

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF FISH
AND WILDLIFE – ENDANGERED AND NONGAME SPECIES PROGRAM

License for the Use of Digital Threatened, Endangered and Rare Wildlife Data

To:

New Jersey Pinelands Commission

The New Jersey Department of Environmental Protection (NJDEP), Division of Fish and Wildlife (DFW), Endangered & Nongame Species Program (ENSP) is providing the Pinelands Commission (the Commission) with access to the digital data contained within its Biotics Database based upon the Commission's shared responsibility, with NJDEP, for protecting Endangered and Threatened wildlife within the Pinelands Area. Access to these data is being provided to aid the Commission in protecting habitat critical for such wildlife in this region. This license contains provisions designed to assist the Commission in: 1) interpreting the data and recognizing its limitations; and 2) handling the data in a manner that protects the sensitive nature of information on the precise locations of rare animals, especially for those species most vulnerable to collection and disturbance. The Commission agrees to abide by the terms specified below:

1. The data for which access is provided in accordance with the terms of this license are the rare wildlife "Source Features" and "Species Occurrence Areas" generated by the NJDEP that fall within and surrounding the Pinelands National Reserve (PNR); the boundary of which is depicted in a GIS shapefile provided to ENSP by the Commission. The terms of this licensing agreement shall not apply to any rare species data collected by the Commission and provided to ENSP. Source Features are individual observations of a specific species at a specific place and time and are represented by points, lines or polygons based on the size of the observed area and the amount and direction of uncertainty associated with that location. Species Occurrence Areas are the data used to value Landscape Project habitat patches. Specifically, the occurrence area data used to classify habitat patches consist of buffers developed by ENSP's biologists that are applied to the Source Features. These buffers take into account, for example, the species' spatial requirements to fulfill various life history requirements. The data will provide information on the presence of threatened or endangered (rare) animal species within and surrounding the PNR and will detail the species name and last observation date related to each occurrence.
2. ENSP's Biotics database is updated on an ongoing basis, however, in the interest of administrative efficiency, dataset updates shall be provided to the Commission on a semiannual basis. Therefore, discrepancies between the data maintained by ENSP and the data supplied to the Commission may occur periodically. Should such a discrepancy develop between the data supplied to the Commission and the data in ENSP's Biotics database, the data in ENSP's Biotics database are the correct data.
3. Site-specific or comprehensive surveys for rare species have not been conducted for the entire

State, including the PNR. The data licensed cannot be relied on as a definitive statement of the presence or absence of rare species at given locations and do not provide an adequate substitution for on-site surveys that may be required for environmental assessment or conservation planning.

4. Use and analysis of geographic data are limited by the scale at which the data are collected and mapped. Some of the locations in the data licensed are at a scale of 1:24,000 and use of the data (by zooming or enlarging) at a scale greater than 1:24,000 (i.e. 1:12,000) may be subject to error.
5. The licensed digital data are for the exclusive, and official use by the Commission staff identified in Paragraph 6 below and cannot be released, disseminated, given, sold, loaned, leased, or conveyed in any manner to any other person or entity. The licensed digital data shall be retained by the Commission solely within its own computer network in accordance with Paragraph 7 below. The licensed digital data may not be copied, distributed, or made accessible in any form (digital, written, or verbal) to other entities, except as expressly provided in Paragraph 9 below. Requests by other entities, including requests to made pursuant to the Open Public Records Act (OPRA), for the licensed digital data will be referred directly to the NJDEP, either ENSP and/or the Natural Heritage Program, as appropriate. Violation of this provision may result in the imposition of measures restricting continued use of the licensed data. The Commission shall inform its staff, authorized to access the licensed data in accordance with Paragraph 6 below, of ENSP's position that any misuse of the licensed data in a manner that results in harm to any endangered or non-game wildlife could subject them to penalties under the Endangered and Nongame Species Conservation Act (ENSCA).
6. The digital data licensed are to be accessed only by the following Commission staff:

Office of the Executive Director:
Executive Director
Senior Legal Counselor
Director of Special Programs

Professional Staff of the Office of Regulatory Programs

Professional Staff of the Office of Land Use and Technology

Professional Staff of the Science Office
7. The data will exist on the internal hard drives of the computers used by recipients authorized at Paragraph 6 above and remain there under password protection. Alternatively, the data may reside on a secure network drive and made available thorough password protection only to the recipients authorized at Paragraph 6 above.
8. The digital data licensed are to be accessed for the purposes of research/data analysis, permit/application review, litigation and land-use planning. The Commission will confer with

ENSP when the data is used for research and data analysis projects. Access and use for other purposes will be made only by prior arrangement with ENSP.

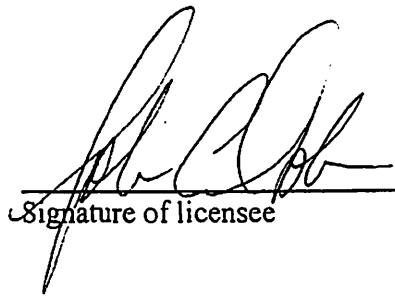
9. Because of the sensitive nature of the licensed digital data, no document or map, in any format, which identifies or displays the location of any rare species at a scale of greater than 1:100,000, or which links the location of any rare species at a scale of greater than 1:100,000 with its name, shall be released or made available to the public or to other parties, without prior arrangements with the ENSP.

10. Any publications, reports or maps that reference the licensed digital data will cite the data using the following format:

New Jersey Department of Environmental Protection, Division of Fish and Wildlife, New Jersey Endangered & Nongame Species Program. August, 2007. Biotics Database Digital Data Set: (as applicable) Species Occurrence Areas; Source Features – Points; Source Features – Lines; or Source Features – Polygons. Trenton, New Jersey.

11. To the extent feasible, ENSP will update the dataset semi-annually. When an update is provided, the old dataset will be deleted such that only the current dataset is maintained on the Commission's computer/network.
12. To the extent feasible, the Commission will provide ENSP with the rare animal species data it generates for inclusion in the Biotics database semi-annually. ENSP will confer with the Commission when the data is used for research and data analysis projects. These data will be provided to ENSP as follows:
 - a. All data generated by the Commission as of the date of this license will be provided in the form of a GIS shapefile or geodatabase that conforms to the standards of Nature Serve and the Biotics database and of DEP's Bureau of GIS.
 - b. Data generated by the Commission prior to the date of this license shall, to the extent feasible, be provided in the form of a GIS shapefile or geodatabase that conforms to the standards of Nature Serve and the Biotics database and of DEP's Bureau of GIS.
 - c. Additionally, when possible, the Commission will endeavor to provide ENSP with data submitted to it if such data is submitted to the Commission in the form of a GIS shapefile or geodatabase that conforms to the standards of Nature Serve and the Biotics database and of DEP's Bureau of GIS.
13. Either party may terminate this licensing agreement with thirty (30) days written notice to the other. Upon termination of this licensing agreement, the licensed digital data shall be deleted from the Commission's computer network.

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Threatened, Endangered and Rare Wildlife Data



Signature of licensee

New Jersey Pinelands Commission
Affiliation

September 5, 2007
Date

John C. Stokes
Name of licensee (*print*)

Executive Director
Title