

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=7-JeVIOSJh4>

Meeting ID: 844 4223 0576

March 25, 2022 - 9:30 a.m.

Minutes

Members in Attendance – Alan W. Avery Jr., Jerome H. Irick, Mark Lohbauer, Laura E. Matos

Members Absent – Ed Lloyd

Other Commissioners in Attendance – Theresa Lettman

Commission Staff – Gina Berg, Ernest Deman, Marci Green, Susan R. Grogan, Paul Leakan, Jessica Lynch, Trent Maxwell, Stacey Roth, and Steve Simone. Also in attendance was Janice Venables from the Governor’s Authorities Unit.

1. Call to Order

Chair Matos called the meeting to order at 9:32 am. Acting Executive Director Susan R. Grogan introduced Commission rule-writing attorney Marci Green to new Commissioners Theresa Lettman and Laura E. Matos.

2. Adoption of the minutes from the February 25, 2022, CMP Policy & Implementation Committee meeting

Chair Matos asked for a motion to adopt the minutes from the February 25, 2022, CMP Policy & Implementation Committee meeting. Commissioner Lohbauer moved the adoption of the minutes. Commissioner Irick seconded the motion. All voted in favor.

3. Briefing on Pinelands Conservation Fund land acquisition schedule, priorities, and matrix

Commissioner Avery recused himself from the discussion due to his membership on the Ocean County Natural Lands Trust, a frequent applicant for Pinelands Conservation Fund acquisition funding. He was placed in the virtual waiting room.

Resource Planner Gina Berg discussed the Pinelands Conservation Fund (PCF) program to acquire land in the Pinelands. She requested authorization to re-launch a round of PCF grants using the same 2021 criteria matrix. She explained that the P&I Committee authorized opening a grant round in early 2021. However, only one project was received. It did not score highly on the

criteria matrix that was adopted by the P&I Committee, and the staff requested placing the acquisition round on hold pending a relaunch in 2022.

Ms. Berg mentioned that for this re-launch of the acquisition funding, the biggest difference from last year is an additional infusion of \$500,000, bringing the total funding made available to \$1.5 million for PCF acquisitions. She noted that funding for this new round comes from the amended Memorandum of Agreement (MOA) with the South Jersey Transportation Authority (SJTA).

Ms. Berg then described the priorities and criteria for the round of land acquisition grants. Per the SJTA agreement, the highest priority is acquiring grassland habitat. Other priorities include the 20 planning areas identified by the Commission in the 1990s and the Section 502 areas that were identified with federal legislation. Ms. Berg continued that climate change remains a central concern for site selection, with fire risk and flood risk mitigation areas scoring highly. Bonus points will be awarded for large tracts of cedar swamp, Threatened and Endangered (T&E) species habitats, and capability of the acquiring organization to maintain the property in its natural state. Contiguity with previously preserved land is another important factor. These are the same priorities that the P&I Committee approved last year.

Ms. Berg explained the process for land acquisition project approvals. Invitations will be sent out to prospective preservation partners by the end of April. After applications have been received and evaluated, the staff will bring project recommendations back to the P&I Committee for review, tentatively set for the August committee meeting. Up to a third of the acquisition's costs can be funded by the PCF, and the recipient of the funds would have to cover the remainder through other means.

Commissioner Lohbauer asked if specific permission was needed from the P&I Committee on PCF matters or if it must be referred to the full Commission meeting. Ms. Grogan stated that it is the P&I Committee that establishes the priorities and endorses the schedule for PCF land acquisition. Commissioner Lohbauer commented that he is thrilled about the additional funding for the program and the climate considerations integrated into the decision making. Chair Matos agreed that she is fully supportive of the program. All Committee members present indicated their endorsement of the staff's recommendations.

Chair Matos asked a question about the 2021 proposal that did not score highly based on the matrix criteria, inquiring if they would receive word that the application process has reopened with the same priorities. Ms. Berg and Ms. Grogan both confirmed that the opportunity would be available to that organization.

Commissioner Avery returned to the meeting.

4. Review of draft CMP amendments: water management and the Kirkwood-Cohansey aquifer

Resource Planner Berg shared a presentation on the draft rule amendments for the Kirkwood-Cohansey (K-C) aquifer. The Commission has been working on these Comprehensive Management Plan (CMP) amendments for several years. Ms. Berg provided a brief refresher on the Kirkwood-Cohansey and its importance to the Pinelands and Pinelands communities.

Ms. Berg discussed the history behind the draft amendments, noting the 2001 Gibson Bill provided \$5 million to study impacts of water use on the Pinelands and to evaluate available water for human use. She further described the K-C Project and activities of Commission staff, the United States Geological Survey (USGS), Rutgers, and other researchers to review existing rules and evaluate water use impacts. She mentioned the need for clearer requirements, objective metrics, and the incorporation of the findings from the K-C Project studies into the CMP.

Ms. Berg provided a synopsis of the draft rules. She noted that the current CMP already contains many of the requirements to be amended; however, the current standards are abstract and have proven difficult to administer. She specified that the draft rules set fixed definitions and numerical standards particularly related to water transfers, alternative sources of water, ecological impacts, and water conservation. Ms. Berg indicated that new rules apply to those withdrawals from the Kirkwood-Cohansey aquifer that use 50,000 gallons of water per day (gpd) or more but would not apply to agricultural wells or wells in other aquifers.

Ms. Berg first detailed the amendment of the rule relating to inter-basin transfers. Under the current rules, inter-basin transfers are to be avoided to the maximum extent practical. The new rules specifically prohibit inter-basin transfers. She also noted that the prohibition on transporting water more than ten miles outside the Pinelands Area would remain in effect.

