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State of New Jersey
THE PINELANDS COMMISSION
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LAURA E. MATOS
Chair
SUSAN R. GROGAN
Acting Executive Director

General Information: Info@pinelands.nj.gov
Application Specific Information: AppInfo@pinelands.nj.gov

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Acting Executive Director

Date: March 16, 2022

Subject: March 25, 2022 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on March 25, 2022. We have also enclosed the following:

- The minutes from the Committee's February 25, 2022 meeting;
- A memorandum and draft CMP amendments related to water management and the Kirkwood-Cohansey aquifer; and
- A memorandum outlining the staff's proposed "re-launch" of the ninth land acquisition round using the Pinelands Conservation Fund, along with the associated priority and scoring matrix and maps

The Committee meeting will be conducted via teleconference. Specific access information will be provided to all Committee members in a separate email. The public will be able to view and participate in the meeting through the following YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

/CS15

cc: All Commissioners (agenda only)



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CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

March 25, 2022 – 9:30 a.m.

Pinelands Commission YouTube link:

<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Provide Public Comment, Please Dial: 929-205-6099 Meeting ID: 844 4223 0576

Agenda

1. Call to Order
2. Adoption of minutes from the February 25, 2022 CMP Policy & Implementation Committee meeting
3. Briefing on Pinelands Conservation Fund land acquisition schedule, priorities and matrix
4. Review of draft CMP Amendments: water management and the Kirkwood-Cohansey aquifer
5. Update on rule proposal for the Electric Transmission Right-of-Way Maintenance Pilot Program
6. Public Comment

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

This meeting was conducted remotely
All participants were present via Zoom conference
The public could view/comment through Pinelands Commission YouTube link:
<https://www.youtube.com/watch?v=WtKaODUvC7s>
Meeting ID: 844 3799 7322
February 25, 2022 - 9:30 a.m.

Minutes

Members in Attendance – Jerome Irick, Edward Lloyd, Mark Lohbauer, Laura Matos

Members Absent – Alan Avery

Other Commissioners in Attendance – Shannon Higginbotham, Theresa Lettman

Commission Staff – John Bunnell, Ernest Deman, Katie Elliott, Susan Grogan, Chuck Horner, Brad Lanute, Paul Leakan, Jessica Lynch, Trent Maxwell, Steve Simone, and Ed Wengrowski. Also in attendance was Janice Venables, with the Governor’s Authorities Unit.

1. Call to Order

Chair Matos called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:32 am. Acting Executive Director Susan Grogan identified staff members present at the meeting and introduced the Commission’s newest Planning Office employees: Steve Simone, Katie Elliott, and Trent Maxwell.

2. Adoption of minutes from the November 19, 2021, CMP Policy & Implementation Committee meeting

Commissioner Lohbauer motioned to adopt the minutes from the November 19, 2021, Committee meeting. The motion was seconded by Commissioner Irick. All members voted in favor.

3. Executive Director’s Report

Tabernacle Township Ordinance 2021-10, amending Chapter XVII, Zoning, of the Township’s Code by rezoning lands from the Infill Commercial District to the Infill Residential and Preservation Area Districts and adding solar energy facilities as a permitted use in the Preservation Area District

Planning Specialist Brad Lanute reviewed the findings of the Executive Director’s Report on Tabernacle Township Ordinance 2021-10. He stated that the ordinance serves two interrelated purposes. It effectuates a rezoning within the Pinelands Preservation Area District (PAD) management area, and it establishes Solar Energy Facilities as a permitted use, under limited circumstances, in the Township’s Preservation Area District Zone.

Mr. Lanute displayed Exhibit A of the Executive Director's report illustrating the zoning changes adopted by the ordinance. He stated that the zoning changes impact a 73-acre area made up of the Township's Infill Commercial District (ICD) Zone. The zone permits single family dwelling units on lots of record as of February 7, 1979, that contain at least one acre. Additionally, the zone permits retail uses, commercial services, agricultural processing facilities, and light industrial uses. He noted that the CMP does not permit these commercial uses in the PAD management area.

He stated that the ordinance would eliminate the ICD Zone in its entirety. Fourteen acres would be rezoned to the Township's existing Infill Residential District (IRD) Zone and the remaining 59-acre sand and gravel mine is to be rezoned to the Township's existing Preservation Area District Zone. The IRD Zone would continue to allow the residential uses permitted in the ICD Zone but would not permit the various commercial uses. The Township's Preservation Area District Zone would permit a very limited number of uses consistent with what the CMP allows in the PAD management area.

Mr. Lanute then described the ordinance's provisions related to solar energy facilities. He said that the ordinance establishes solar energy facilities as a permitted use in the Township's Preservation Area District Zone. He said it would be limited to parcels that contained resource extraction operations in areas that were previously mined and have not been restored. He then described the ordinance's various standards governing the development of such solar facilities. He noted that the ordinance included all the solar standards required by the CMP as well as some additional standards that the Township had added. Those additional standards included limiting the extent of any solar facility to a maximum of 25 acres and requiring that the remainder of the parcel be permanently preserved through deed restriction.

Mr. Lanute noted that the 59-acre mine being rezoned was the only resource extraction site in the Township's PAD management area that received permits to continue extraction after 1981, and that Commission staff was not aware of any other resource extraction sites in the Township's PAD. Therefore, the mine being rezoned was the only site expected to meet the ordinance's solar standards.

Mr. Lanute stated that the CMP permits the siting of solar energy facilities in the PAD management area on the parcel of a resource extraction operation, provided the facility is limited to previously mined areas not under an obligation to be restored. The 59-acre mine being rezoned is under such a restoration obligation. Therefore, a strict interpretation of the CMP would not permit a principal solar energy facility on this site.

Mr. Lanute detailed the reasons why staff found the Township's ordinance to be an appropriate use of the CMP's municipal flexibility provisions. He stated that the elimination of the ICD Zone and the rezoning of the 59-acre parcel to the Preservation Area District Zone would resolve a long-standing infill zone that was approved by the Commission in the 1980s but was no longer consistent with the CMP's infill area standards. The zoning change would eliminate the commercial development potential previously associated with these lands. Additionally, the ordinance includes all the CMP's solar standards and adds additional limits on the extent of any solar facility and includes a land preservation requirement, which would at minimum preserve 34 acres on the site if solar were developed.

Mr. Lanute described the concerns expressed in a written public comment received from Ms. Rhyan Grech, Pinelands Preservation Alliance. He summarized the response provided in the Executive Director's Report to each of Ms. Grech's concerns.

Mr. Lanute ended his presentation stating that staff was recommending that the Commission certify Tabernacle Township Ordinance 2021-10. He requested the P&I Committee to provide a recommendation to the full Commission on certification.

