general, dewatering will not be needed. Where groundwater is encountered, the dewatering that will be done as part of the project will be temporary and limited to keeping water out of the trench. The trench will be backfilled at the end of each day. There will be no lowering of the water table. Overall the dewatering will be at shallow depths, in small areas of excavation and for short duration. Further, the Environmental Assessment indicates that the few known areas of contamination of concern for this project are well below the depth of trench excavation and the proposed HDD installation. The applicant provided HDD profiles showing the deepest depth for the proposed pipeline to be at 20 feet.

IX. Contaminated Sites

Comment:

Commenters raised concerns based on the location of Superfund sites and other contamination at the Base. Concerns were expressed regarding contaminated plume migration in both soil and groundwater. Commenters noted that the impacts on this existing contamination should be addressed as there could be impact to other resources in addition to the Superfund sites. Comments were submitted questioning the impact on known contamination from the use of perfluorinated compounds at the Base.

Response:

Issues related to the Superfund sites have been addressed by the NJDEP and the United States Environmental Protection Agency (USEPA). The NJDEP's review concluded that the pipeline is proposed in areas where there is no soil contamination. The NJDEP notes that there is groundwater contamination in some areas; however, it is 50 to 70 feet below ground surface and the pipeline will not be deeper than 20 feet below ground surface. Therefore, contaminated groundwater will not be encountered. The USEPA reviewed JB-MDL's March 2017 Environmental Assessment regarding the project and made a finding of no significant impact.

X. Threatened and Endangered Species

Comments:

One commenter expressed concern regarding potential impacts of a proposed "lay down" area associated with the installation of the natural gas pipeline. Specifically, the commenter noted that the Threatened and Endangered Habitat Assessment Report submitted by the applicant identified a population of Sickie-leaved golden aster (*Pityopsis falcate*) within the "lay down" area and that a Northern pine snake (*Pituophis melanoleucus*) nest was located within 100 feet of the "lay down" area.

In addition, the commenter stated that the applicant's survey for Knieskern's beaked rush (*Rhynchospora Knieskernii*) concluded in the month of August and that the United States Fish and Wildlife Service (USF&WS) has established that mature fruit is needed to identify this species, which requires surveys to be conducted through September.

Response:

On November 30, 2015, the applicant submitted a letter and a revised plan. The submitted information noted that the proposed “lay down” area has been removed and that the natural gas pipeline would be installed within the limits of the existing road using a conventional bore installation process. That revision eliminated all potential impacts to the local population of Sickle-leaved golden aster. To avoid any potential impacts to habitats critical to the survival of any local population of Northern pine snake, an exclusion barrier will be installed to separate these habitats from the construction area.

The applicant submitted a Threatened/Endangered Species Final Report (Report), prepared by DuBois Environmental Consultants and dated July 27, 2015. The Report states that surveys for New Jersey State endangered and Pinelands listed plant species of concern occurred during the fall of 2014, and during spring and mid-to-late summer of 2015. The Knieskern’s Beaked-Rush Recovery Plan issued by the USF&WS notes that fruiting typically occurs from July to September. The submitted Report demonstrates that the threatened and endangered species survey was completed during the appropriate timeframe.

Further, one of the recommended conditions of this report is that the applicant engages, at least, one independent biologist qualified in the identification of threatened or endeared plants and threatened or endangered animals and their habitats. The biologist must be present during all times that clearing and /or construction activities are occurring. The biologist will, amongst other things, ensure that clearing and /or construction activities do not impact threatened or endangered plants or threatened or endangered animal species or their habitat.

XI The Review Process was Flawed**Comments:**

The Commission received comments on the process used to review the application. Comments included the need for additional opportunities for the public to comment including night meetings, desire for the Commission meetings to be held nearer to where the people who oppose the pipeline live, and the lack of an evidentiary or adjudicatory hearing.

Commenters also stated that the process followed by the Commission to review this project was done in violation of the Administrative Procedures Act. One commenter noted that it did not include this in their comments as this issue is currently pending before the Appellate Division.

Response:

The Commission is aware of the public’s interest in this application and the need to ensure that the Commission is presented with a full record for its consideration. Consequently, the Commission provided the public with a 50 day written comment period, as well as the opportunity to provide oral comments directly to Commissioner’s during a special meeting. During this time¹³, the application file was available for review at the Commission office.

¹³ Information related to this application has been available for review at the Commission’s Office since late April 2014 and the application has been available since April 2015.

In regard to this project, the Commission's jurisdiction extends only to the portion of the proposed NJNG natural gas pipeline to be constructed within the Pinelands Area. This portion consists of 12.1 miles, and is located in Jackson, Plumsted and Manchester Townships and within Joint Base McGuire-Dix-Lakehurst. The issues before the Commission concerning the NJNG application are, accordingly, limited to these areas and the portions of the project to be constructed outside of the Pinelands Area are not within the Commission's geographic, regulatory or legal purview.

In light of this, and to accommodate an anticipated large public turnout, a special meeting of the Commission was held at the Pine Belt Arena in Toms River on July 26, 2017. This venue is located approximately 9 miles from the proposed portion of the NJNG pipeline subject to the Commission's jurisdiction. By contrast, the requests for additional meeting locations and times referred to portions of the project located to the west and outside of the Pinelands. It is important to note that opportunities for public comment for the portions of the project outside the Pinelands were provided by both the NJDEP and the BPU as both agencies have regulatory jurisdiction in those areas.

The request for an evidentiary or adjudicatory hearing for this matter was addressed by the Commission in Resolution No. PC4-17-10 and in its response to the appeal by the Sierra Club and PPA, which was remanded to the Pinelands Commission by the Appellate Division by Orders dated January 31, and February 14, 2017. In response to the remand, the Commission decided that rather than have an adjudicatory hearing or trial type hearing it would rely on the record developed by the BPU and the Commission's regulatory program and would provide an opportunity for the public to comment in writing and at a special meeting of the Commission. See Resolution PC4-17-10. The Commission also decided that an evidentiary hearing was not necessary given the limited regulatory issues involved in this application. *Id.* The Commission, also expressly afforded the former appellants (the Sierra Club and PPA) the opportunity to submit any additional information that it wished as part of the public comments process. *Id.*

Further, in order to accommodate a request for an adjudicatory hearing, the requestor would need to meet the requirements for such a hearing established by the Administrative Procedure Act. See N.J.S.A. 52:14B-3.1-3.3. Specifically, the requestor would need to articulate a particularized property interest or statutory right which would entitle it to an adjudicatory hearing. In this instance, none of individuals who requested a hearing met these requirements.

With regard to the issue of whether the process followed by the Commission to review this project was done in violation of the Administrative Procedures Act, this issue is presently pending before the Appellate Division. It is the Commission's position that the review process for this application is legally valid and implements the Appellate Division's remand Orders as set forth in its response brief in the pending appeal.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director concludes that the proposed NJNG natural gas pipeline, Application No 2014-0045.001, conforms to the standards of the Pinelands CMP. The Executive Director therefore recommends that the Pinelands Commission **APPROVE** it subject to the following conditions:

CONDITIONS

1. Except as modified by the below conditions, the proposed natural gas pipeline project shall adhere to the plan, consisting of 15 sheets, prepared by AECOM and dated as follows:

Sheets 1-12, 14 & 14A, dated 8/17/2015

Sheet 13, dated 8/17/2015, last revised 11/25/2015

Site Plan, consisting of 1 sheet, prepared by AECOM, dated 10/23/2015.