Ms. Berg further explained that the proposed rule includes a definition of the term basin because that term is not currently defined in the CMP. She shared an informational slide on watershed basins and described the Hydrologic Unit Code-11 (HUC-11) watersheds. She described how the HUC -11s combine to form Watershed Management Areas (WMAs) and WMAs combine to form basins. She indicated that a K-C well in the Delaware Basin would not be allowed to discharge water to the Atlantic Basin and vice versa under the draft rule.

Commissioner Lohbauer asked Ms. Berg about communities that are situated on borders between the two basins, and end up mixing basin discharges such as Winslow, Waterford, and Monroe townships. Ms. Berg replied that the Commission already has Memoranda of Agreement/ Understanding with those communities most impacted by the prohibition on interbasin transfers. The Memoranda set capacity limits for using Kirkwood-Cohansey wells in the Atlantic Basin portion of the aquifer. Ms. Berg commented that the lack of a definition for the term basin in the existing rules complicated water supply applications for those municipalities.

Ms. Grogan stated the main difference with the draft rule is reclassifying the Mullica Basin and dissolving it into the larger Atlantic Basin, thereby transfers from one HUC-11 to another would

be allowed in the basin. Ms. Berg elaborated that intra-basin transfers are not explicitly addressed in the current rule. However, under the proposed rule, intra-basin transfers would be expressly permitted to address the policy goal of providing water for future demand.

Commissioner Avery asked Ms. Berg if the MOAs have an expiration date or continue indefinitely. Ms. Berg responded that the MOAs do not expire. Ms. Grogan mentioned the MOAs are in effect until the community hits the capacity limit specified in the MOA/MOU and any additional water demand would have to be evaluated under new rules or an MOA/MOU amendment after the cap is reached.

Commissioner Irick asked for more clarity on the rule regulating the transportation of water more than ten miles outside the Pinelands Area. Ms. Berg said it is prohibited by statute and identified the New Jersey statute that sets the restriction.

Ms. Berg next introduced the diversion threshold at which new rules for wells would take effect. The current rule states that applicants for wells must apply to the Commission if they will pump 100,000 gallons of water per day (gpd) or more. The updated rule decreases the threshold to 50,000 gpd or more and applies to all the applicant's wells under the same water allocation permit and in the same HUC-11 watershed. The existing rules require evaluation under NJ Geological Survey Report (GSR) 29, while the draft rules would delete GSR-29 in favor of Technical Memorandum 12-2 (TM 12-2).

Ms. Grogan clarified that all applications for all new wells in the Pinelands Area are required by the CMP because they constitute development, regardless of source or withdrawal amount, unless they are exclusively for agricultural purposes. The proposed standards being discussed this morning would apply specifically to well applications that withdraw water from the Kirkwood-Cohansey aquifer and do not apply to other aquifers in the Pinelands Area.

Ms. Berg proceeded with the section of the draft rules that limits new or increased withdrawals of 50,000 gpd or more from the Kirkwood-Cohansey aquifer to specific Pinelands Management Areas. Under the current rule, there is no restriction on new diversions in any specific management areas. The draft rules categorically exclude new wells in the Preservation Area District, Forest Area, and Special Agricultural Production Area. This prohibition also pertains to Pinelands Villages situated in the Preservation Area, such as Green Bank or Warren Grove. New or increased diversions would remain acceptable in Regional Growth Areas, Pinelands Towns, Rural Development Areas, Agricultural Production Areas, Military/Federal Installation Areas, and Villages outside the Preservation Area.

Ms. Berg next discussed the rule amendment on alternative water sources. Current rules require applicants to demonstrate that there are no viable alternative water supply sources. The draft rules maintain this restriction but clarify the meaning of "alternative water supply sources". The Commission will need to compile a list of places where alternative sources have been identified through research on water purveyor franchise areas, known public water supply distribution systems, and knowledge of other aquifers that are yielding water in the Pinelands region.

Commissioner Lohbauer asked if the list of alternative water supply sources will be added into the language of the draft rule amendment or remain an open-ended and flexible list that Commission staff can draw upon. Ms. Berg confirmed that the list will be posted on the Commission's website and the contents of the list will not be fixed, though they are not likely to change often.

Ms. Berg then transitioned to proposed rule amendments regarding adverse ecological impacts in the Pinelands Area. The current rule simply states that the diversion cannot result in any adverse ecological impact on the Pinelands Area. Like other parts of the rule amendment, this update introduces specific numeric standards to gauge adverse ecological impacts. Adverse ecological impacts will need to be evaluated at both the regional and local levels.

Ms. Berg discussed the section of the draft rule dealing with no adverse regional ecological impacts. She noted that it relies on the statewide water supply plan published by the New Jersey Department of Environmental Protection (NJDEP) and uses the low flow margin for HUC-11 watersheds. The State's water supply plan includes an appendix of available low flow margins for streams in HUC-11 watersheds throughout New Jersey. The new rule is relying on these assessments and sets a standard of 20% of the low flow margin that can be used for all water diversions in each respective watershed.

Ms. Berg shared a graph of monthly median flows, which dip down to their minimum in September and peak in March. She pointed out that toward the bottom of the graph is the 7Q10 or passing flow. The low-flow margin of safety is calculated as the difference between the variable monthly median flows and the constant 7Q10 flow and 20% of this volume is the numerical limit set by the draft rules.

The draft rules incorporate offset requirements on a gallon-per-gallon basis if less than 20% of the stream low flow margin is available with or without a new diversion. Offset examples are included in the rule language.

Commissioner Irick asked if the gallon-per-gallon offset considers existing recharges or would require new recharges. Ms. Berg answered that it is only a new recharge that would address this proposed requirement.