Commissioner Lohbauer stated that typically he would not recommend the development of solar in the Preservation Area, Forest Area, or Agricultural Areas in the Pinelands. However, he stated after reviewing this zoning ordinance that it was a creative attempt to solve several problems while leaving restoration obligations for the mine. He said that he is relying on the staff's representation that the restoration obligation of the site remains in place once the solar facility is no longer active and decommissioned. He said that it is compelling that there could be a beneficial use on this site that would not be damaging while also eliminating the risk of the damage that could occur from a potential commercial development. He asked Mr. Lanute to describe the footprint of a potential solar energy facility. Referencing Exhibit A, Mr. Lanute described the concept plan that was provided by the applicant, stating that the footprint would be about 14 acres in area and located in the unrestored section of the mine floor.

Commissioner Lohbauer then asked whether the darker areas of the parcel on the perimeter were forested. Environmental Specialist Ernest Deman described the perimeter of the parcel as a mix of mature forests as well as stands that were planted as part of the restoration process. Mr. Lohbauer asked if additional planting would be required for screening purposes. Mr. Deman said that is something staff would confirm with the applicant.

Mr. Deman stated that it would be unlikely that additional screening would be necessary due to the design and location of the 11-acre facility, which is already screened by natural vegetation. However, staff would evaluate that during the application process.

Commissioner Lohbauer then asked about the necessary public infrastructure that would be needed to interconnect with the grid. Mr. Deman stated that such information must be submitted and evaluated as part of a development application. Ms. Grogan clarified that the solar development application is a private application and would be reviewed by staff and will not be reviewed directly by the full Commission.

Commissioner Lloyd asked for clarification as to whether the footprint of the facility would be 11 or 14 acres. Mr. Deman answered 11 acres as currently proposed. Commissioner Lloyd asked if the project would provide protection for additional portions of the site from off road vehicles (ORV). Ms. Grogan stated that there is no guarantee that ORV use on the site will be eliminated, but that it is expected to be greatly curtailed if the solar facility is developed. He then asked whether the 11-acre footprint would be located on land that was restored. Ms. Grogan stated that the solar facility can only be sited in an area that has not been restored. He then asked if the Commission would be deferring the site's restoration for the life of the solar facility only, should the application move forward. Ms. Grogan specified that the Commission would be deferring restoration within the footprint of the solar facility, but the restoration obligation for the remainder of the site would continue to apply even during the lifetime of the solar facility.

Commissioner Lettman asked about the location of the 34 acres to be permanently protected and the relationship to PDCs. Ms. Grogan said the preservation of the 34 acres will occur on-site in addition to the lands that would be preserved as a result of the requirement to acquire and redeem Pinelands Development Credits.

Commissioner Irick asked if the 50 ft fire break will remove any trees on the site. Mr. Lanute said no, and that any fire break will have to be located within the 25-acre limit and located on a portion of the site that has not been restored. Commissioner Irick asked for staff input on the precedent for approving such an ordinance. Ms. Grogan stated that this is a unique situation involving an infill commercial district that includes a large parcel. She did not believe a negative precedent was being set, and said that a similar situation is unlikely to occur in the future.

Commissioner Lohbauer asked whether the CMP requires solar developers to post a bond related to the decommissioning and restoration of the site. Ms. Grogan stated the CMP does not require bonding, but a municipality could require it.

Commissioner Lohbauer moved the recommendation that the Commission certify Tabernacle Township Ordinance 2021-10. Commissioner Lloyd seconded the motion, and all voted in favor.

Chair Matos asked if this resolution will be on the agenda of the March 11 Commission meeting, to which Ms. Grogan affirmed that it would.

4. Discussion of the PILOT (Payment in Lieu of Taxes) Program: funding status and draft resolution to support the Pinelands Municipal Council's efforts

Ms. Grogan discussed a resolution adopted by the Pinelands Municipal Council thanking the Governor and the legislature for restoring PILOT funding for Fiscal Year 2022 and requesting that funding be continued in future fiscal years. She said that the Council had requested that the Commission consider a resolution of its own supporting continued PILOT funding in future fiscal years. Ms. Grogan stated that a resolution has been drafted that largely mirrors the Council's resolution and expressed her support for the Commission to adopt this resolution.

To illustrate the importance of PILOT funding to Pinelands municipalities, Ms. Grogan pointed to the example of Washington Township where 90% of its land area is either state-owned or under some other form of preservation. Washington Township received \$1.1 million in Fiscal Year 2022, which is a significant component of their budget. She provided additional statistics for Woodland and Bass River townships.

Commissioner Lohbauer moved to recommend the adoption of the PILOT resolution to the full Commission at the March 11 monthly meeting. Commissioner Lloyd seconded the motion and commented that he is a staunch advocate of the PILOT program. Commissioner Lloyd suggested that it may be beneficial for a Township like Washington to consider merging with an adjoining municipality. Ms. Grogan responded that many of these municipalities do have shared services agreements with neighboring communities, but are not likely to formally merge.

Commissioner Lohbauer praised Commissioner Pikolycky for championing the PILOT program and securing funding for rural communities.

Chair Matos asked for a vote to forward the resolution to the full Commission meeting. All members voted in favor.

5. Update on upcoming Policy & Implementation Committee matters

Pinelands Conservation Fund land acquisition

Ms. Grogan provided an overview of matters expected to come before the P&I Committee in the coming months. She noted that both the Green Acres program and the NJ State Agricultural Development Committee have received infusions of funding and are expected to be active in preserving lands in the Pinelands Area. Additionally, the Commission is planning to launch its own round of land acquisition projects using the Pinelands Conservation Fund. The Commission was unsuccessful in attracting projects

in 2021 due to the pandemic and the volatility of the real estate market. She said that Earth Day (April 22) is the target date to announce the new round of acquisitions and solicit potential candidates. She expected to present eligible projects for funding before for the Committee this summer. The Commission has previously made \$1 million available for land acquisition projects.

Rulemaking: Kirkwood/Cohansey water supply, the Electric Transmission Right-of-Way Pilot Program and CMP amendment priorities

At the March meeting, there will be several CMP draft amendments including Kirkwood-Cohansey water supply rule, now that an agreement has been reached with the U.S. Geological Survey (USGS) to assist in the implementation of the rules should they be adopted by the Commission. Staff is also working on a draft CMP amendment regarding the Electric Transmission Right-of-Way Maintenance Pilot Program, which was previously discussed with Committee members in late 2021. Staff is also working with municipalities on various rezoning and redevelopment plans, and Ms. Grogan posited that many of these matters will come up in meetings this spring.

In April, staff will commence a conversation with Committee members about CMP amendments and rulemaking more generally. Ms. Grogan referenced her memo from last year that compiled a comprehensive list of CMP amendments that have been requested or identified over the past ten years. The Committee will be tasked with prioritizing the amendments. She noted that April is an appropriate time for these discussions as it aligns with the Commission's Fiscal Year 2023 budget planning.

Commissioner Lohbauer asked Ms. Grogan if she will give the new Commissioners an opportunity to take a recent poll ranking and classifying plan amendments. She stated that she will probably not ask them to vote but noted that all new Commissioners did receive copies of the full list of possible CMP amendments as part of their orientation materials. Commissioner Lloyd commented that it would be useful to summarize Commissioner feedback to date for the new Commissioners before the April meeting.