Site Plan, consisting of 4 sheets, prepared by AECOM and dated as follows:

Sheets 1-4, dated 11/25/2015

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Any proposed revegetation shall adhere to the "Vegetation" standards of the CMP found at N.J.A.C. 7:50-6.21 et. seq. Where appropriate, the applicant is encouraged to utilize the following Pinelands native grasses for revegetation: Switch grass, Little bluestem and Broom-sedge.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands and said measures shall be maintained in place until all development has been completed and the area has been stabilized.
6. The limits of the proposed area of disturbance as depicted on the plans submitted by NJNG to the Commission, and delineated in Paragraph 1 above, shall be marked in the field using silt fence and orange plastic construction fencing.
7. The applicant shall engage at least one independent biologist qualified in the identification of threatened and endangered (T&E) plants and animals and their habitats, including T&E species and habitats unique to the Pinelands. The biologist(s) shall be present during all times that clearing and/or construction activities are being undertaken. The biologist shall ensure that all threatened and endangered species Best Management Practices (BMPs) identified in the plans delineated in Paragraph 1 above are being followed at all times during construction. 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 T&E species of animals or plants and that any such plants or animals discovered during construction are protected. The biologist(s) shall notify the Pinelands Commission immediately if any T&E plants or animals or habitat critical to their survival are discovered during construction, ensure that all clearing or construction activities in the vicinity of such T&E species or critical habitat immediately cease pending direction from the Pinelands Commission Executive Director and take all possible interim steps to protect such species or critical habitats. Such independent biologist(s) shall be approved by the Commission prior to being engaged by the applicant.

8. The applicant shall engage, subject to prior approval thereof by the Commission, an independent licensed professional engineer with proven experience in the installation of large diameter pipelines using the Horizontal Directional Drilling (HDD) method to be present at all times HDD activities are being undertaken. The independent engineer shall:
 - a. Ensure that all HDD activities are conducted in accordance with all approved plans;
 - b. Ensure that appropriate measures, such as installation of silt fence, hay bales, inflatable berm, etc. are taken during HDDs to prevent the discharge of bentonite to wetlands, streams or any other water body or beyond the immediate confines of the drill site;
 - c. Monitor drill hole pressures and walk the area in which the HDD is being conducted to identify any potential break outs of bentonite;
 - d. Ensure that prior to commencement of HDD, the applicant provides the Pinelands Commission's Executive Director with a copy of the HDD Break Out Mitigation Contingency Plan proposed to be utilized for all HDDs to be conducted during construction of the pipeline and that the Executive Director approves the plan in writing prior to any HDD activities occurring; and
 - e. Be responsible for immediate implementation of the Mitigation Contingency Plan should a break out of bentonite occur and require the immediate cessation of all HDD activities and contain the area of the break out to the smallest feasible area. The applicant shall within 24 hours notify the Pinelands Commission's Executive Director of the location of the break out and advise as to the response actions being taken to address the break out in accordance with the approved Mitigation Contingency Plan.



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 28

TITLE: Issuing an Order to Certify Ordinances 12-2011 and 15-2017 of Pemberton Township

Commissioner Lanbauer moves and Commissioner Avesy seconds the motion that:

WHEREAS, on June 3, 1983, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Pemberton Township; and

WHEREAS, Resolution #PC4-83-52 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 #PC4-83-52 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 June 1, 2011, Pemberton Township adopted Ordinance 12-2011, approving a new Redevelopment Plan for the Browns Mills Town Center Redevelopment Area, which is located in a Pinelands Regional Growth Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 12-2011 on December 19, 2011; and

WHEREAS, over the next several years, the Township and Commission staff met numerous times to discuss the new Redevelopment Plan and its relationship to the residential density and Pinelands Development Credit requirements of the Comprehensive Management Plan;

WHEREAS, amendments to the Redevelopment Plan to address these Comprehensive Management Plan issues were drafted but the Township did not proceed with adoption until 2017; and

WHEREAS, on June 7, 2017, Pemberton Township adopted Ordinance 15-2017, amending the Browns Mills Town Center Redevelopment Plan for purposes of consistency with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 15-2017 on June 23, 2017; and

WHEREAS, by letter dated June 28, 2017, the Executive Director notified the Township that Ordinances 12-2011 and 15-2017 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinances 12-2011 and 15-2017 was duly advertised, noticed and held on August 2, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinances 12-2011 and 15-2017 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinances 12-2011 and 15-2017 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinances 12-2011 and 15-2017 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 Ordinances 12-2011 and 15-2017 of Pemberton Township are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to Pemberton 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

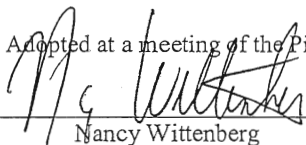
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*				
Ashmun	X			Galletta	X			Prickett				R
Avery	X			Jannarone	X			Quinn	X			
Barr			X	Lloyd	X			Rohan Green	X			
Brown	X			Lohbauer	X			Earlen	X			
Chila	X			McGlinchey	X							

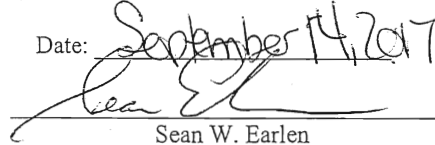
* A = Abstained / R = Recused

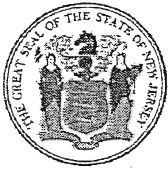
Adopted at a meeting of the Pinelands Commission

Date:

September 14, 2017


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 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

Sean W. Earlen
 Chairman
 Nancy Wittenberg
 Executive Director

**REPORT ON PEMBERTON TOWNSHIP ORDINANCES 12-2011 AND 15-2017,
 ADOPTING A REVISED REDEVELOPMENT PLAN FOR THE
 BROWNS MILLS TOWN CENTER REDEVELOPMENT AREA**

August 25, 2017

Pemberton Township
 500 Pemberton-Browns Mills Road
 Pemberton, NJ 08068

FINDINGS OF FACT

I. Background

The Township of Pemberton is located in eastern Burlington County, in the northwestern section of the Pinelands Area. Pinelands municipalities that abut Pemberton Township include New Hanover, Springfield, Southampton and Woodland Townships in Burlington County and Manchester and Plumsted Townships in Ocean County.

On June 3, 1983, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Pemberton Township.

On June 1, 2011, Pemberton Township adopted Ordinance 12-2011, approving a new Redevelopment Plan for the Browns Mills Town Center Redevelopment Area, superseding the plan previously enacted by the Township in 1995. The Browns Mills Town Center Redevelopment Area is located in a Pinelands Regional Growth Area. The Pinelands Commission received a certified copy of Ordinance 12-2011 on December 19, 2011.