Ms. Berg moved on to the no adverse local ecological impacts section of the draft rule and noted that the section scrutinizes the location of specific wells relative to wetlands and Forest Area/Preservation Area District boundaries. Under current rule, well diversions are required to minimize impacts on wetlands and surface waters. She said that the draft rule would set a numeric limit of four inches of drawdown in wetlands in most management areas, but that no drawdown would be allowed in the Forest Area, the Special Agricultural Production Area, or the Preservation Area District, as these are the more restrictive management areas.

The draft rules propose a four-step process of demonstrating no adverse local impact: applicants prepare a THIEM analysis, then design a pump test, followed by conducting said pump test, and

finally generate a Modflow model of the well. She stated that each step must demonstrate that there is less than four inches of drawdown at wetlands or no drawdown at the Forest Area or Preservation Area District boundary. The analysis and test would be validated through the Commission's draft agreement with USGS, though this is not included in the draft rule language.

Ms. Berg moved on to the rule amendment on water conservation. The current directive requires distribution system applications to address water conservation but sets no measurable goals for them to meet. The proposed rule lists more specific measures that can be completed by public or private applicants to address water conservation.

Ms. Berg next discussed a new section of the draft rule that would institute a new policy requiring applicants to provide notice of new diversions to affected municipalities. Previously, providing notice to municipalities was not a requirement. When two or more municipalities share any portion of an affected HUC-11 watershed, the applicant must notify them that the new or increased diversion is proposed.

Ms. Berg then reviewed a flow chart and discussed the process an applicant would have to go through for a new or increased well diversion from the Kirkwood-Cohansey of 50,000 gpd or more.

Last, she mentioned that the draft rules propose a change in application fees for Kirkwood-Cohansey wells drawing 50,000 gpd or more. Applications for new wells or increased diversions in the Kirkwood-Cohansey would have a fee of \$6,000 and other wells would have a fee of \$1,000.

Commissioner Lohbauer asked about wells that fail the hydrogeologic pump test and if they can reapply. Ms. Berg replied that this could happen at any point in the process. She discussed that an applicant could propose a new location, a different aquifer, or a different withdrawal rate if the proposed withdrawal fails at any point in the application process. An applicant can revise the application if the proposed well is in the wrong management area, or the analysis shows too much drawdown, or if the pump test shows too much impact to wetlands. She further elaborated that if the diversion will not meet the low flow margin of safety, the applicant will be responsible for gallon-per-gallon offsets or must find water somewhere else.

Ms. Berg shared a calendar of next steps in the draft rule adoption process. The P&I Committee will review the full rule proposal in May. Pending review by the Governor's office and authorization by the full Commission, the proposal could be published in the New Jersey Register in July. There would then be a public hearing on the matter in September. If all goes according to schedule, the amendments could take effect in early 2023.

Commissioner Lohbauer said he is impressed with the level of specificity that the Commission is inserting into the Kirkwood-Cohansey rules. He thought these new rules gave the Commission the strength it needs to protect wetland areas. He was unsatisfied with the standards for water conservation measures, and asked Ms. Berg about the Commission's internal discussion on the

contents of that section. She said there was extensive, internal discourse among staff in addition to feedback from the P&I Committee and other entities. Enforcing water conservation measures is challenging for the Commission, and generally the agency must rely on municipalities to enforce these measures on its behalf. She continued that the Commission has no ability to independently verify if private homeowners are adhering to conservation ordinances.

Ms. Grogan added that the rule language leaves open the ability for applicants to propose alternatives to meet water conservation guidelines. She also said that private agencies like New Jersey American Water have different tools and abilities to engage in water conservation than municipalities like Hammonton. For now, the Commission wants to provide some guidance on conservation but also leave room for flexibility.

Commissioner Lohbauer stated he does not want to impede the process of the Kirkwood-Cohansey draft rule adoption and feels that water conservation will be an important issue in future years. He said he is elated with the project and strongly supports it.

Ms. Grogan responded that water conservation would be a good topic for the Climate Committee to discuss in a broader context.

Commissioner Avery asked if an entity like the Hammonton Water Department applies for a new well through the public development process. Ms. Grogan replied yes, and that New Jersey American Water would have to apply through the private development process. Ms. Grogan stated that while drafting the rules, Commission staff had to remain cognizant that they would apply to both public and private applicants.

Commissioner Avery asked Ms. Berg for frame of reference on the size and nature of applications that might be subject to the proposed rules. Ms. Berg listed mobile home parks in the Rural Development Area, golf courses, large irrigation wells, and community systems where they exist.

Ms. Grogan said the draft rules would be further discussed at the P&I Committee's meeting in May, along with a full rule proposal package.

5. Update on rule proposal for Electric Transmission Right-of-Way Maintenance Pilot Program

The Commission's Chief of Legal and Legislative Affairs, Stacey Roth, provided an update on the rule proposal for the Electric Transmission Right-of-Way Maintenance Pilot Program. She stated that she and Marci Green are working on the project. It was a pilot program until it expired last year, and they have been working together on the rule language and the various summaries for Commission approval. Rule language was previously discussed with the P&I Committee and staff anticipates presenting a full draft notice of proposal at the April Committee meeting.

6. Public Comment

Rhyan Grech of the Pinelands Preservation Alliance (PPA) thanked the Commission for the opportunity to comment this morning. She stated that she was disappointed by the cancellation of the March Climate Committee meeting and said she was concerned that only three Committee meetings have been held since June 2021. She pointed out that the Commission has greater reach to regulate land management and protection policies in the Pinelands National Reserve than NJDEP, and that the rare species inhabiting it are more vulnerable to climate change and more worthy of protection than species outside the Pinelands Area. She concluded that the public is waiting for more action and deserves monthly meetings.