6. Public Comment

Chair Matos opened the meeting to public comment. Rhyan Grech of the Pinelands Preservation Alliance (PPA) thanked the Committee for recommending the PILOT resolution to the full Commission and said PPA hopes that PILOT funding will continue to be available to municipalities.

Ms. Grech stated that she appreciated the thoughtful conversation around the Tabernacle ordinance but did not agree with the argument that this non-conforming ordinance should be certified because it eliminates a pre-existing, non-conforming zone. She argued that it was the responsibility of the Pinelands Commission to not allow this ordinance because it does not comply with the CMP, nor should it allow any proposed commercial uses that would have been proposed in the existing Infill Commercial District which is also not in compliance with the CMP. She stated that it is the obligation of the Commission to not approve or certify developments or plans that conflict with the CMP. She also expressed concern about deferring restoration to a future hypothetical date, which will not benefit the natural resources of the Pinelands today. She voiced a concern that this may set a precedent that incentivizes other mine owners that have an obligation to restore to seek this kind of alternative.

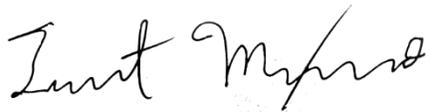
It was noted that Commissioner Higginbotham had joined the meeting in anticipation of the Climate Committee meeting.

Commissioner Irick stated that it was his understanding that the only deferred area for restoration will be the area where the solar panels are located, and that the remaining area of the parcel will need to be restored as part of the application approval. He asked Ms. Grogan if that was correct; she confirmed that it was true.

Chair Matos closed public comment at 10:35 am.

Commissioner Lohbauer motioned to adjourn at 10:36 am. Commissioner Irick seconded. All members voted in favor.

Certified as True and Correct

A handwritten signature in black ink, appearing to read "Trent Maxwell". The signature is written in a cursive, flowing style.

Trent Maxwell

Technical Planning Assistant

March 15, 2022



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MEMORANDUM

To: Members of the Policy & Implementation Committee

From: Gina Berg

Date: March 11, 2022

Subject: Re-launching a round of land acquisition grants using the Pinelands Conservation Fund

Attachments: Project Evaluation Matrix
Maps

The Pinelands Commission launched its permanent land protection program with the Pinelands Conservation Fund (PCF) in 2008. The goal of the permanent land protection program is to preserve important natural, cultural, historical, and agricultural resources in the Pinelands Area. Various agreements since 2008 have replenished the PCF, most recently in 2019 through an amended agreement with the South Jersey Transportation Authority (SJTA) related to development at the Atlantic City International Airport. Eight rounds of permanent land protection have been funded to date for a total of 8,969 acres of land preserved by project partners.

In 2021, the Policy and Implementation (P&I) Committee authorized a ninth round of land acquisition grants using the PCF. The Committee agreed to make a total of \$1 million available. The Committee also approved a set of criteria and a matrix for evaluating project proposals. The project evaluation matrix, along with maps that highlight the targeted acquisition areas and siting criteria, are appended to this memo. The site priorities are summarized below:

- Sites containing suitable habitat for threatened and endangered grassland birds in proximity to the Atlantic City Airport and that can be maintained as suitable grassland
- Sites intended to offset or to mitigate climate change impacts such as the wildfire-urban interface, flood hazards, or carbon sequestration
- Lands in areas identified for acquisition using federal funding pursuant to Section 502 of the 1978 National Parks and Recreation Act, of which approximately 12,000 acres remain unpreserved

- The 20 Planning Areas previously identified by the Commission's Permanent Land Protection Committee as containing sensitive ground and surface water resources, threatened and endangered species habitat and unbroken forest cover, of which approximately 46% remains unpreserved and undeveloped

Following P&I Committee authorization to open the ninth round, staff distributed invitations to local, county, regional, and statewide land conservation entities in May 2021. Only one project proposal was received, and that project did not score highly using the project scoring matrix that the Committee had approved. Staff then conducted a survey of a number of conservation entities to gauge whether the PCF project criteria or administrative process was too onerous or whether other factors led to the lack of project proposals. The surveyed entities (counties and non-governmental organizations) described issues not related to PCF criteria or the administrative process as the reason for not submitting project proposals. The main issues included a focus on lands outside the Pinelands Area and developers offering land values substantially higher than appraised values. The surveyed entities generally supported the project criteria established for the ninth round of PCF acquisition.

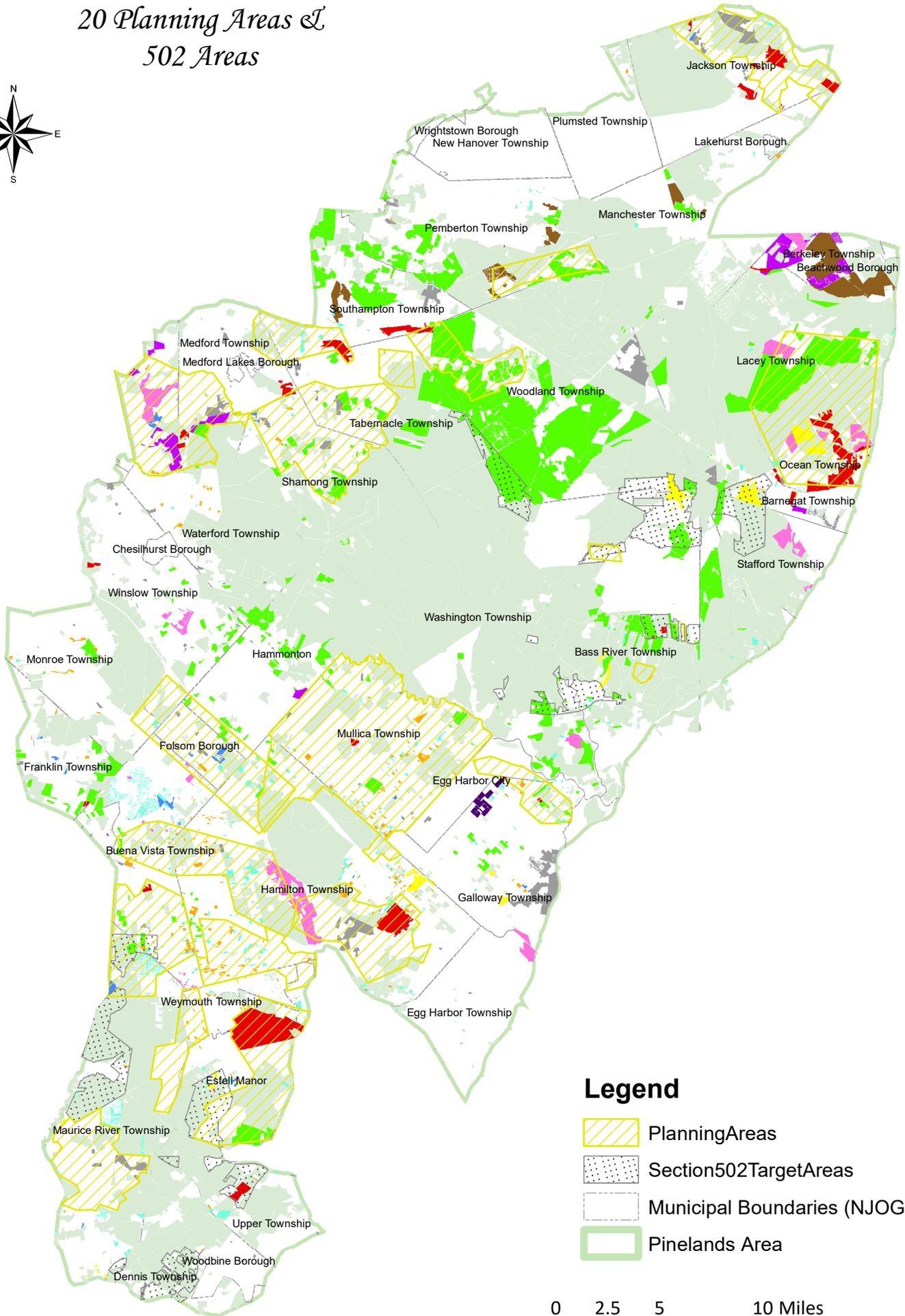
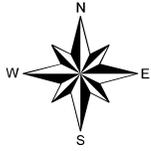
Due to the lack of projects and the survey responses, staff recommended that the Commission forgo funding the one project and instead re-launch a round of acquisition in 2022 using the same acquisition criteria and project evaluation matrix. It was hoped that the external factors inhibiting project proposals would shift and more projects would be submitted at a later date. The P&I Committee agreed with the staff recommendation.