Over the next several years, the Township and Commission staff met numerous times to discuss the new Redevelopment Plan and its relationship to Comprehensive Management Plan standards for residential density and the accommodation of opportunities for Pinelands Development Credit use. Amendments to the Redevelopment Plan to address these issues were drafted but the Township did not proceed with adoption. In 2017, the Township began working with the New Jersey Department of Community Affairs, Local Planning Services, on a revised vision for the Browns Mills Town Center Redevelopment Area. That planning process is likely to result in adoption of revisions to the redevelopment plan, both to simplify the plan and better address residential development potential. In the meantime, however, the Township decided to adopt amendments to the redevelopment plan necessary for conformance with the Comprehensive Management Plan.

On June 7, 2017, Pemberton Township adopted Ordinance 15-2017, amending the Browns Mills Town Center Redevelopment Plan adopted by Ordinance 12-2011 for purposes of consistency with the Pinelands CMP. The Pinelands Commission received a certified copy of Ordinance 15-2017 on June 23, 2017.

By letter dated June 28, 2017, the Executive Director notified the Township that Ordinances 12-2011 and 15-2017 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance 12-2011, adopting the Browns Mills Town Center Redevelopment Plan, dated June 2011 and adopted on June 1, 2011; and
- * Ordinance 15-2017, amending the Browns Mills Town Center Redevelopment Plan adopted by Ordinance 12-2011, adopted on June 7, 2017.

These ordinances 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**

Ordinance 12-2011 adopts a new redevelopment plan for the Browns Mills Town Center Redevelopment Area, superseding the plan previously enacted by the Township in 1995. The Redevelopment Area is centered around Pemberton-Browns Mills, Juliustown and Trenton Roads and contains extensive areas of existing development (see Exhibit #1). The primary objectives of the new plan are restoring Browns Mills to a recreation destination, generating new ratables and job opportunities by encouraging nonresidential development to support the needs of Deborah Hospital, the Joint Base and the community, increasing residential density by offering a variety of housing options and improving the quality of stores in Browns Mills through rehabilitation of existing shopping centers and buildings. To achieve these objectives, the new plan adopts a form-based code containing detailed design standards that will govern development in the Redevelopment Area. The entire Redevelopment Area is located in a Pinelands Regional Growth Area.

In terms of zoning, the 2011 redevelopment plan establishes six districts within the Redevelopment Area, referred to as Town Village, Destination Retail, Neighborhood Transition, Noteboom Neighborhood, Mirror Lake and Open Space (see Exhibit #2). Permitted building

types (cottages, bungalows, colonial houses, attached/twin homes, townhomes, multiple residential dwellings, village commercial and corridor commercial) are then distributed among the sub-districts, with corresponding lot area and bulk requirements. The Town Village District, located in the center of the Redevelopment Area, is envisioned as a mixed-use area with prominent new commercial buildings and a public plaza. The Destination Retail District, which encompasses the old Browns Mills Shopping Center on Pemberton-Browns Mills Road, is primarily intended for new retail stores to serve the community. The Neighborhood Transition District is designed for small-scale commercial neighborhood stores, medical offices and other institutional uses to support the future expansion plans of Deborah Hospital. New residential development is the focus of the Noteboom Neighborhood District, which is planned for a mixture of single-family homes, townhouses and multifamily residential units. The Mirror Lake District is focused on attracting a new commercial center with pedestrian connections to the lake. Finally, in the Open Space District, multi-use trails and community parks are permitted.

Ordinance 15-2017 amends the 2011 Browns Mills Town Center Redevelopment Plan by adding single-family detached dwellings as a permitted use in the Open Space sub-district, in recognition of the fact that although much of the sub-district is comprised of publicly-owned property, a number of privately-owned lots remain. Ordinance 15-2017 also adds language to the plan that requires all development within the Redevelopment Area to comply with the minimum environmental standards of the CMP.

It should be noted that the Redevelopment Plan does not establish permitted densities for residential development in the Redevelopment Area. Instead, the Plan relies on minimum lot area requirements to govern the intensity of permitted residential development. In the Noteboom Neighborhood District, single-family detached units are permitted on lots ranging from 8,000 square feet to 15,000 square feet, depending on the type of home being constructed. Such lot size requirements equate to a density of 2.0-5.5 units per acre. Multifamily residential units, defined in the plan as buildings containing up to four units, are assigned a minimum lot area requirement of 10,000 square feet and a maximum lot area requirement of 18,000 square feet. Townhouses are assigned much smaller lot area requirements (900-3,000 square feet). The Township's estimates of residential zoning capacity under the 2011 Redevelopment Plan indicate the potential for some 250 new units, a figure which includes a small number of condominiums on the second and third floors of certain commercial buildings. While somewhat higher than the CMP's prescribed density for Pemberton's Regional Growth Area (3.0 units per upland acre), this permitted intensity of development is not inconsistent with CMP standards given the availability of infrastructure and the primarily developed nature of this portion of Pemberton's Regional Growth Area.

Pemberton Township Ordinances 12-2011 and 15-2017 are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

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**

The Browns Mills Town Center Redevelopment Plan adopted by Ordinance 12-2011 permits new residential development (single-family detached units, townhouses, multifamily units and condominiums) within the redevelopment area. Perhaps as many as 250 new units will be feasible based on the standards adopted by Ordinance 12-2011.

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficiently residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits (PDC) as provided for in N.J.A.C. 7:50-5.28(a)3. In order to comply with N.J.A.C. 7:50-5.28(a)3, Ordinance 15-2017 requires that PDCs be acquired and redeemed for 25 percent of all single-family, townhouse or multifamily residential units in the Redevelopment Area. This requirement applies only to projects of five or more units (i.e., major developments) and does not include condominiums over retail stores.

While the 25 percent requirement for residential development in the redevelopment area is not as high a number as would be provided through the more traditional zoning approach where PDCs would account for 33 percent of the total number of permitted units, it is important to remember that the traditional base density/bonus density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinance 15-2017 *guarantees* that PDCs will be purchased and redeemed as part of the approval of any major residential development within the redevelopment area, regardless of the density or number of units that are ultimately built. Given the greater certainty provided by this approach, the Township's desire to promote mixed use development by exempting condominiums from PDC requirements and the higher density permitted overall in the Redevelopment Area, the Executive Director believes that the 25 percent PDC requirement adopted by Ordinance 15-2017 should be viewed as being consistent with Comprehensive Management Plan standards.

Ordinance 15-2017 also amends the Redevelopment Plan by incorporating requirements for the use of PDCs in association with certain use variances that may be granted by the Township in the Redevelopment Area. These variance provisions are consistent with N.J.A.C. 7:50-5.28(a)5.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Pemberton Township Ordinances 12-2011 and 15-2017, adopting and amending the Browns Mills Town Center Redevelopment Plan, 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

Pemberton Township Ordinances 12-2011 and 15-2017, adopting and amending the Browns Mills Town Center Redevelopment Plan, 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

The Browns Mills Town Center Redevelopment Area is not contiguous with or adjacent to any other municipalities. Therefore, this standard is not applicable.