Ms. Grech mentioned the Aerohaven former landfill site in Evesham, criticizing the solar project that the Township approved several years ago. An amendment to the application was later approved in January. There is a letter from the Commission to the applicant dated August 2021, saying the Commission needed more information from the applicant to approve the amendment proposals. The Commission received confirmation that Evesham approved the amendment but needed more details on the Horizontal Directional Drilling (HDD) the applicant is using for interconnection cables. Final approval has not been formally granted, but Ms. Grech reported that construction has already begun at the site.

Ms. Grech thanked the staff for a thoughtful presentation on the Kirkwood-Cohansey aquifer. She said the Commission should consider climate change when generating policy for water supply planning in the Pinelands. PPA recommends the Commission set targets for total withdrawals from the aquifer using information regarding water withdrawals, uses, transfers, and discharges from each basin. Additionally, the Commission should design plans to maintain current ecological functions and restore natural flows and water levels where existing withdrawals have already reduced water levels. She said that explicit criteria for determining which potential source will be considered is desirable for locations where the aquifer is stressed.

Commissioner Lohbauer replied to Ms. Grech, accepting responsibility for the cancellation of the March Climate Committee meeting. He said he works closely with Acting Executive Director Grogan on the agendas for such meetings but was not able to devote the time necessary to do so this month.

Chair Matos added that the meeting cancellation was not for lack of urgency and that the Commission concurs with Ms. Grech's concerns about the necessity and value of comprehensive climate mitigation in the Pinelands.

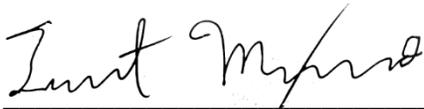
Fred Akers from the Great Egg Harbor Watershed Association called in to say he is pleased with the new Kirkwood-Cohansey rules, and that the 50,000 gpd minimum is very important because it encompasses more applicants than the NJDEP's 100,000 gpd threshold. He asked if the Commission had considered the depletive use of Kirkwood-Cohansey water resources in generating wastewater for Atlantic City, and whether the new rules apply to this setup which is transposing water from Regional Growth Areas (RGAs) situated inside the aquifer to areas outside of the aquifer. The water is then treated and then deposited into the Atlantic Ocean. Chair

Matos replied that Commission staff could not immediately address the question but would reach out to him later with more information.

Chair Matos closed public comment at 10:51 am.

Chair Matos motioned to close the meeting at 10:52 am. Commissioner Lohbauer seconded the motion. All voted in favor.

Certified as true and correct:

A handwritten signature in black ink, appearing to read "Trent Maxwell", written over a horizontal line.