At this time, staff is requesting authorization to re-launch a new round of land acquisition using the previously approved project criteria and evaluation matrix. Staff recommends increasing the amount of funding being made available in this round from \$1 million to \$1.5 million. We propose to distribute requests for projects on or about April 22, 2022, with a projected submission deadline of June 24, 2022. Project evaluations and funding recommendations could then be presented at the August 26, 2022, P&I Committee meeting.

Priority Matrix			
Factor	Low (1)	Medium (3)	High (5)
Location: Is the project in PCF focus area	In RGA, Town, Village or Rural Development Area AND none of the designated focus areas	In designated focus areas and PAD, SAPA, APA or Forest Area	Within a five-mile radius of SJTA and inside the State Pinelands Area
T&E Habitats:	No state/federal T&E habitat per NJDEP Landscape Model AND no NJPC and ENSP sightings	T&E habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings	Grassland habitat exists based upon NJDEP Landscape model and/or NJPC and ENSP sightings
Size:	Less than 50 acres	Between 50 and 100 acres	100 acres or more; add 3 additional points if greater than 500 acres
Contiguity:	Greater than one mile from preserved habitat or open space	Less than one mile from known grassland T&E habitats but not contiguous	Contiguous with preserved habitat or open space
Partner Contribution:	67.7% of acquisition costs	At least 75% acquisition costs	Greater than 75% acquisition costs
Long-Term Maintenance Capability:	No monitoring or maintenance plan/ no identified land steward	Proposed Monitoring and maintenance plan; Not previously implemented	Established Monitoring and maintenance program / Gov't. agency or NGO is prepared to manage land
Climate Change or Impacts of Change Mitigation:	Flood Hazard Mitigation	Wildfire Management	Carbon Sequestration/ Storage*
Purpose:	Historic Preservation	Open Space	T & E or Climate Change

*Additional carbon sequestration points: 3 additional points for projects involving Atlantic white cedar swamps greater than 40 ha., 2 additional points for Atlantic white cedar swamps greater than 20 ha., 1 additional point for Atlantic white cedar swamps greater than 3 ha.)

20 Planning Areas & 502 Areas

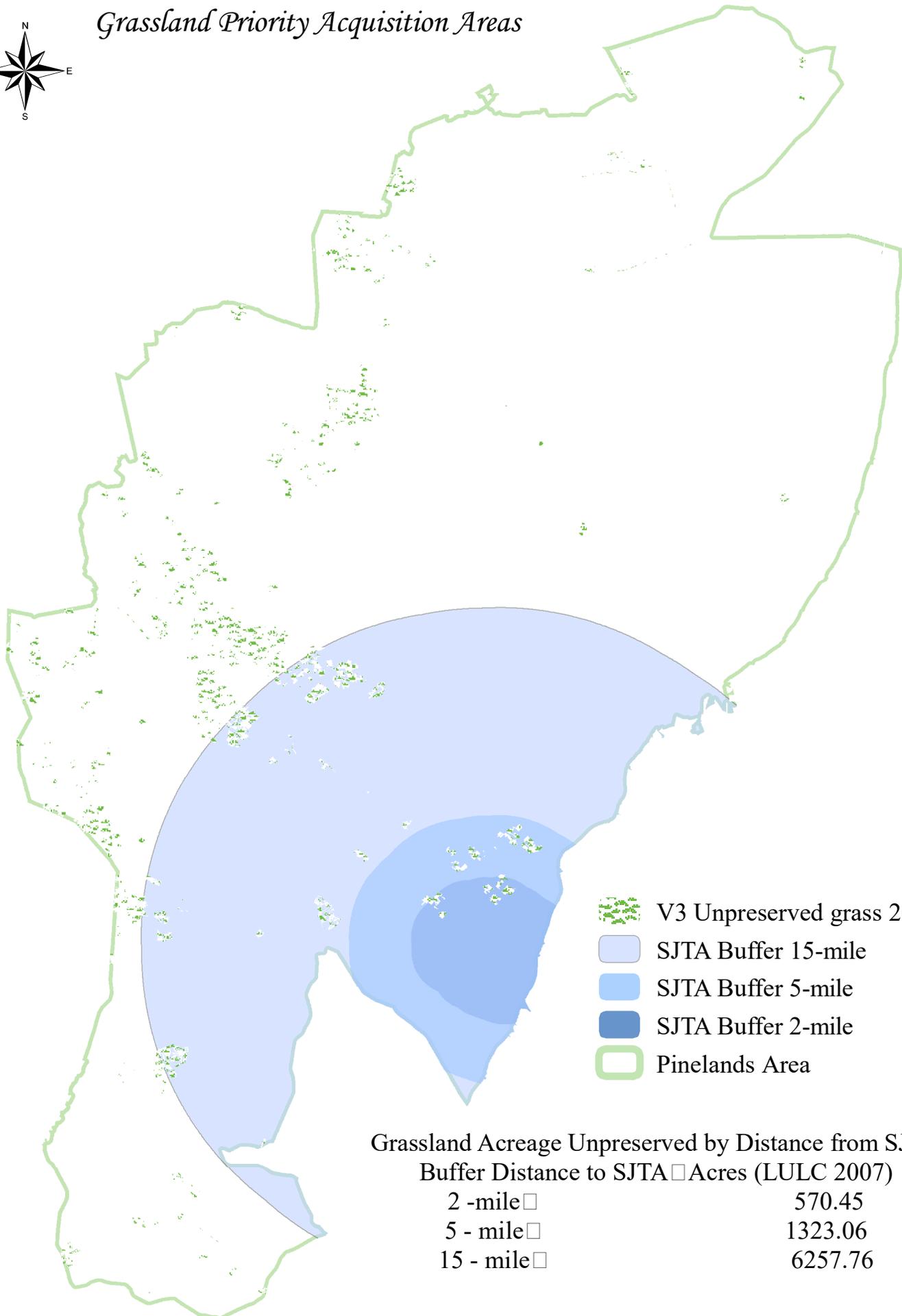
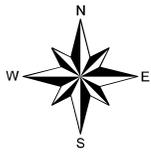