PUBLIC HEARING

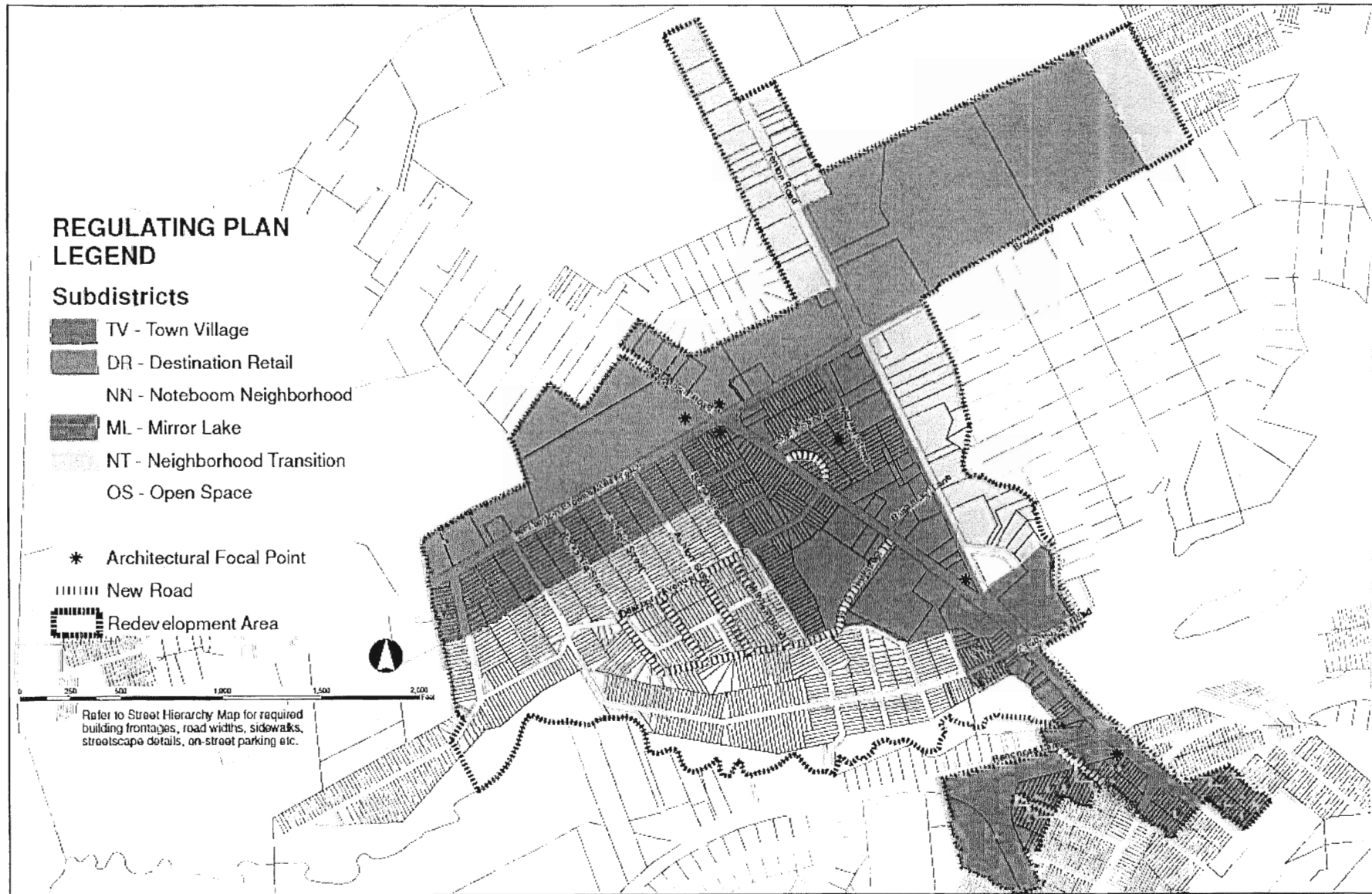
A public hearing to receive testimony concerning Pemberton Township's application for certification of Ordinances 12-2011 and 15-2017 was duly advertised, noticed and held on August 2, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through August 9, 2017; however, none were received.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Pemberton Township Ordinances 12-2011 and 15-2017 comply 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 Ordinances 12-2011 and 15-2017 of Pemberton Township.

SRG/CPE
Attachments





RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 29

TITLE: Issuing an Order to Certify Ordinances 7-16 and 8-17 of the Borough of South Toms River

Commissioner McBlinchey moves and Commissioner Pickett seconds the motion that:

WHEREAS, on October 11, 2013, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of South Toms River Borough; and

WHEREAS, Resolution #PC4-13-37 of the Pinelands Commission specified that any amendment to the Borough'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 #PC4-13-37 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 December 12, 2016, South Toms River Borough adopted Ordinance 7-16, approving a Redevelopment Plan for the Municipal Landfill Redevelopment Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 7-16 on January 9, 2017 and a copy of the adopted Municipal Landfill Redevelopment Plan on May 31, 2017; and

WHEREAS, on June 26, 2017, South Toms River Borough adopted Ordinance 8-17, approving a Redevelopment Plan for the Dover Road Redevelopment Area; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance 8-17 and a copy of the adopted Dover Road Redevelopment Plan on June 27, 2017; and

WHEREAS, the Municipal Landfill Redevelopment Area and the Dover Road Redevelopment Area are both located in the Pinelands Regional Growth Area; and

WHEREAS, by letter dated June 29, 2017, the Executive Director notified the Borough that Ordinances 7-16 and 8-17 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony on Ordinances 7-16 and 8-17 was duly advertised, noticed and held on August 2, 2017 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinances 7-16 and 8-17 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify that Ordinances 7-16 and 8-17 are in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinances 7-16 and 8-17 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 Ordinances 7-16 and 8-17 of the Borough of South Toms River are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to South Toms River Borough'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.

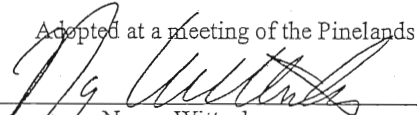
Record of Commission Votes

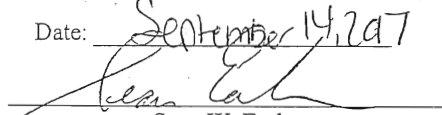
AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun		X		Galletta	X			Prickett	X		
Avery	X			Jannarone	X			Quinn	X		
Barr			X	Lloyd	X			Rohan Green	X		
Brown	X			Lohbauer	X			Earlen	X		
Chila	X			McGlinchey	X						

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: September 14, 2017


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 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@njpinelands.state.nj.us
Application Specific Information: AppInfo@njpinelands.state.nj.us

Sean W. Earlen
Chairman

Nancy Wittenberg
Executive Director

**REPORT ON SOUTH TOMS RIVER BOROUGH ORDINANCE 7-16, ADOPTING
THE MUNICIPAL LANDFILL REDEVELOPMENT PLAN, AND ORDINANCE 8-17,
ADOPTING THE DOVER ROAD REDEVELOPMENT PLAN**

August 25, 2017

South Toms River Borough
144 Mill Street
South Toms River, NJ 08757

FINDINGS OF FACT

I. Background

The Borough of South Toms River is located in north-central Ocean County, in the northeastern portion of the Pinelands Area. Adjacent municipalities include Toms River Township to the north and east, Berkeley Township to the north and west and Beachwood Borough to the south and east.