Trent Maxwell, Assistant Technical Planner

Date: April 12, 2022



**N.J.A.C. 7:50–6.86
DRAFT RULE AMENDMENTS**

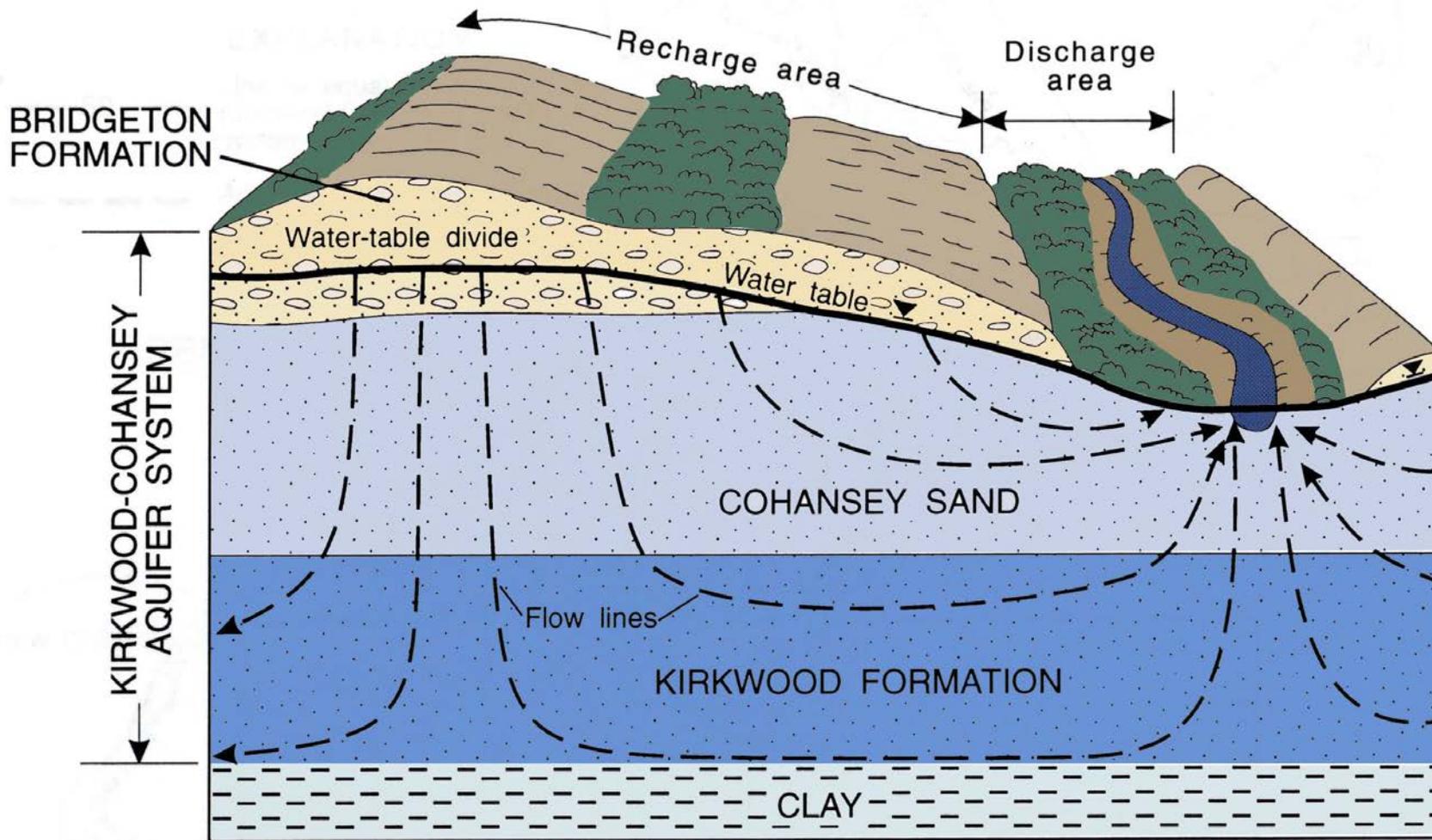
KIRKWOOD – COHANSEY AQUIFER

P&I COMMITTEE

MARCH 25, 2022

THE KIRKWOOD COHANSEY AQUIFER

- 17-TRILLION GALLON FRESH-WATER RESERVOIR UNDERLYING THE PINELANDS
- SUPPORTS UNIQUE PINELANDS VEGETATION AND ANIMAL COMMUNITIES
- PRODUCTIVE WATER SUPPLY SOURCE FOR HUMAN USES
- CHARACTERIZED BY LOW ACIDITY, LOW SUSPENDED SOLIDS, LOW SPECIFIC CONDUCTANCE (CLEAN)
- SHALLOW, EXTENSIVE CONE OF DEPRESSION FROM WELLS



NOT TO SCALE

BACKGROUND

K-C Project

- Gibson Bill
- Hydrologic studies
- Habitat & Species impact studies

Need for Improvements to CMP

- Clearer requirements
- Objective metrics
- Incorporate K-C Project studies

Progressive Protections

- Greater protections in Preservation Area District, Special Agricultural Production Area & Forest Area
- Allow withdrawals in less restrictive Management Areas

POLICY GOALS

Clearer terms and standards

Quantitative rather than qualitative standards

Ensuring water supply for development

OVERVIEW OF PROPOSED RULE

- INTERBASIN TRANSFERS PROHIBITED
- INTRABASIN TRANSFERS PERMITTED (SUBJECT TO STANDARDS)
- KIRKWOOD-COHANSEY AQUIFER DIVERSION STANDARDS
 - MANAGEMENT AREAS WHERE DIVERSIONS ARE PERMISSIBLE
 - VIABLE ALTERNATIVE SOURCES
 - NO ADVERSE ECOLOGICAL IMPACT
 - NO ADVERSE REGIONAL IMPACT
 - NO ADVERSE LOCAL IMPACT
- WATER CONSERVATION REQUIREMENTS
- NOTICE REQUIREMENTS

