



State of New Jersey
PINELANDS DEVELOPMENT CREDIT BANK

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SUSAN R. GROGAN
Executive Director

PINELANDS DEVELOPMENT CREDIT BANK

September 8, 2015

Meeting Agenda

Richard J. Sullivan Center for Environmental Policy and Education
Office of the Pinelands Commission
15 C Springfield Road
New Lisbon, New Jersey

1:00 p.m. – Via Teleconference

1. Call to Order
 - * Open Public Meetings Act Statement
 - * Roll Call
2. Adoption of minutes from the October 1, 2014 PDC Bank Board meeting
3. Readoption of PDC Bank regulations
4. Public comment

**Pinelands Development Credit Bank Board
Offices of the Pinelands Commission
15C Springfield Road
New Lisbon, NJ 08064**

October 1, 2014
2:00 p.m.

Board Members Present:

Christopher Hughes, Chairman, Dept. of Banking & Insurance Designee
Helene Chudzik, Department of Law & Public Safety Designee
Candace McKee Ashmun, Pinelands Commission Designee
Terry Caruso, Department of Environmental Protection Designee
Susan Payne, Department of Agriculture Designee
Robert Shinn, At Large Member

Board Members Absent:

Edward McGlinchey, At Large Member
Sam Mento, III, At Large member

Others Present:

Susan R. Grogan, Executive Director, PDC Bank
DAG Mark Collier
Larry L. Liggett, Director of Land Use & Technology Programs, Pinelands Commission
Paul Leakan, Communications Officer, Pinelands Commission
Jessica Noble, Acting Recording Secretary for PDC Bank Board

1. Call to Order

Chairman Hughes called the meeting of the Pinelands Development Credit (PDC) Bank to order at 2:09 p.m. and read the Open Public Meetings Act Statement. Mr. Hughes called the roll and declared the presence of a quorum.

All present pledged allegiance to the Flag.

2. Adoption of Minutes of the March 31, 2014 meeting.

Chairman Hughes presented the minutes of the March 31, 2014 Bank Board meeting. Ms. Ashmun moved the adoption of the minutes. Ms. Caruso seconded the motion and all voted in favor except Ms. Payne who abstained.

**3. Executive Director's Report
Annual Report for FY2014**

Ms. Grogan said the FY-2014 Annual Report (through June 30, 2014) had been issued at the end of August. Copies had been mailed to all Board members and posted on the website (<http://www.state.nj.us/pinelands/pdcbank/reports/2014%20PDC%20Bank%20Annual%20Report%20Web%20Version.pdf>)

Ms. Grogan made a presentation of the Report (*Attachment A*) as follows: The number of PDCs allocated to date (as of end of fiscal year) is 2,811.50. The allocation is undertaken by the Pinelands Commission to advise the landowner of the number of PDCs assigned to a particular property. Of those PDCs allocated, 1,498.75 have been severed. The severance of a PDC is a process administered by the PDC Bank in which a landowner imposes a deed restriction on the property in exchange for a certificate that can be sold or redeemed on a project in the Pinelands Area. The Bank maintains a list of all PDC owners wishing to be placed on the Sellers List (an online listing with contact information that a potential buyer can use to shop for certificates) and there are additional certificate owners who do not wish to be on that public list. Of the total 388.50 PDCs available, 23.75 are owned by the PDC Bank. The number of rights allocated over time peaked in the early 2000s and has been in decline in recent years, a reflection of the slow economy and housing market. Generally, a corresponding drop in sales prices has occurred since that time.

In response to a question from Ms. Payne regarding the “double counting” of sales and re-sales of PDCs, Ms. Grogan confirmed that the Bank tracks all sales whether first time or repeat sales so “double counting” does occur.

Ms. Grogan continued reviewing the highlights of the Report, noting that the various tables and charts provide a quick glance of trends over time including acres preserved, sale prices, and where/when PDCs are redeemed on projects. She said in this past fiscal year, 96 acres had been preserved through the severance of 11 rights from lands in Galloway and Lacey Township, all of which were in the Preservation Area District (PAD). Since the beginning of the program, 51,780 acres have been preserved mostly in the PAD, followed by the Special Agricultural Production Area (SAPA), the Agricultural Production Area (APA) and then a small amount in the other (non-sending) management areas.