On October 11, 2013, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of South Toms River Borough.

On December 12, 2016, South Toms River Borough adopted Ordinance 7-16, approving a Redevelopment Plan for the Municipal Landfill Redevelopment Area. The Pinelands Commission received a certified copy of Ordinance 7-16 on January 9, 2017 and a copy of the adopted Municipal Landfill Redevelopment Plan on May 31, 2017.

On June 26, 2017, South Toms River Borough adopted Ordinance 8-17, approving a Redevelopment Plan for the Dover Road Redevelopment Area. The Pinelands Commission received a certified copy of Ordinance 8-17 and a copy of the adopted Dover Road Redevelopment Plan on June 27, 2017.

By letter dated June 29, 2017, the Executive Director notified the Borough those Ordinances 7-16 and 8-17 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

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

- * Ordinance 7-16, adopting the Municipal Landfill Redevelopment Plan, adopted on December 12, 2016; and

- * Ordinance 8-17, adopting the Dover Road Redevelopment Plan, adopted on June 26, 2017.

These ordinances 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

Municipal Landfill Redevelopment Plan

Ordinance 7-16 adopts the Municipal Landfill Redevelopment Plan. This redevelopment plan establishes a redevelopment area encompassing five lots (Block 20, Lots 1.01-1.05) and approximately 50 acres. The affected lots, which are located in a Pinelands Regional Growth Area, contain the municipality's former landfill, a recreation center and athletic fields and an existing public works facility (see attached Exhibits 1 and 2). The five lots are currently included in the ML (Municipal Land) Zone, where permitted uses are limited to uses and structures owned by governmental entities to be used for public purposes. Four of the lots (Lots 1.02-1.05) in the redevelopment area are owned by the Borough. The fifth lot (Lot 1.01) is owned by JCP&L.

The new Municipal Landfill Redevelopment Area serves as an overlay to the existing zoning, such that all uses in the ML Zone will remain permitted. Additional permitted uses in the Municipal Landfill Redevelopment Area include townhouses and multifamily residential buildings. Such residential units may be developed at a maximum density of 7.15 units per acre. No more than 368 residential units are permitted in the redevelopment area. The redeveloper will be required to set aside between 0 and 20% of the units for affordable housing, with the exact percentage to be determined in a separate redevelopment agreement between the redeveloper and the Borough. According to the Redevelopment Plan, all residential development is to occur only on Block 20, Lots 1.03, 1.04 and 1.05. These three lots contain the existing municipal public works facility, the existing municipal landfill and the adjacent vacant parcel. The existing recreational facilities on Lot 1.02 will be retained and will not be relocated. The existing public works facility on Lot 1.03 will be relocated and redeveloped elsewhere in the Redevelopment Area. No development is proposed on the property owned by JCP&L (Lot 1.01). As is explicitly stated in the Redevelopment Plan, all development in the Municipal Landfill Redevelopment Area must be consistent with the minimum environmental standards of the Comprehensive Management Plan.

The Redevelopment Plan is intended to facilitate closure of the municipal landfill in accordance with Department of Environmental Protection and Comprehensive Management Plan regulations by providing a redeveloper with the opportunity to develop a significant number of residential

units. It is the Borough's hope that the profit made from the residential development will make the landfill closure financially feasible.

Dover Road Redevelopment Plan

Ordinance 8-17 adopts the Dover Road Redevelopment Plan. This redevelopment plan establishes the Dover Road Redevelopment Area, consisting of two lots (Block 20, Lots 11.02 and 12) totaling approximately 21 acres in size. The Dover Road Redevelopment Area is located in a Pinelands Regional Growth Area, on South Toms River's boundary with Berkeley Township (see Exhibits #3 and #4). Although a concrete plant was previously operated on Block 20, Lot 11.02, it was discontinued many years ago. The two lots included in the Redevelopment Area are currently vacant, privately owned, and located in the Borough's SED (Special Economic Development) Zone where a mixture of nonresidential and planned residential development is permitted.

The goal of the Redevelopment Plan is to capitalize on the Dover Road area's proximity to the Garden State Parkway and provide new market-rate and affordable housing opportunities in the Borough. To that end, permitted uses in the Dover Road Redevelopment Area are limited to multi-family housing and townhouses. A minimum of 10 percent and a maximum of 20 percent of the dwelling units proposed in the Redevelopment Area must be set aside and managed as affordable units. A maximum density of 17 units per acre is permitted, creating the potential for 358 new units. By contrast, the Borough's existing zoning plan for the area permits age-restricted residential development at a density of only 8 units per acre, as well as a variety of nonresidential uses. The Redevelopment Plan eliminates nonresidential development as a permitted use and increases residential development potential by approximately 190 units.

Summary

As a result of the two redevelopment plans, the residential zoning capacity of South Toms River's Regional Growth Area has increased from approximately 170 units to a total of 726 units. In terms of maximum zoning capacity, this is well above the minimum required by the Comprehensive Management Plan. N.J.A.C. 7:50-5.28(a) requires the Borough to zone for only 283 residential units within the two Redevelopment Areas combined. The Borough has elected to provide higher permitted density in these two Redevelopment Areas order to provide for townhouse and multi-family housing development, accommodate affordable housing and facilitate the closure of an existing landfill. These higher permitted densities are not unreasonable, given the intensity of surrounding residential development and the lack of environmental constraints in the Redevelopment Areas. Neither Redevelopment Area contains wetlands or wetlands buffer areas that require protection. In addition, a recent survey completed for the Municipal Landfill Redevelopment Area demonstrated that the area contains no critical habitat for threatened or endangered plants or animals (see page 7 for further details). An acceptable landfill closure plan must still be developed and implemented; however, once that is accomplished, the residential development should be able to proceed.

The fact that the residential capacity of the Borough's Regional Growth Area will now exceed the minimum required by the Comprehensive Management Plan does not make Ordinances 7-16 and 8-17 inconsistent with the Comprehensive Management Plan. In fact, N.J.A.C. 7:50-5.28(a)7i expressly authorizes municipalities to establish programs that provide for additional density within their Regional Growth Areas, provided that the Pinelands Development Credit

program is not impaired as a result. In this case, South Toms River Borough has satisfied its Regional Growth Area residential zoning obligation under the Comprehensive Management Plan and has elected to provide additional density to two designated Redevelopment Areas while at the same time requiring a certain percentage of Pinelands Development Credit use (see Section 8, below).

The development intensities, permitted uses and zoning changes adopted by Ordinances 7-16 and 8-17 are otherwise consistent with the standards for Pinelands Regional Growth Areas set forth in the Comprehensive Management Plan. Therefore, this standard for certification is met.

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

Not applicable.