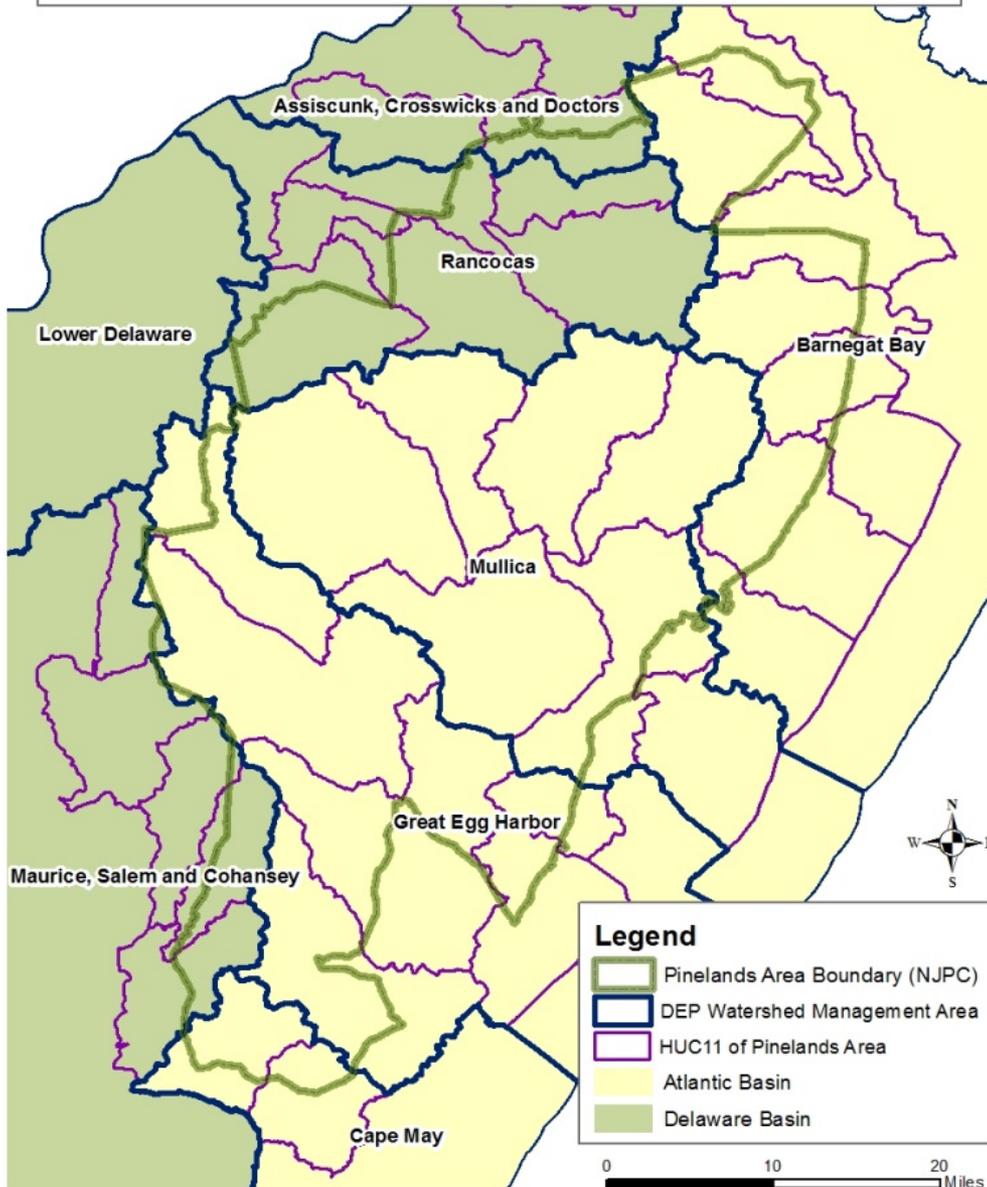
INTERBASIN TRANSFERS



50,000+
gpd
from K-C
wells

- CURRENT RULE: INTERBASIN TRANSFER OF WATER TO BE AVOIDED TO MAXIMUM EXTENT PRACTICAL
- PROPOSED RULE AMENDMENT:
 - SPECIFICALLY PROHIBIT INTERBASIN TRANSFER
 - DEFINE “BASIN”
 - ATLANTIC
 - DELAWARE

Hydrologic Unit Code -11 Watersheds



TERMS: HUC – 11 & BASIN

HUC-11 WATERSHEDS ARE DELINEATED BY
USGS

COMBINED THEY MAKE UP WATERSHED
MANAGEMENT AREAS DELINEATED BY
NJDEP

WATERSHED MANAGEMENT AREAS
COMBINED MAKE UP BASINS TO BE USED
FOR RULE

INTRABASIN TRANSFERS

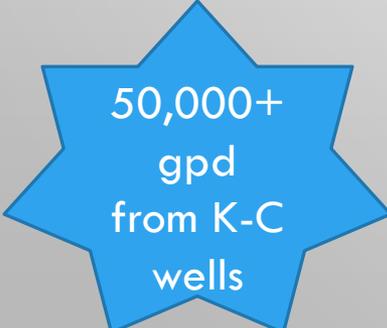


50,000+
gpd
from K-C
wells

- CURRENT RULE: DOES NOT ADDRESS TRANSFER OF WATER WITHIN THE SAME BASIN
- PROPOSED RULE AMENDMENT:
 - ALLOWS TRANSFER OF WATER BETWEEN HUC-11 WATERSHEDS IN THE SAME BASIN.
 - IF TRANSFER INVOLVES WATER SOURCED FROM KIRKWOOD-COHANSEY AQUIFER, DIVERSION MUST MEET STANDARDS AND CRITERIA IN THE RULE

WELLS SUBJECT TO NEW STANDARDS

- DIVERSIONS FROM KIRKWOOD-COHANSEY AQUIFER GREATER THAN 50,000 GALLONS OF WATER A DAY
 - CURRENT RULE APPLIES ONLY TO 100,000 GALLONS OF WATER OR MORE A DAY
- NEW STANDARDS WILL NOT APPLY TO:
 - REPLACEMENT OF EXISTING WELLS IF NO INCREASE IN ALLOCATION
 - EXCLUSIVE AGRICULTURAL OR HORTICULTURAL USE



50,000+
gpd
from K-C
wells



50,000+
gpd
from K-C
wells

PINELANDS MANAGEMENT AREAS

- CURRENT RULE DOES NOT RESTRICT NEW DIVERSION TO SPECIFIC MANAGEMENT AREAS
- PROPOSED RULE AMENDMENT:
 - NEW OR INCREASED DIVERSION NOT ALLOWED IN:
 - PRESERVATION AREA DISTRICT, FOREST AREA, OR SPECIAL AGRICULTURAL PRODUCTION AREA
 - VILLAGES DERIVED FROM PRESERVATION AREA
 - NEW OR INCREASED DIVERSION ALLOWED IN:
 - REGIONAL GROWTH AREA, TOWNS, RURAL DEVELOPMENT AREA, AGRICULTURAL PRODUCTION AREA, MILITARY-FEDERAL INSTALLATION AREA & CERTAIN VILLAGES

NO ALTERNATIVE WATER SOURCES

- CURRENT RULE: DIVERSION PERMITTED ONLY IF NO VIABLE ALTERNATIVE WATER SUPPLY SOURCES
- PROPOSED RULE AMENDMENT:
 - RETAINS THIS RESTRICTION
 - CLARIFIES WHAT IS MEANT BY “ALTERNATIVE WATER SUPPLY SOURCES”



NO ADVERSE ECOLOGICAL IMPACTS

- EXISTING RULE: SIMPLY STATES THAT THE DIVERSION CANNOT RESULT IN ANY ADVERSE ECOLOGICAL IMPACT ON THE PINELANDS AREA
- PROPOSED RULE AMENDMENT:
 - INCLUDES SPECIFIC, OBJECTIVE STANDARDS TO MEASURE ADVERSE ECOLOGICAL IMPACT
 - BREAKS DOWN ADVERSE ECOLOGICAL IMPACT INTO:
 - ADVERSE REGIONAL IMPACT
 - ADVERSE LOCAL IMPACT