Legend

-  Planning Areas
-  Section 502 Target Areas
-  Municipal Boundaries (NJOGIS)
-  Pinelands Area



Grassland Priority Acquisition Areas



-  V3 Unpreserved grass 2020
-  SJTA Buffer 15-mile
-  SJTA Buffer 5-mile
-  SJTA Buffer 2-mile
-  Pinelands Area

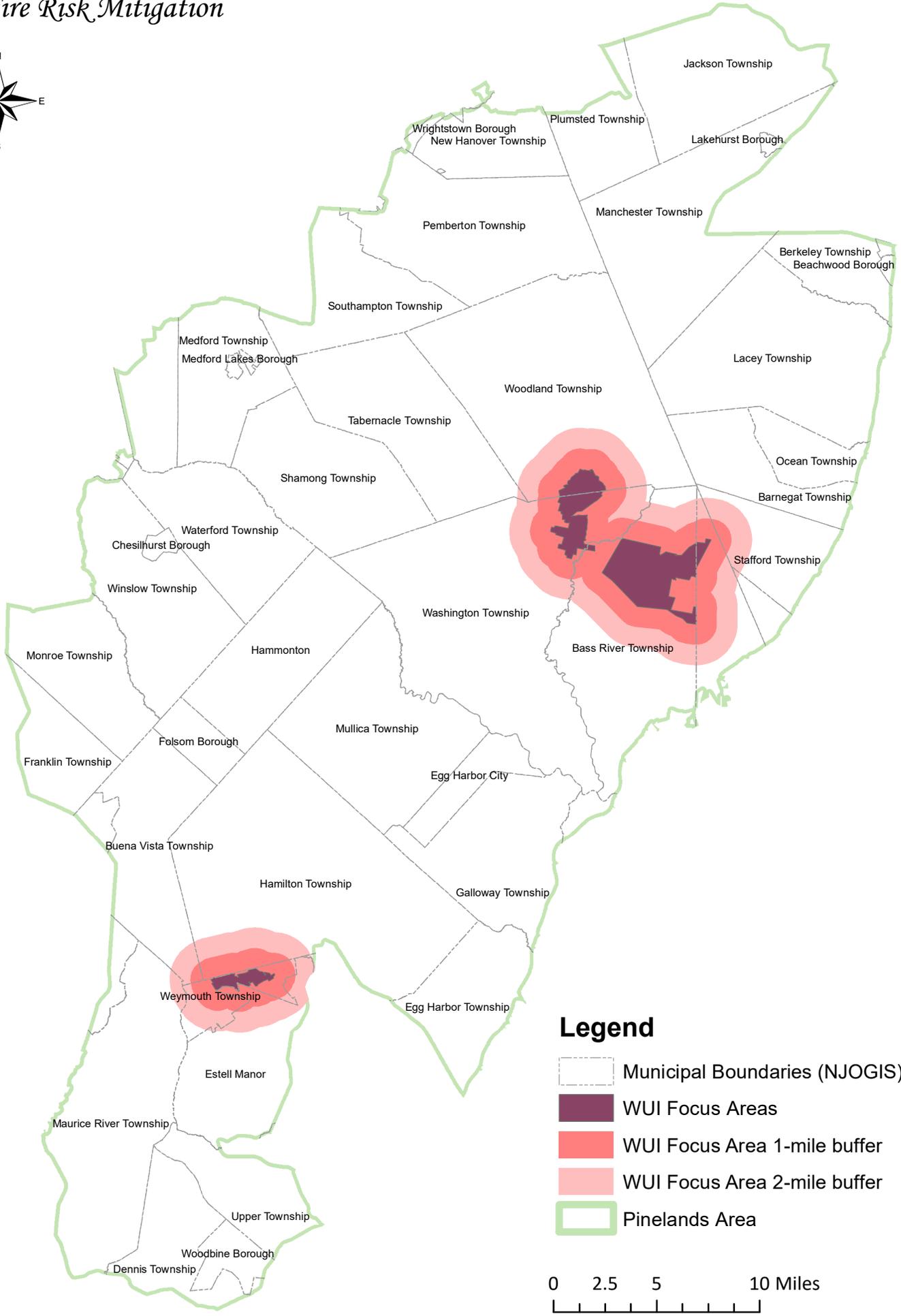
Grassland Acreage Unpreserved by Distance from SJTA

Buffer Distance to SJTA □ Acres (LULC 2007)