Ms. Grogan said, of the 108 rights sold during the reporting period, most sold for \$9,500.00 with a couple of outliers (one each at \$6,000.00 and \$20,000). She said the Bank cannot know what affects such sale prices as they are typically negotiated between private parties. She noted the change in sale price over time with average highs of \$30,000.00 and \$40,000.00 per right in 2006 and 2007.

Ms. Grogan said 16 rights were redeemed in FY-2014 on nine projects in Atlantic, Camden, Gloucester and Ocean counties. The low level of activity reflects that little residential development is occurring in the Pinelands currently.

Ms. Grogan concluded the presentation with a table indicating PDC supply and demand estimates. She said, currently, there is an adequate supply to meet the current demand for PDCs but it is unlikely that all the projects will be completed. The concern is for the future and making sure there are sufficient opportunities for PDCs to be used. The Commission has been concerned

for many years and is currently working to update the PDC demand estimates it made in 2006. The Commission estimates that the remaining supply is some 6,750 rights, albeit some landowners may never choose to sever their PDCs nor even apply for an LOI from the Commission. The Commission recognizes that, when the market picks up, there must be adequate opportunities for landowners to sell their PDCs for redemption on projects. Ms. Grogan said one of the Commission's ongoing projects is to find ways to increase the demand for PDCs whether through rulemaking or changes to municipal zoning.

In response to a question from Ms. Payne, Ms. Grogan said yes, the estimates recognize future land preservation efforts of the State Agricultural Development Committee (SADC) and the county farmland preservation programs that will extinguish PDCs (take PDCs off the market) when farms are preserved.

Mr. Liggett said that there are two somewhat disconcerting issues related to future demand. First, the builders have advised that units will be smaller in the future so the dollar per square foot associated with the purchase of PDCs will be higher. Secondly, with the closing of the Atlantic City casinos and loss of jobs, the heart of the growth area of the Pinelands (Egg Harbor Township, Galloway, and Hamilton) will have a housing glut as workers will need to seek jobs elsewhere.

Ms. Grogan added that a lot of the current demand is based on active projects in the growth area of Atlantic County. Unfortunately many of these projects will not be built in the immediate future, further exacerbating the PDC demand problem.

Recent amendments to the Pinelands Comprehensive Management Plan

Ms. Grogan said that Mr. Liggett had spoken of concerns with PDC demand and had come before the Board on previous occasions to speak about the Commission's interest in proposing rules to improve the PDC program. She said, unfortunately, little progress had been made. However, through recent rulemaking, two minor changes were made to the PDC program. First the Letters of Interpretation (LOIs) designating the allocation of PDCs have been valid for two years. Upon expiration, the landowner was required to complete a new application with the Commission and, over time, it became apparent that this was mostly a paperwork exercise that rarely changed anything. Under the new provisions, the duration of an LOI is five years, meaning the landowner will have that much more time to make a decision if s/he is interested in severing the credits or perhaps participating in the farmland preservation program. The Commission is in the process of notifying some 83 holders of relatively recent LOIs of this change and providing information to encourage them to contact the Bank with questions. This is a first step in an outreach program.

Ms. Grogan said that the second rule change involves how Commission staff calculates PDC allocations. Common ownership with other adjacent lands in 1979 will no longer be a factor. The staff will now look only at the subject property, not whether the landowner once owned other adjacent properties. This will simplify the process.

In response from a question from Ms. Ashmun if a person changes the use on a property, do s/he automatically come in for a new LOI, Ms. Grogan said, probably not. When the landowner

comes to the PDC Bank to sever the credits, the Bank will review the file, the title search, tax records etc., and, if any new development has occurred, the applicant will be asked to return to the Commission for an updated LOI. The more likely scenario is a landowner selling the land and the new owner wanting to sever credits. The LOI is unique to the property owner and cannot be transferred with the land. Those who have owned the land since 1979 may be eligible for more PDCs than more recent buyers. She said it is the change of ownership, rather than a landowner building something, that is most often the incentive to apply for an updated LOI.

Briefing on Assembly Bill 3257 and Tuckahoe Turf Farms deed restriction

Ms. Grogan said she felt it worthwhile to spend some time on the issue of the Tuckahoe Turf Farms deed restriction as there had been much media coverage of the issue. From a map, she showed the 300-acre sod farm in Hammonton and Waterford in the vicinity of Route 206 and the Wharton State Forest. She noted that there is a PDC deed restriction on most of the sod farm, and a SADC deed restriction on a smaller portion. One lot is currently not deed restricted. Ms. Grogan identified the green crosshatched areas as lands preserved through the PDC program and those in orange as protected through an SADC easement. She said the map indicates that there are a lot of preserved lands on and around the subject property. Recently, the Commission learned that there were some fairly significant soccer activities occurring on the PDC preserved turf farm, including regional soccer tournaments several times a year drawing thousands of players and spectators and generating a lot of traffic and parked vehicles.