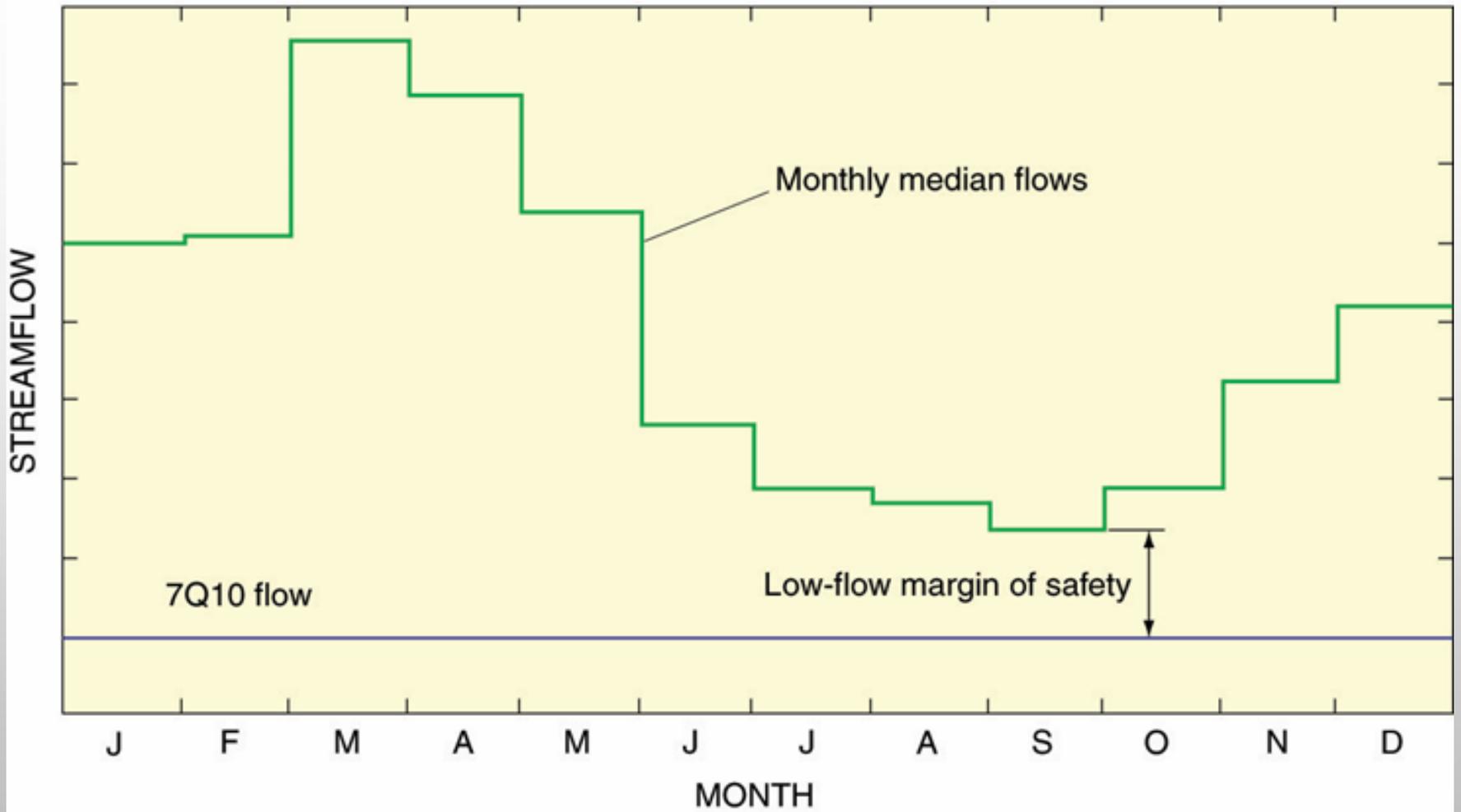


50,000+
gpd
from K-C
wells

NO ADVERSE REGIONAL IMPACT

- CURRENT RULE: DOES NOT REQUIRE AN ASSESSMENT OF THE IMPACT OF A DIVERSION ON THE REMAINING WATER CAPACITY IN THE WATERSHED
- PROPOSED RULE AMENDMENT: REQUIRES CALCULATION OF HOW MUCH WATER IS AVAILABLE FROM A WATERSHED AND ALLOWS DIVERSION ONLY IF WATERSHED HAS SUFFICIENT CAPACITY AS MEASURED BY THE STREAM LOW FLOW MARGIN
 - RELIES ON STATEWIDE WATER SUPPLY PLAN FOR LFM
 - IF EXISTING USE OF WATER IN A WATERSHED IS ALREADY MORE THAN 20% OF THE LFM, THEN NO ADDITIONAL WITHDRAWAL ALLOWED UNLESS USE IS OFFSET (*SEE NEXT SLIDE*)
 - IF PROPOSED DIVERSION WILL RESULT IN MORE THAN 20% OF LFM BEING USED, THEN PROPOSED USE MUST BE OFFSET
 - NO OFFSETS REQUIRED IF STREAM WILL NOT REACH 20% OF LFM

LOW-FLOW MARGIN OF SAFETY



OFFSETS

- APPLICANT REQUIRED TO PERMANENTLY OFFSET DIVERSION ON GALLON-FOR-GALLON BASIS IF:
 - STREAM LOW FLOW MARGIN IS LESS THAN 20% WITH OR WITHOUT NEW DIVERSION
- EXAMPLES OF OFFSETS INCLUDED IN RULE





50,000+
gpd
from K-C
wells

NO ADVERSE LOCAL IMPACT

- CURRENT RULE: REQUIRES ONLY THAT DIVERSION MINIMIZE IMPACTS ON WETLANDS AND SURFACE WATERS
- PROPOSED RULE:
 - MEASURABLE, NUMERICAL STANDARDS TO ENSURE MINIMAL IMPACTS ON WETLANDS AND SURFACE WATERS
 - CLEAR PROCESS OF DEMONSTRATING NO LOCAL IMPACT
 - FOUR STEP PROCESS:
 - THIEM
 - HYDROGEOLOGIC TEST DESIGN
 - HYDROGEOLOGIC (PUMP) TEST
 - MODFLOW MODEL
 - ANALYSES, TESTS, MODELS TO BE EVALUATED FOR VALIDITY BY USGS

stages of pond-breeding frogs. Although different measures were used for the short-term and long-term simulations, the results of all simulations indicated that impacts would generally begin to occur at water-depth reductions of 10 to 15 cm. For all simulations, successively greater reductions would have caused increasing impacts that varied by species and pond, with the 50-cm reductions shortening pond hydroperiods enough to practically eliminate the possibility of larval development and metamorphosis for all three species.