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

N.J.A.C. 7:50-3.39(a)8 specifies that in order to be certified by the Commission, municipal land use ordinances must provide for sufficient residentially zoned property in the Regional Growth Area to be eligible for an increase in density to accommodate Pinelands Development Credits (PDCs) as provided for in N.J.A.C. 7:50-5.28(a)3.

In order to comply with N.J.A.C. 7:50-5.28(a)3, Ordinances 7-16 and 8-17 require that PDCs be acquired and redeemed for 25% of all residential units within the new Municipal Landfill Redevelopment Area and the new Dover Road Redevelopment Area. Units made affordable to low- and moderate-income households are exempt from this requirement, up to a maximum of 20 percent of the total number of units in both redevelopment areas. Affordable housing units

beyond this maximum set-aside requirement will require that PDCs be acquired and redeemed at the 25% rate.

Based on the densities assigned to South Toms River Borough's Regional Growth Area by the Comprehensive Management Plan (N.J.A.C. 7:50-5.28), the Borough is required to provide an opportunity for the development of residential units at a base density of 3.5 units per acre, with a bonus density of up to 5.25 units per acre achievable through the use of PDCs. In the two new redevelopment areas, the Borough is required to permit 187 residential units and the opportunity for an additional 96 units through the use of PDCs. In other words, the municipality would have to allow for the opportunity to use 96 rights (24 Pinelands Development Credits). This traditional approach requires that municipalities provide the *opportunity* for use of PDCs for 33% of the total number of residential units permitted in their Regional Growth Areas.

The PDC requirements adopted by Ordinances 7-16 and 8-17 will result in an opportunity for the use of 146 rights (36.50 Pinelands Development Credits). As described in Section 2 above, the municipality has elected to zone at higher densities than required by the Comprehensive Management Plan. This in turn results in greater opportunities for PDC use than required. While the overall PDC opportunity of 25% is not as high a number as would be provided through the more traditional approach described above, it is important to remember that the traditional base-density/bonus-density approach utilized throughout the Pinelands Area only provides an *opportunity* for the use of PDCs. There is no requirement under the traditional approach that any PDCs be used in any particular development project. Ordinances 7-16 and 8-17 *guarantee* a PDC redemption rate of 25% for residential development within the two Redevelopment Areas. Given the greater certainty provided by this approach, the Executive Director finds that the PDC requirements adopted by Ordinances 7-16 and 8-17 are consistent with Comprehensive Management Plan standards.

This standard for certification is met.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

South Toms River Borough Ordinances 7-16 and 8-17, adopting the Municipal Landfill Redevelopment Plan and the Dover Road Redevelopment Plan, respectively, 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

South Toms River Borough Ordinances 7-16 and 8-17, adopting the Municipal Landfill Redevelopment Plan and the Dover Road Redevelopment Plan, respectively, 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

The triangular-shaped Municipal Landfill Redevelopment Area is bordered on two sides by Berkeley Township. The northern boundary of the Redevelopment Area also coincides with the boundary of the Pinelands Area. Lands to the north in Berkeley are within the Pinelands National Reserve, designated as Regional Growth Area and, for the most part, residentially developed on relatively small lots. To the west, the Redevelopment Area borders Berkeley Township's Pinelands Forest Area. All adjacent lands in the Forest Area were acquired by Ocean County in 2008 and are now managed as part of the County's park system. Any development in the Municipal Landfill Redevelopment Area, including the public buildings and uses permitted by the underlying zoning designation, has the potential to be in conflict with the public open space across the municipal boundary. South Toms River has taken steps to address this by requiring a minimum 50 foot planted buffer around the perimeter of any new residential development in the Redevelopment Area. More importantly, residential development will only occur if the existing landfill is appropriately closed, something which would be of benefit to all surrounding lands and land uses.

The Dover Road Redevelopment Area is also on the edge of the Pinelands Area and borders Berkeley Township. Adjacent lands in Berkeley Township in the Pinelands National Reserve are designated as Regional Growth Area and are residentially developed.

The two Redevelopment Plans are not expected to result in any significant intermunicipal conflicts. Therefore, this standard for certification is met.

PUBLIC HEARING

A public hearing to receive testimony concerning South Toms River Borough's application for certification of Ordinances 7-16 and 8-17 was duly advertised, noticed and held on August 2, 2017 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 no testimony was received.

Written comments were accepted through August 9, 2017 and were received from Ryan Rebozo, Ph.D., Director of Conservation Science, and Katherine Smith, Policy Advocate, on behalf of the Pinelands Preservation Alliance (see Exhibit #5).

EXECUTIVE DIRECTOR'S RESPONSE

The Pinelands Preservation Alliance (PPA) raises three concerns in its written comments, primarily related to the Municipal Landfill Redevelopment Area: (1) the protection of threatened and endangered species and their habitat; (2) opportunities for the use of Pinelands Development Credits; and (3) the protection of existing recreational lands.

1. The PPA expresses concerns with the threatened and endangered species survey process and results for the Municipal Landfill Redevelopment Area. The PPA notes that although Northern pine snake was identified on the municipal landfill site in 2001-2003, no such snakes were identified in the more recent survey completed in 2016. Likewise, the 2016 survey also did not identify Corn snakes or sickle-leaved golden aster on the property, the two other target species identified by Commission staff. The loss of rare species habitat is attributed to human intrusion and intensive use of land, something which will only be made worse by the Borough's two redevelopment plans. The PPA expresses concerns about impacts of redevelopment on surrounding lands, particularly the important habitat that exists on several County-owned properties. The PPA suggests that a "landscape level review of rare species occurrences and land use changes is lacking" and would be beneficial to the Commission's decision-making process on municipal ordinances.

As noted by PPA, a survey was recently completed for the Municipal Landfill Redevelopment Area. The survey was deemed necessary by Commission staff to determine the presence or absence of critical habitat for Northern pine snake, Corn snake and sickle-leaved golden aster. It encompassed nearly all of the redevelopment area (with the exception of the long, narrow parcel - Lot 1.01 - owned by JCP&L). Survey protocols were reviewed and approved by Commission staff prior to the commencement of the survey, and the staff monitored survey activities throughout its duration. The survey was completed in late 2016 and submitted to the Commission for review (see attachment to the PPA's written comments). The survey did not identify any of the target species on the property, nor did it identify any evidence of nesting by pine snakes or corn snakes or hibernacula for either species. According to the survey report, the area contains poor ecological characteristics due to soil compaction and consistency, human intrusion and intensive use of the property for a variety of purposes. The character of the right-of-way running through the site has also changed over time. Specifically, the solid waste debris piles that were documented along the right-of-way in the early 2000's were removed when the utility company made certain upgrades. In addition, illegal use of the right-of-way by off-road vehicles has intensified in recent years so that there is now evidence of berms, cuts and tracks in the right-of-way. After review of the final survey report, and due consideration of all available information, Commission staff agreed that the area does not contain critical habitat and accepted the survey's negative findings.

With respect to the Dover Road Redevelopment Area, an application for development has not yet been submitted to the Commission and, therefore, a threatened and endangered species survey has not been required or completed. The need for a survey and its parameters will be determined at a future date. The redevelopment plan does not authorize development or any particular development pattern; it merely changes the permitted uses in the area from a mixture commercial and planned residential development to solely high-density residential development.