2 - mile □	570.45
5 - mile □	1323.06
15 - mile □	6257.76



Fire Risk Mitigation

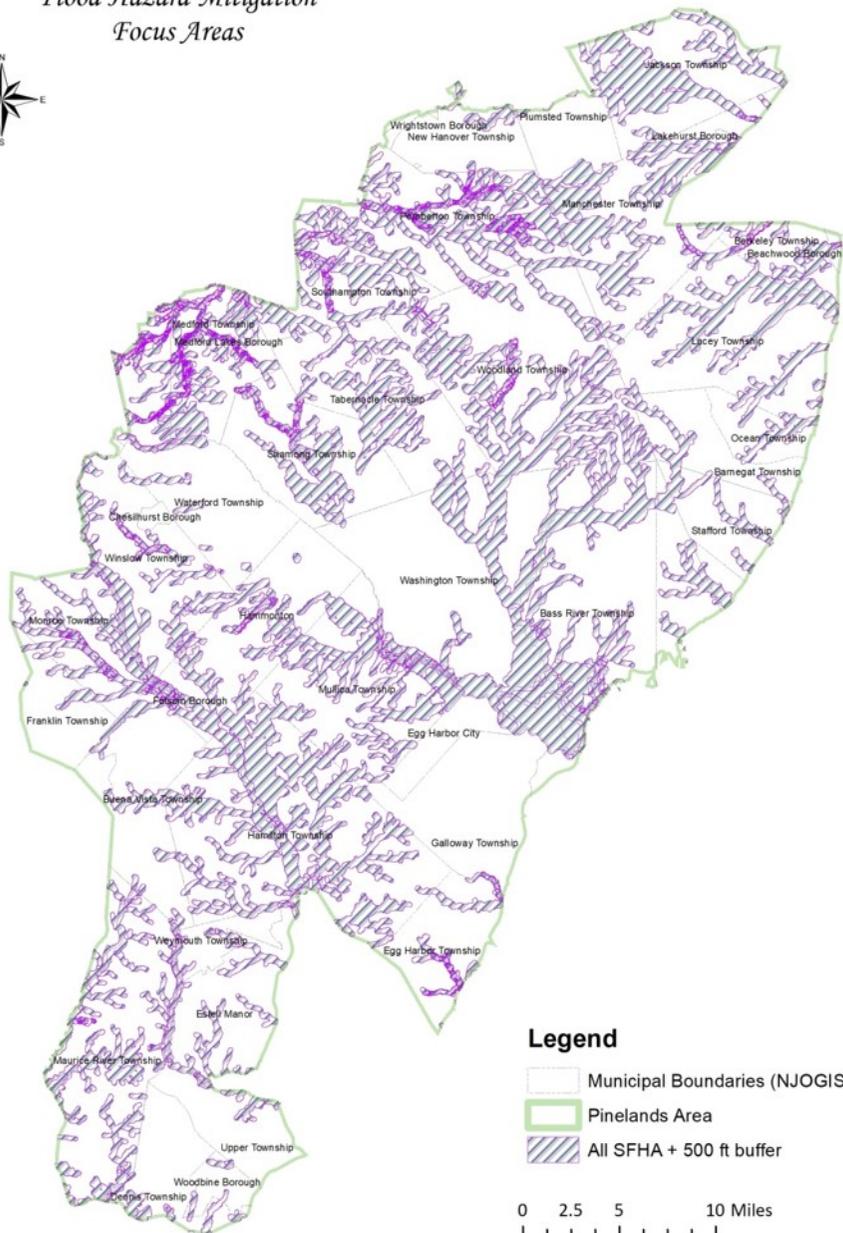


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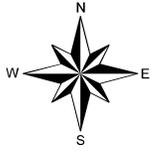
- Municipal Boundaries (NJOGIS)
- WUI Focus Areas
- WUI Focus Area 1-mile buffer
- WUI Focus Area 2-mile buffer
- Pinelands Area



Flood Hazard Mitigation Focus Areas



Historic and Cultural Acquisition Focus Areas





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MEMORANDUM

To: Members of the Policy and Implementation Committee

From: Gina A. Berg 
Resource Planner

Subject: Draft Amendments to CMP Water Management Rules (N.J.A.C. 7:50-6.86)

Date: March 16, 2022

In 2001, legislation known as the Gibson Bill (P.L. 2001 c.165) directed the Pinelands Commission to prepare an assessment of the Kirkwood-Cohansey aquifer to determine how to meet water supply needs while also avoiding any adverse ecological impacts to the Pinelands Area. The legislation appropriated \$5,500,000 from the Water Supply Fund for preparation of the assessment. Subsequently, the Commission, together with partners at the United States Geological Survey, the New Jersey Department of Environmental Protection (NJDEP), Rutgers University, and others, conducted a number of studies on the Kirkwood Cohansey. The studies evaluated hydrology of the Kirkwood-Cohansey, impacts to stream baseflow, impacts to wetlands and wetlands dependent species, and water supply demand for future build-out of the Pinelands Area. The list of completed studies includes the following, all of which are accessible via the Commission's website at <https://www.nj.gov/pinelands/science/complete/kc> :

- Hydrologic-framework Study (USGS)
- Hydrologic-assessment Study (USGS)
- Evapotranspiration Study
- Hydrologic-modeling study (USGS)
- Stream Fish and Invertebrate Study (USGS)
- Nitrogen Laboratory and Field Study
- Stream-habitat Study (PC)
- Swamp pink Study (PC & USFWS)
- Frog-development Study (PC)
- Landscape-application Study (Rutgers)

In addition, a review of the existing water management rules at N.J.A.C. 7:50-6.86 in the Comprehensive Management Plan (CMP) found that the rules could be clarified and tightened to provide better protection of the Pinelands Area while also allowing sufficient supply for future authorized development in the Pinelands Area. Based on the studies and review of the rules, staff

prepared recommendations for changes to the CMP. Generally, the revisions remove ambiguity by setting numerical standards and by defining terms. More significantly, however, the amendments propose to extend CMP water management standards to a wider group of non-agricultural wells.

Key highlights of the proposed amendments include the following:

- Reducing the threshold at which CMP water management standards would apply from 100,000 gallons per day (gpd) to 50,000 gpd for non-agricultural wells using the Kirkwood-Cohansey. This change increases the applicability of the rules to a larger group of non-agricultural withdrawals. It is anticipated that this would affect a number of smaller users such as mobile home parks in the Rural Development Area or some industrial uses.
- Setting specific standards for water table drawdown in wetlands and in the Preservation Area District and Forest Area. The current rule states that wells and increases in diversion from existing wells should minimize impacts to wetlands and surface waters. By setting specific limits on drawdown to the water table in wetlands and elsewhere, the amendments set clear standards rather than relying on the ambiguous standard of minimizing impacts. These new limits are based on study results that showed critical impacts occurring to wetlands species when water levels were depleted by four or more inches. The amendments also set a standard of no drawdown in our most protective management areas: the Preservation Area District, the Special Agricultural Production Area, and the Forest Area.
- Identifying models that should be used to evaluate local impacts caused by proposed wells or increases in withdrawals. The existing water management section of the CMP requires hydrologic analyses in accordance with an outdated publication. To make the application process more predictable, the amendments specify which analyses must be conducted and in what sequence the analyses and models should be prepared by applicants.
- Updating reference to other published documents. As noted, the existing rule refers to New Jersey Geological Survey Report GSR 29. That report has been replaced by Technical Memorandum 12-2 (TM 12-2). The TM 12-2 provides updated guidance on aquifer testing.
- Using the Low Flow Margin published in the New Jersey Statewide Water Supply Plan to evaluate regional impacts of new or increased withdrawals from the Kirkwood-Cohansey. The existing CMP requires that wells be designed to avoid impacts to wetlands and surface waters. The Low Flow Margin is a new tool that allows the Commission to set a standard for how those impacts are defined and makes the rule clearer.
- Addressing specific conservation measures. The existing water management section requires all applications for new or increased water supply wells to address measures to be taken to increase water conservation. This language is being revised to add a menu of potential conservation measures and to make implementation of conservation measures mandatory and measurable.
- Addressing alternative water supply sources where constraints would limit additional use of the Kirkwood-Cohansey aquifer. Currently, applications for new or increased withdrawals from the Kirkwood-Cohansey aquifer must demonstrate that no viable alternative to the Kirkwood-Cohansey aquifer exists. However, the term viable is not defined. By revising this part to state that the Commission will maintain a list of alternative sources, the amendments will identify specific areas where alternative sources are known to exist while also maintaining flexibility to

update alternatives as public water supply data is updated from NJDEP, municipal utilities authorities, and public purveyors.