Ms. Grogan said when the Commission became aware of this activity, it began a dialog with the property owner. The Commission had never received an application and no permits or approvals had been sought from the municipality. Ms. Grogan said today's meeting packet had included one of the PDC deed restrictions for the subject property. The language describing permitted uses under the deed restriction comes directly from the Pinelands Comprehensive Management Plan. The Commission sees this as an athletic complex, which is not the low intensity recreation that is permitted. The Commission has continued discussions with the landowner and the soccer organizers and an application has been filed. Meanwhile legislation was proposed to amend the Pinelands Protection Act (Assembly Bill 3257) by changing the definition of low intensity recreational use on PDC deed restricted lands in the APA. Ms. Grogan said it was important that the Board be aware of the language as it will affect not only this farm but all of the 13,000 PDC deed restricted acres in the APA, 1,000 of which are sod farms. It will not apply to SADC preserved lands or to lands purchased with Green Acres money. It will not apply to lands which have no PDC deed restriction. The language is broad and vague and the Commission is trying to deal with terms such as "temporary damage." Ms. Grogan says that a reinterpretation of a deed restriction by the legislature is alarming.

In response to Ms. Caruso's question if the pending legislation addresses support facilities such as parking lots and bathrooms, Ms. Grogan said that the bill does not allow any permanent structures.

In response to Ms. Ashmun's question about the same family's name appearing on the sellers list in the PDC Annual Report, Ms. Grogan said the family had sold all but 0.75 PDCs associated with this deed restricted farm.

Ms. Grogan said the bill would reinterpret a long-held deed restriction through an amendment to the Pinelands Protection Act. This raises many issues and is of definite concern.

In response to Mr. Shinn's question as to the status of the bill, Ms. Grogan said that it passed through the Assembly (by a vote of 67:2) and the Senate version was before the Senate Economic Growth Committee.

Chairman Hughes asked that Ms. Grogan keep the Board updated on the status of the legislation.

4. Report from the PDC outreach and marketing working group

Chairman Hughes said that he, Ms. Payne and Mr. Shinn had met with Ms. Grogan to look at ways to increase demand for PDCs. He noted the lack of demand inhibits the price.

Ms. Grogan said that the working group had discussed the supply and demand issue as well as outreach and marketing. She said it is difficult to encourage severance of PDCs when there is little development activity. She noted the previously-mentioned letter to recent LOI holders and also that the Bank owns a number of rights. However, it has no funds for purchasing PDCs which could be retained or resold.

Ms. Grogan said the current Bank rules will sunset in October 2015, so the Board will have an opportunity to update its rules to meet the challenges ahead and be prepared when PDC demand increases. She said the current rules establish a value of \$18,500 per right and, if the Bank were to purchase rights, they can offer no less than that amount. Such a value was consistent with the market prices in 2008 but the rules should reflect some relationship to the market price, not a fixed price. The Bank has an obligation not to undermine private sales. Offering to purchase PDCs at \$18,500 per right, when while the current market price is \$9,500/right, would create problems.

Ms. Grogan said there is not much the Bank can do to stimulate demand as that has to be done by the Pinelands Commission. Because of staffing issues, the Bank can only process transactions at this point but, when demand increases, the Bank will need to take a more active role with outreach and working directly with buyers and sellers.

Ms. Payne agreed that it is the Bank's job to be ready and it cannot just wait until the market improves. She said she believed a subcommittee was needed to start this planning and that SADC would volunteer its efforts to help in any way it could.

Public Comment

Mr. Chris Jage, with the NJ Conservation Foundation (NJCF), expressed the need for a "broker" to help market the PDCs of sellers with a few rights to buyers who need many.

Ms. Grogan responded that the Bank doesn't use the term "broker" but occasionally is able to direct buyers to sellers on the public list. She said the Bank would need additional staff to coordinate such an effort.

Mr. Jage asked what the average number of rights required by a project is these days, Ms. Grogan said the Bank does not have that information readily available; however, many projects require only a quarter credit.