2. The PPA expresses concern with the loss of PDC opportunities resulting from the Municipal Landfill Redevelopment Area. In fact, no reduction will occur. On the contrary, the Municipal

Landfill Redevelopment Plan provides real opportunities for PDC use where none existed before. The Borough's currently certified zoning plan permits no residential development and provides zero opportunities for the use of PDCs in the Municipal Lands Zone. The new redevelopment plan permits up to 368 new units and requires the use of PDCs for 25% of all market-rate units, thereby providing the opportunity for use of 74 rights (18.50 PDCs). Under the prior zoning plan, the use of PDCs would be required only if the Borough were to approve a use variance to allow development of one or more homes in the Municipal Lands Zone. In other words, the 50-100% PDC requirements referenced in PPA's comments would be triggered only if a deviation from the zoning plan were approved. Use variances are uncommon and any PDC use associated with them cannot be viewed as the provision of actual opportunities for the use of credits.

Importantly, any use variance involving a sizeable number of residential units in the Municipal Lands Zone (such as the 368 units allowed by the redevelopment plan) would likely conflict with N.J.A.C. 7:50-5.28(a)5i and not be allowed to take effect. Such a use variance would represent too significant a departure from the Borough's certified master plan and zoning ordinance. In addition, 368 units far exceeds the 2% base unit threshold set forth in N.J.A.C. 7:50-5.28(a)5i(1) for use variances involving residential development in nonresidential zones.

South Toms River is to be commended for accommodating PDC use in its new Municipal Landfill Redevelopment Area. The use of PDCs will now be a required component of any approved residential development. The use of PDCs on these lands will no longer be dependent on the granting of a use variance, truly an unlikely event on municipally-owned property.

3. The PPA notes that one of the parcels within the Municipal Landfill Redevelopment Area has a Green Acres encumbrance on 6.92 acres of parkland, encompassing existing recreation facilities. Because this parcel is listed on the State's Recreation and Open Space Inventory (ROSI), PPA submits that the redevelopment plan must expressly require its continued protection in order to be consistent with the recreation standards of the CMP.

The Municipal Landfill Redevelopment Plan acknowledges that one of the parcels in the redevelopment area (Block 20, Lot 1.02) contains existing athletic fields and the municipality's recreation/community center. The Plan states several times that all of the recreation facilities located on Lot 1.02 will be retained. They will not be relocated or removed. The Plan also makes clear that all residential development authorized in the redevelopment area will be limited to Lots 1.03, 1.04 and 1.05, none of which are listed on the ROSI or, to the Executive Director's knowledge, subject to any conservation easements. The Plan does not authorize or even recommend lifting the Green Acres restriction or removal of the property from the ROSI. Instead, it states that the existing recreational use will continue. The Executive Director believes this is sufficient.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that South Toms River Borough Ordinances 7-16 and 8-17 comply 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 Ordinances 7-16 and 8-17 of South Toms River Borough.

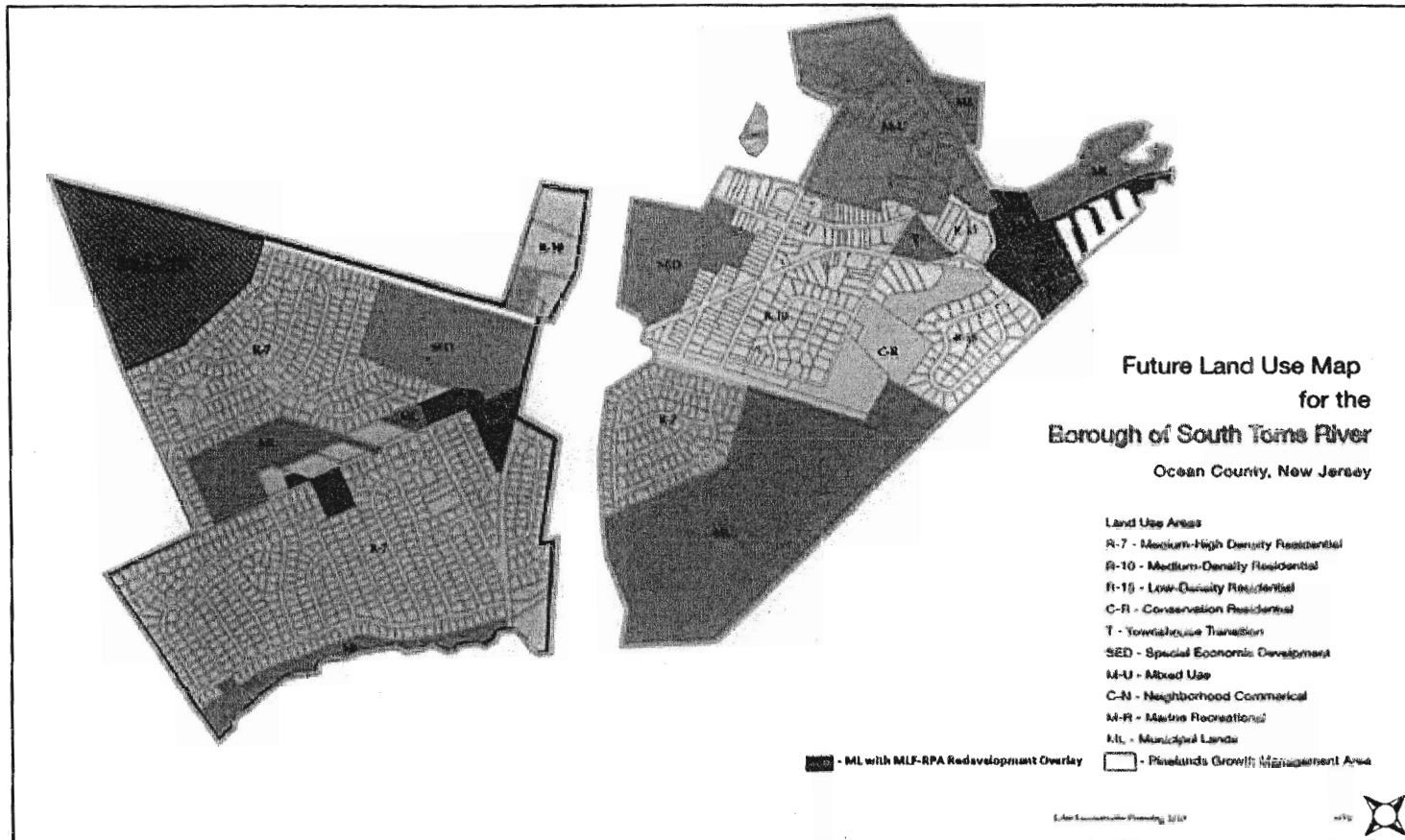
Municipal Landfill Redevelopment Plan Area

The map below illustrates the Redevelopment Plan Area on an aerial map of South Toms River highlighted in yellow and the designated Area in Need of Redevelopment outlined in a dashed red line for reference.