- Clarifying certain terminology used in N.J.A.C. 7:50-6.86. Certain existing and new terms will be defined, such as the term basin, stream low flow margin, diversion, and zone of influence.

Conceptual rule changes predicated on these recommendations have been discussed with the P&I Committee and at various meetings to engage a wide audience and obtain preliminary feedback on the concepts. Staff conducted formal presentations at a number of public meetings: the Commission's Plan Review Committee in 2012, the Pinelands Preservation Alliance conference in 2012, the Delaware River Basin Commission twice in 2015 and the New Jersey Water Supply Advisory Council in 2013 and in 2021. Staff made presentations at closed meetings for NJDEP in 2013 and 2019 and for the New Jersey Builders Association in 2013 and 2015. In addition, a Focus Group meeting was held at the Commission offices in January 2020 and was attended by invitees from municipalities, utilities, purveyors, and environmental organizations. Lastly, staff updated the P&I Committee at various times since 2012, most recently on June 28, 2019.

Considering all this input, staff has prepared the attached draft rule amendments and will be available to review the changes in detail at the March meeting. Staff requests comments from the P&I Committee before moving forward with the rulemaking process.

Draft CMP Amendments
Water Management
March 16, 2022

SUBCHAPTER 1. GENERAL PROVISIONS

7:50-1.6 Fees

(a) Except as provided in (a)1 and 2 below, all applications required or permitted by any provision of this Plan shall be accompanied by a nonrefundable, **nontransferable** application fee of \$250.00 or a fee calculated according to the fee schedule set forth in (b) through (l) below, whichever is greater. No application filed pursuant to this Plan shall be reviewed or considered complete unless all fees required by this Part have been paid and any escrow required pursuant to N.J.A.C. 7:50-1.7 has been submitted.

1.-2. (No change.)

(b) (No change.)

(c) The application fee for a commercial, institutional, industrial, or other non-residential development application submitted pursuant to N.J.A.C. 7:50-4.14, 4.33, 4.52, or 4.66 shall be calculated in accordance with the following, based on typical construction costs, except as provided in (c)1 through **10** [9] below:

Construction Cost	Required Application Fee
\$0 - \$500,000	1.25 percent of construction costs
\$500,001 - \$1,000,000	\$6,250 + 1 percent of construction costs above \$500,000
Greater than \$1,000,000	\$11,250 + 0.75 percent of construction costs above \$1,000,000

Typical construction costs shall include all costs associated with the development for which the application is being submitted, including, but not limited to, site improvement and building improvement costs, but shall not include interior furnishings, atypical features, decorative materials or other similar features. Supporting documentation of the expected construction costs shall be submitted as part of the application for development, unless the maximum fee pursuant to (e)3 [(e)4] below is required, in which case no such documentation shall be necessary.

1.-7. (No change.)

8. For the demolition of a structure 50 years or older, the fee shall be \$250.00; [and]

9. For the development of a solar energy facility, the fee shall be \$1,500 plus \$500.00 per acre of land to be developed, or portion thereof, including any off-site development; **and**[.]

10. For a well, the application fee shall be:

- i. \$6,000 for any well proposing a new diversion or an increase in allocation from either a single existing diversion source or from combined existing diversion sources in the same HUC-11 watershed in the Kirkwood-Cohansey aquifer, that results in a total diversion of 50,000 gallons of water per day or more; or**
- ii. \$1,000 for any other well.**

(d)-(l) (No change.)

SUBCHAPTER 2. INTERPRETATIONS AND DEFINITIONS

7:50-2.11 Definitions

“Divert” or “Diversion” means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other waterbody, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

“HUC 11” means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

“Stream low flow margin” means the difference between a stream’s September median flow and its statistical flow (7Q10), which is the seven-day flow average in the 10-year period for the stream as reported in the New Jersey Statewide Water Supply Plan.

“Well” means a hole or excavation deeper than it is wide, that is drilled, bored, core driven, jetted, dug or otherwise constructed for the purpose of the removal of, investigation of, or exploration for water.

“Zone of influence” means the area of ground water that experiences an impact attributable to a pumping well.

SUBCHAPTER 6. MANAGEMENT PROGRAMS AND MINIMUM STANDARDS

7:50-6.86 Water Management

[(a) Interbasin transfer of water between watersheds in the Pinelands should be avoided to the maximum extent practical. In areas served by central sewers, water-saving devices such as watersaving toilets, showers and sink faucets shall be installed in all new development.]

(Transport outside the Pinelands)

[(b)](a) Water shall not be exported from the Pinelands except as otherwise provided in N.J.S.A.

58:1A-7.1.

(Inter-basin Transfers)

(b) A diversion that involves the interbasin transfer of water in the Pinelands Area between the Atlantic Basin and the Delaware Basin, as defined in (1) and (2) below, or outside of either basin, shall be prohibited.

- 1. The Atlantic Basin is comprised of Watershed Management Areas 13, 14, 15, and 16, as identified by the New Jersey Department of Environmental Protection at <https://www.state.nj.us/dep/seeds/docs/watersheds.pdf>.**
- 2. The Delaware Basin is comprised of Watershed Management Areas 17, 18, 19, and 20 as identified by the New Jersey Department of Environmental Protection at <https://www.state.nj.us/dep/seeds/docs/watersheds.pdf>.**

(Intra-basin transfers)

- (c) **A diversion involving the intrabasin transfer of water between HUC-11 watersheds in the same basin, Atlantic or Delaware as defined in (b) above, shall be permitted. If such an intrabasin transfer involves water sourced from the Kirkwood-Cohansey aquifer, the diversion shall meet the criteria and standards set forth at (d) below.**

(Scope, standards and application requirements)

- (d) **A new diversion or an increase in allocation from either a single existing diversion source or from combined existing diversion sources in the same HUC-11 watershed in the Kirkwood-Cohansey aquifer, that results in a total diversion of 50,000 gallons of water per day or more, (hereafter referred to as “proposed diversion”) shall meet the criteria and standards set forth at (3) through (9) below.**
1. **When evaluating whether the proposed diversion meets the criteria set forth in (3) through (9) below, all of the applicant’s allocations in a HUC-11 watershed under a Water Allocation Permit or Water Use Registration Number issued by the New Jersey Department of Environmental Protection, in addition to the proposed diversion, shall be included in the evaluation.**
 2. **The standards set forth at (3) through (9) below shall not apply to:**
 - i. **The replacement of an existing well in the Kirkwood-Cohansey aquifer with a diversion rate of 50,000 gallons of water per day or more, provided that the replacement well or pump will not result in an increase in allocation, diversion or rate of pumping associated with the current Water Allocation Permit or Water Use Registration**

Number issued by the New Jersey Department of Environmental Protection for the existing well; or

- ii. Any diversion that is exclusively for agricultural or horticultural use.