Mr. Jage said he commended the Commission for defending itself against the legislation. He said it is distressing to see the legislature undermining the CMP. He said that NJCF buys deed restricted lands to preserve them and prevent this sort of influence.

Ms. Fran Brooks, a Tabernacle Township resident, said she had written a letter in opposition to A 3257 and asked if the farm community had taken a position.

Ms. Grogan responded that she was unaware of any official position.

Ms. Brooks said that it seems that the next piece of legislation might try to do the same thing to the PAD and this was a slippery slope. She thanked the Commission for its position on the bill. She said that, although the farmers have shown antipathy towards the PDC program, it would be important to hear their position.

In response to Ms. Brooks question as to how the federal relationship plays into this legislation, Ms. Grogan said that for any amendment to the Pinelands Protection Act, the Commission would need to do rulemaking and then that would be subject to the approval of the Department of the Interior. The Commission has advised the legislature that there is a federal role in this.

5. Other Items of Interest

Chairman Hughes said the Board should discuss a meeting schedule for next year.

Ms. Grogan responded that the Board should meet at least in March and August and then schedule additional meetings as needed.

At 3:01 p.m. Ms. Ashmun, moved the adjournment of the meeting. Ms. Payne seconded the motion and all voted in favor.

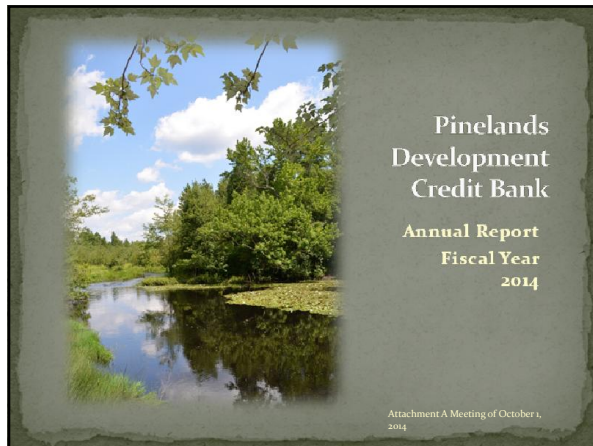
Certified as true and correct



Betsy Piner, Recording Secretary

October 29, 2014

Date



PDC Bank Annual Report Fiscal Year 2014

	PDCs	Rights
PDCs Allocated to Date	2,811.50	11,246
PDCs Severed to Date	1,498.75	5,995
PDCs Sold to Date		
Private Sales	1,079.50	4,318
PDCs Sold to Date		
Public Sales	775.25	3,101

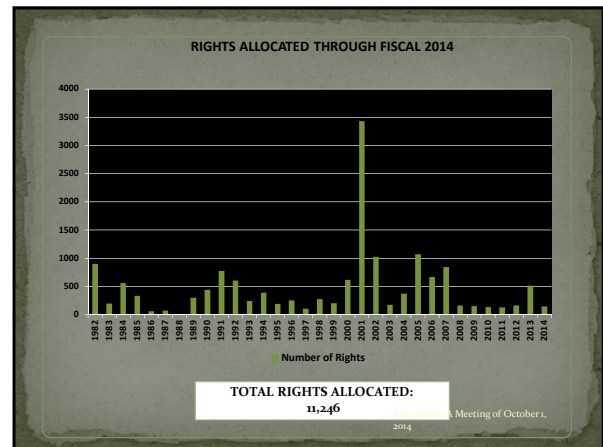
Attachment A Meeting of October 1, 2014

PDC Bank Annual Report Fiscal Year 2014

	PDCs	Rights
PDCs Available for Purchase		
On "Sellers List"	240.25	961
Not on "Sellers List"	148.00	592
Total*	388.25	1,553
PDCs Redeemed		
	842.25	3,369

* Includes 23.75 PDCs owned by the PDC Bank

Attachment A Meeting of October 1, 2014



PDC Bank Annual Report: Severance Activity Fiscal Year 2014

Severance Date	PDCs Severed	Rights Severed	Acres Preserved	Management Area	Town
9/9/2013	2.0	8	84.54	PAD	Lacey
2/14/2014	0.25	1	10.00	PAD	Galloway
6/24/2014	0.25	1	1.40	PAD	Lacey
6/24/2014	0.25	1	0.50	PAD	Lacey