Executive Director's Report
South Toms River Borough Ord. Nos. 7-16 & 8-17
August 25, 2017 Exhibit #1

Map 3: Borough Land Use Map with Redevelopment Plan Area¹



¹ Leoncavallo, John, CLA, PP. *Future Land Use Map*. South Toms River Borough Master Plan. April 2012. Page 42. [Redevelopment Overlay by Maser Consulting, Jan. 2016.]



Executive Director's Report
South Toms River Borough
Ordinance Nos. 7-16 & 8-17
August 25, 2017 Exhibit #3



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17-

30

TITLE: Designate Existing Roads within Wharton State Forest that are Appropriate for Recreational Use by Motor Vehicles.

Commissioner

Loyal

moves and Commissioner

Lohbauer

seconds the motion that:

WHEREAS, Wharton State Forest consists of approximately 125,000 acres of state-owned land within the Pinelands Preservation Area, the most ecologically sensitive portion of the Pinelands National Reserve; and

WHEREAS, Wharton State Forest provides extensive public recreational opportunities, including canoeing, hiking, biking, horseback riding, camping, hunting and motorized vehicle recreation; and

WHEREAS, the Comprehensive Management Plan ("CMP") at N.J.A.C. 7:50-6.143(a)(2) allows for the use of motor vehicles on public lands for recreational purposes; and

WHEREAS, in accordance with N.J.A.C. 7:50-6.143(a)3, the Pinelands Commission may, from time to time, designate areas on public lands, that are inappropriate for use of motor vehicles; and

WHEREAS, N.J.A.C. 7:50-6.143(a)3 also provides that such designation shall be done in consultation with the New Jersey Department of Environmental Protection; and

WHEREAS, from January 15, 2016 through May 12, 2017 during the public comment portion of various Commission meetings, the Commission heard extensive public comment concerning the damage being done to ecologically sensitive areas within Wharton State Forest as a result of motorized vehicles being operated off-road within the forest and the need to preserve these areas; and

WHEREAS, these concerns were expressed by the various users of Wharton State Forest including, but not limited to, environmental groups, hikers, hunters, enduro groups and off-road vehicle riders; and

WHEREAS, the Commission also heard public comment concerning the importance of having a map of Wharton State Forest that depicts the roads located therein for use by emergency responders, law enforcement officials and the public; and

WHEREAS, based on the public comment it has received, the Commission recognizes that the use of motorized vehicles off-road within Wharton State Forest is resulting in significant damage to the ecological and cultural resources of the Pinelands; and

WHEREAS, from October 2016 through May 2017, Commission staff has provided information to the Department of Environmental Protection concerning sites within Wharton State Forest that have been damaged by off-road motor vehicle use and met with the Department to discuss the development of guidance to identify areas where recreational motor vehicle use would be appropriate; and

WHEREAS, after consideration of the extensive public comment and review of available mapped information, the Commission has assembled sections of various federal USGS Topological maps from 1972, 1981, 1995 and 1997 in order to establish a map depicting the existing roads located within Wharton State Forest; and

WHEREAS, the Commission believes the above-described USGS map will serve as a guide for the public and others to use to identify areas within Wharton State Forest that are appropriate for recreational use by motor vehicles; and

WHEREAS, the Commission recommends that any changes to the USGS map regarding motor vehicle use be made in consultation with the DEP and be limited to those CMP provisions established for consideration to designate areas inappropriate for use by motor vehicles. Such provisions at Section 7:50-6.143(a)(3)(i-ix) are,

- i. A need to protect a scientific study area;
- ii. A need to protect the location of threatened or endangered plant or animal species;
- iii. A need to provide a wilderness recreational area;
- iv. A need to prevent conflicts with adjoining intensively used recreational areas;
- v. A need to protect historic or archaeological sites;
- vi. A need to protect critical wildlife habitats;
- vii. A need to address a situation of public health and safety;
- viii. A need to protect extensively disturbed areas from further impact; and
- ix. The extent to which such road closure would substantially impair recreation access to and uses of surrounding resources.

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 Pinelands Commission has identified the roads on the assembled federally prepared USGS Topographical maps, attached Exhibit A, as the baseline of existing roads in Wharton State Forest; and
- (2) The Pinelands Commission finds that recreational use of motor vehicles in Wharton State Forest should be limited to the roads marked on the attached USGS Topographical maps. This finding does not apply to the Commission's review of Off-Road Vehicle Event Route Maps. It is also not the intent of the Commission that the USGS Topographical maps be used by DEP as part of its review of Special Use Permits. From time to time, the Pinelands Commission may identify any of these or other roads unsuitable for motor vehicle passage based on the criteria set forth in the CMP at N.J.A.C.7:50-6.143(a)3. Any future changes shall be the subject of consultation between the Pinelands Commission and the NJDEP; and
- (3) The Executive Director shall forward this Resolution to the New Jersey Department of Environmental Protection and to consult with the Department regarding the areas designated in Paragraph (1) above; and
- (4) The Executive Director shall update the Commission on the use of the USGS Topographical Maps and other efforts to protect Wharton State Forest from further off-road motorized vehicle damage on an ongoing basis.

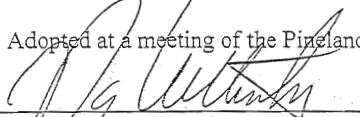
Record of Commission Votes

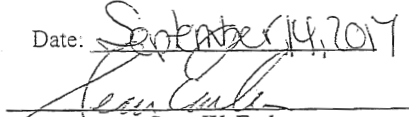
	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				Galletta	X				Prickett	X			
Avery			X		Jannarone	X				Quinn	X			
Barr			X		Lloyd	X				Rohan Green	X			
Brown	X				Lohbauer	X				Earlen	X			
Chila	X				McGlinchey	X								

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: September 14, 2017


 Nancy Wittenberg
 Executive Director


 Sean W. Earlen
 Chairman



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-17- 31

TITLE: To Approve the New Jersey Pinelands Commission's 2016 Annual Report

Commissioner Galletta moves and Commissioner Prickett seconds the motion that:

WHEREAS, in September 2006, then Governor Corzine issued Executive Order #37; and

WHEREAS, Executive Order #37 called for the preparation and approval of a comprehensive report concerning the operations of each State authority; and

WHEREAS, the report shall set forth the significant actions of the Commission; and

WHEREAS, since the report is to be done on an annual basis and it includes much of the same information as the Commission's Annual Report, which is required by the Pinelands Protection Act, the two reports have been combined since 2007 as a cost savings measure to eliminate waste and promote efficiency as called for in Executive Order #37; 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 attached 2016 Annual Report be approved, submitted to the Governor's Authorities Unit and posted on the Commission's web site.

Record of Commission Votes

	AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*		AYE	NAY	NP	A/R*
Ashmun	X				Galletta	X				Prickett	X			
Avery			X		Jannarone	X				Quinn	X			
Barr			X		Lloyd	X				Rohan Green	X			
Brown	X				Lohbauer	X				Earlen	X			
Chila	X				McGlinchey	X								

* A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission
Nancy Wittenberg
Nancy Wittenberg
Executive Director

Date: September 17, 2017
Sean W. Earlen
Sean W. Earlen
Chairman