(Permissible management areas)

- 3. A proposed diversion shall be permitted only in the following Pinelands Management Areas:
 - i. Regional Growth Area;
 - ii. Pinelands Towns;
 - iii. Rural Development Area;
 - iv. Agricultural Production Area;
 - v. Military and Federal Installation Area; and
 - vi. The following Pinelands Villages: Milmay; Newtonville; Richland; Folsom; Cologne-Germania; Pomona; Mizpah; Nesco-Westcoatville; Port Republic; New Gretna; New Lisbon; Indian Mills; Tabernacle; Blue Anchor; Elm; Tansboro; Waterford Works; Winslow; Dennisville; Petersburg; Tuckahoe; Delmont; Dorchester; and Port Elizabeth-Bricksboro.

(No alternative sources)

- 4. A proposed diversion shall not be permitted if an alternative water supply source is available. Alternative water supply sources include, but are not

limited to, groundwater and surface water sources that are not part of the Kirkwood-Cohansey aquifer, and public water purveyors and supplies, as defined at N.J.A.C. 7:19-1.3. A list of alternative water supply sources is available at the offices of the Pinelands Commission and at <https://www.nj.gov/pinelands/> .

(No adverse ecological impact)

5. **No proposed diversion shall have an adverse ecological impact on the Kirkwood-Cohansey aquifer water table, as defined at N.J.A.C. 7:19-6.2. Adverse ecological impact means an adverse regional impact and/or adverse local impact, as described at (6) and (7) below.**

(No adverse regional impact)

6. **A proposed diversion shall be deemed to have an adverse regional impact if it, combined with all existing permitted allocations in the same HUC-11 watershed, exceeds 20 percent of the stream low flow margin for the year of peak use established in the New Jersey Statewide Water Supply Plan at <https://www.nj.gov/dep/watersupply/pdf/wsp.pdf> for the HUC-11 watershed where the proposed diversion will be located (hereafter referred to as “the affected HUC-11 watershed”).**
 - i. **If a proposed diversion is deemed to have an adverse regional impact, it may be permitted only if an applicant permanently offsets the diversion on a gallon-for-gallon basis.**

- (1) **Offsets shall be implemented in the affected HUC-11 watershed and include, but are not limited to:**
 - (A) **The recharge of previously non-infiltrated stormwater runoff in the Pinelands Area;**
 - (B) **The recharge of treated wastewater that is currently discharged via a regional sewage treatment plant that discharges treated wastewater into the Delaware River or Atlantic Ocean;**
 - (C) **Development of a desalinization facility; and**
 - (D) **Sewerage system inflow and infiltration abatement and/or water distribution infrastructure leak auditing and correction.**

ii. **A proposed diversion in a HUC-11 watershed where water withdrawals already exceed 20 percent of the stream low flow margin established in the New Jersey Statewide Water Supply Plan shall be deemed to have an adverse regional impact unless an applicant can permanently offset the diversion in accordance with (i)1 above.**

iii. **Application requirements**

- (1) **Using data on low flow margin in the New Jersey Statewide Water Supply Plan in effect at the time of application, an applicant shall calculate the sum of the proposed diversion and all existing permitted allocations in the affected HUC-11 watershed, and show whether that sum exceeds 20 percent of**

the stream low flow margin for the year of peak use established in the New Jersey Statewide Water Supply Plan. The applicant shall submit a report that includes its calculations and a summary of the impact of the proposed diversion on the affected HUC-11.

(No adverse local impact)

7. A proposed diversion shall be deemed to have an adverse local impact in the Pinelands Area if it results in the drawdown of the water table: (1) of any portion of the Preservation Area District, Forest Area, or Special Agricultural Production Area in the affected HUC-11 watershed; or (2) of more than four inches of the wetland nearest to the estimated zone of influence in the affected HUC-11 watershed.

i. Application requirements

(1) An applicant shall submit an analysis of potential drawdown impacts using the Thiem method in accordance with the New Jersey Geological & Water Survey Technical Memorandum 12-2, Hydrogeologic Testing and Reporting Procedures in Support of New Jersey Water Allocation Permit in effect at the time of application (hereafter referred to as “TM 12-2”).

(2) Upon completion of the Thiem analysis, an applicant shall submit a proposed hydrogeologic test procedure, developed in

accordance with TM12-2, which shall include, at a minimum, the installation of:

- (A) A single-pumping well;
- (B) Observation wells to sufficiently monitor water levels while the test well is pumped at a constant rate;
- (C) Observation wells to collect time-drawdown data for aquifer characterization; and
- (D) At least one piezometer to measure surface water and water table decline at: the nearest boundaries of the Preservation Area District, Forest Area and Special Agricultural Production Area in the affected HUC-11 watershed; and the wetlands nearest to the estimated zone of influence in the affected HUC-11 watershed.
 - (I) If an applicant cannot gain access to the properties at the locations listed in ii(4) above for placement of piezometer(s), the applicant may propose to install piezometers at comparable sites if the alternate placement will adequately measure surface water and water table decline at the locations listed in 2(D) above.
 - (II) Piezometers must be developed using an airlift surge block or pumping to ensure hydraulic responsiveness;

- (3) Following the Commission’s review of the hydrogeologic test procedure, the applicant shall complete the test and submit a final hydrogeologic report prepared in accordance with the “Hydrogeological Report” section of TM 12-2, which shall include a discussion of the field procedures used, all data gathered, analysis of the data, and evaluation of the effect of the proposed diversion on the Kirkwood-Cohansey aquifer.
- (4) Using the results of the hydrogeologic testing performed in accordance with iii above, the applicant shall calculate an estimated zone of influence created by the proposed diversion and submit a groundwater flow model using the modular hydrologic model of the United States Geological Survey, (MODFLOW) in use at the time of the application. The MODFLOW model shall calculate the zone of influence of the water table at: (1) the nearest boundaries of the Preservation Area District, Forest Area and Special Agricultural Production Area in the affected HUC-11 watershed and (2) the boundary of the wetland nearest to the proposed diversion in the same HUC-11 watershed.

(Water conservation)

8. An applicant for a proposed diversion shall provide documentation of water conservation measures that have been implemented, or that are planned for implementation, for all areas to be served by the proposed diversion.

- i. Water conservation measures are measurable efforts by water supply utilities, water purveyors and local governments to reduce water demands by users and reduce losses in the water distribution system and include, but are not limited to, the following:**
 - 1. Implementation of the WaterSense water conservation program of the United States Environmental Protection Agency; and**
 - 2. Implementation of a Supervisory Control and Data Acquisition (SCADA) program by the public water supply purveyor to manage well withdrawals to minimize environmental impacts.**

(Notice requirements)

- 9. When two or more municipalities share any portion of an affected HUC-11 watershed, as defined in (6) above, the following notice requirements shall apply to proposed diversions:**
 - i. For applications submitted pursuant to N.J.A.C. 7:50-4.31 through 4.50, the applicant shall provide proof that it has notified, in writing, the governing body of the municipality in which the proposed diversion will be located, as well as any other municipality in the affected HUC-11 watershed, including municipalities located outside the Pinelands Area. Notification shall include:**