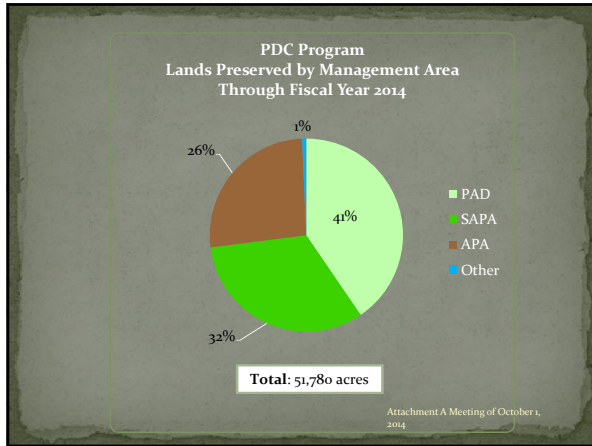
TOTAL PDCS SEVERED: 2.75
TOTAL RIGHTS SEVERED: 11
TOTAL ACRES PRESERVED: 96.44

Attachment A Meeting of October 1, 2014

PDC Bank Annual Report Acres Preserved through Fiscal Year 2014

Management Area	Acres Preserved
Preservation Area District	20,965
Agricultural Production Area	13,635
Special Agricultural Production Area	16,814
Other	367
Total	51,780

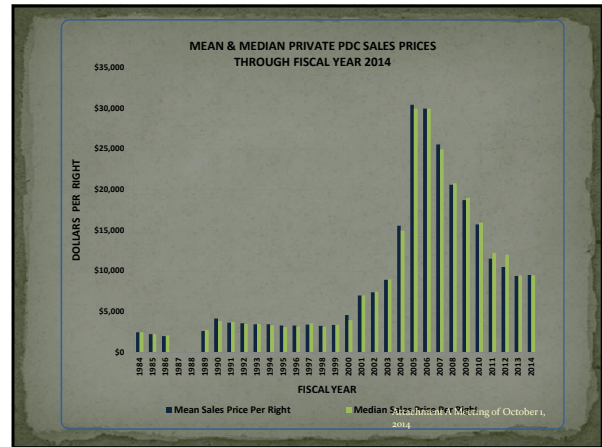
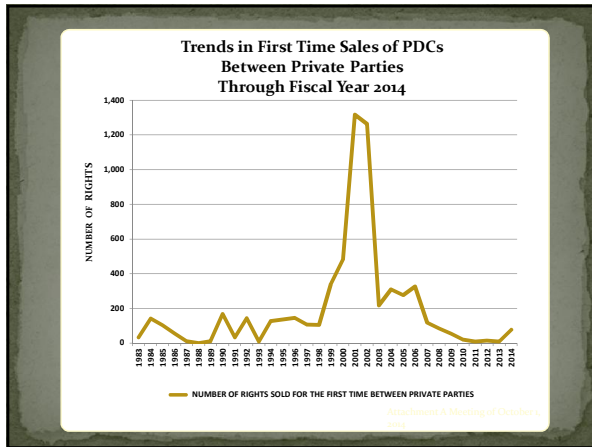
Attachment A Meeting of October 1, 2014



PDC Bank Annual Report: Sales Fiscal Year 2014

PDCs Sold:	27.00
Rights Sold:	108
Average Sales Price Per Right:	\$9,535.19

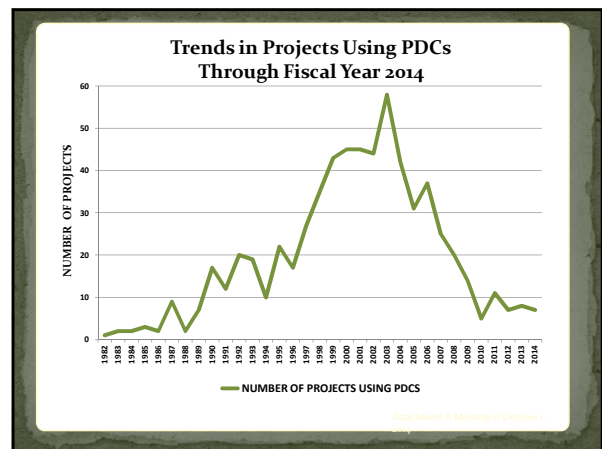
Attachment A Meeting of October 1, 2014



PDC Bank Annual Report: Redemptions Fiscal Year 2014

PDCs Redeemed	4.00
Rights Redeemed	16
Applications Redeeming PDCs	9
Egg Harbor	
Galloway	
Manchester	
Monroe	
Waterford	

Attachment A Meeting of October 1, 2014



**PDC Program
Supply and Demand Estimates**

	SUPPLY	DEMAND
Immediate	1,500 rights	950 rights
Future (2006 estimate)	8,100 rights	5,200 rights
Future (2014 estimate)	6,750 rights	TBD

Attachment A Meeting of October 1,
2014

Draft 8/10/15

BANKING

**DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF BANKING**

Notice of Readoption

Pinelands Development Credit Bank

Readoption with Technical Changes: N.J.A.C. 3:42

Authority: N.J.S.A. 13:18A-30 et seq.

Authorized By: Pinelands Development Credit Bank Board
Susan R. Grogan, Executive Director

Effective Date: ____, 2015

New Expiration Date: ____, 2022

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the Pinelands Development Credit Bank rules at N.J.A.C. 3:42 are readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on October 17, 2015. The Pinelands Development Credit Bank Board has reviewed these rules and has determined that the rules should be readopted, with technical changes to update the Bank's website address, because they are necessary, reasonable and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Pinelands Development Credit Bank Act, N.J.S.A. 13:18A-30 et seq., established the Bank for the purpose of regulating and promoting the use of Pinelands Development Credits to further the Pinelands Comprehensive Management Plan which is set forth at N.J.A.C. 7:50. By facilitating the sale of Pinelands Development Credits, the Bank provides a source of remuneration for landowners whose property is located within areas of the Pinelands designated by the Comprehensive Management Plan for conservation or agricultural use.

In exchange for placing an encumbrance on the title to the property, Pinelands Development Credits are issued to the landowner who may sell or borrow against the value of the credits. Pinelands Development Credits are most often redeemed in the form of increased density allowances for those wishing to build homes in Pinelands Regional Growth Areas.

The rules being readopted establish criteria regarding the sale, transfer, conveyance, encumbrance, redemption and documentation of Pinelands Development Credits. In addition, the rules specify the conditions under which the Bank may purchase Pinelands Development Credits.

Subchapter 1 establishes the purpose of the rules. It also enumerates the duties and powers of the Bank Board of Directors (the Board) and its Executive Director. Procedures and rules governing the Board also are set forth in this subchapter.

Subchapter 2 provides interpretations, definitions and word usage.

Subchapter 3 outlines the procedure for the issuance of Pinelands Development Credits. It includes the eligibility criteria for landowners as well as application requirements. It also outlines the procedures for the issuance of Pinelands Development Credit Certificates by the Bank and the use of conservation or agricultural easements. In addition, it establishes the required procedures involved with the sale, transfer, conveyance, encumbrance and redemption of Pinelands Development Credits.

Subchapter 4 sets forth the requirements of the Registry of Pinelands Development Credits, including its contents, availability to the public and requirement of an annual report. N.J.A.C. 3:42-4.3 and 4.4 have been amended to provide an updated website address for the Bank so that the public will be able to access the Registry and annual reports more readily.

Subchapter 5 enumerates the criteria to be considered by the Board in the purchase of credits by the Bank itself, including the definition of a hardship and the per credit price to be paid by the Bank.

Subchapter 7 establishes procedures and requirements regarding the sale of Pinelands Development Credits owned by the Bank. Two methods for such sales are permitted: open bidding at a duly advertised auction or receipt of written, sealed bids. In addition, this subchapter establishes criteria that govern the Bank's conveyance of PDCs at no cost.

Subchapter 9 addresses amendment of these rules by the Board or by petition of an interested person.

Subchapters 6 and 8 are reserved.

Full text of the adopted technical changes follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

3:42-4.3 Availability of registry

- (a) The Executive Director shall, upon reasonable notice, make the registry available for public inspection at the principal offices of the Bank. It is also available on the Bank's website at

<http://www.nj.gov/pinelands/pdcbank/>

[www.state.nj.us/dobi/pinelands/pinelandsbank.htm].

- (b) (No change.)

3:42-4.4 Annual report

- (a) (No change.)
- (b) The annual report shall also be made available to any person upon request.

It is also available on the Bank's website at

<http://www.nj.gov/pinelands/pdcbank/>

[www.state.nj.us/dobi/pinelands/pinelandsbank.htm].