WATER CONSERVATION

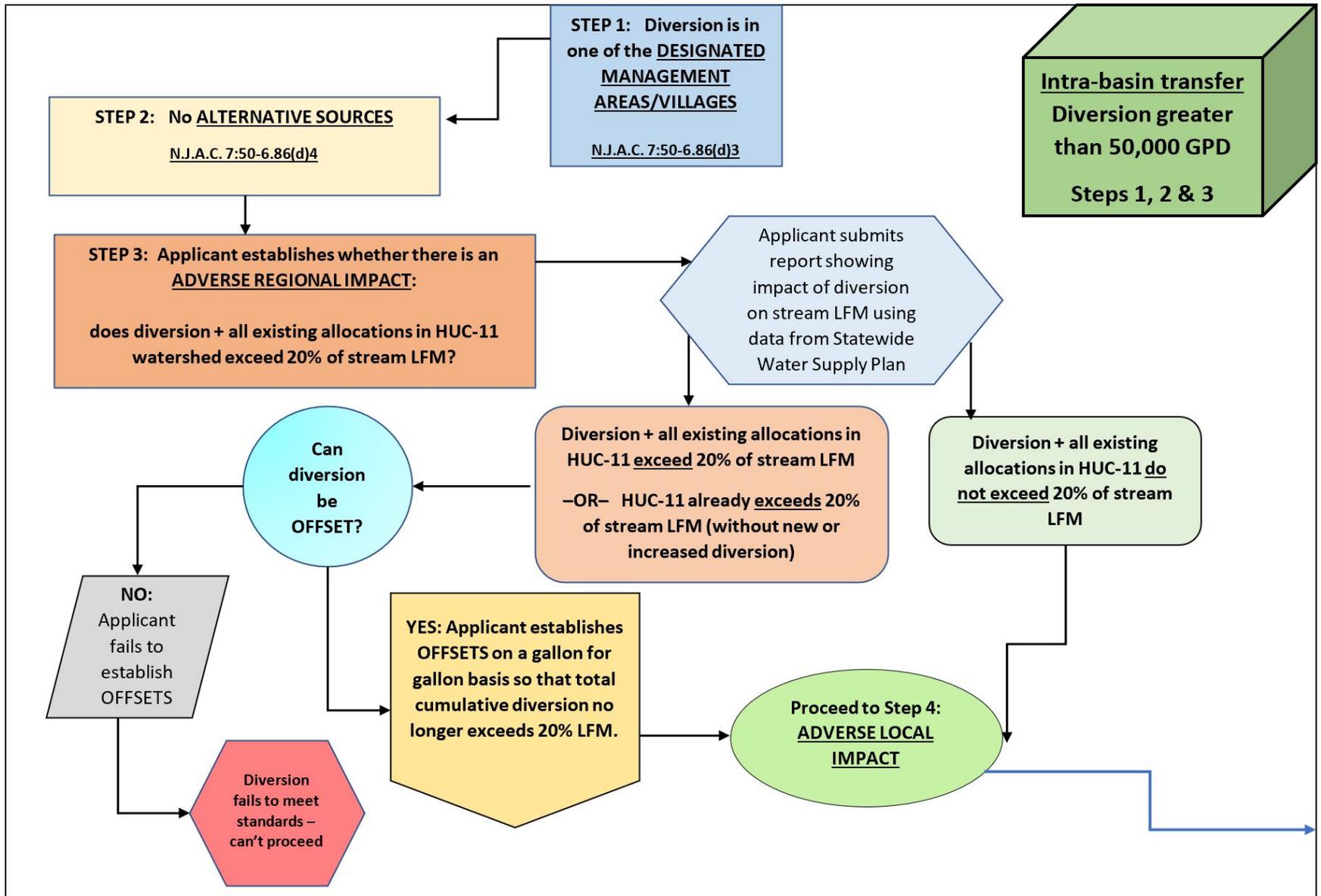
- CURRENT RULE: REQUIRES ALL WATER SUPPLY WELLS AND DISTRIBUTION SYSTEM APPLICATIONS TO “ADDRESS” WATER CONSERVATION
- PROPOSED RULE AMENDMENT:
 - REQUIRES SPECIFIC, MEASURABLE WATER CONSERVATION MEASURES TO BE IN EFFECT, OR PLANNED FOR IMPLEMENTATION, TO REDUCE WATER DEMAND AND REDUCE LOSSES IN WATER DISTRIBUTION

NOTICE



- CURRENT RULE: DOES NOT REQUIRE NOTICE OF PROPOSED NEW DIVERSION TO AFFECTED MUNICIPALITIES
- PROPOSED RULE AMENDMENT: REQUIRES NOTICE TO MUNICIPALITIES
 - WHEN 2 OR MORE MUNICIPALITIES SHARE ANY PORTION OF AN AFFECTED HUC-11 WATERSHED, APPLICANTS TO PROVIDE NOTICE TO MUNICIPALITY IN WHICH DIVERSION WILL BE LOCATED, AS WELL AS ANY OTHER MUNICIPALITY IN THE AFFECTED HUC-11 WATERSHED

(STEPS 1-3)



(STEP 4)

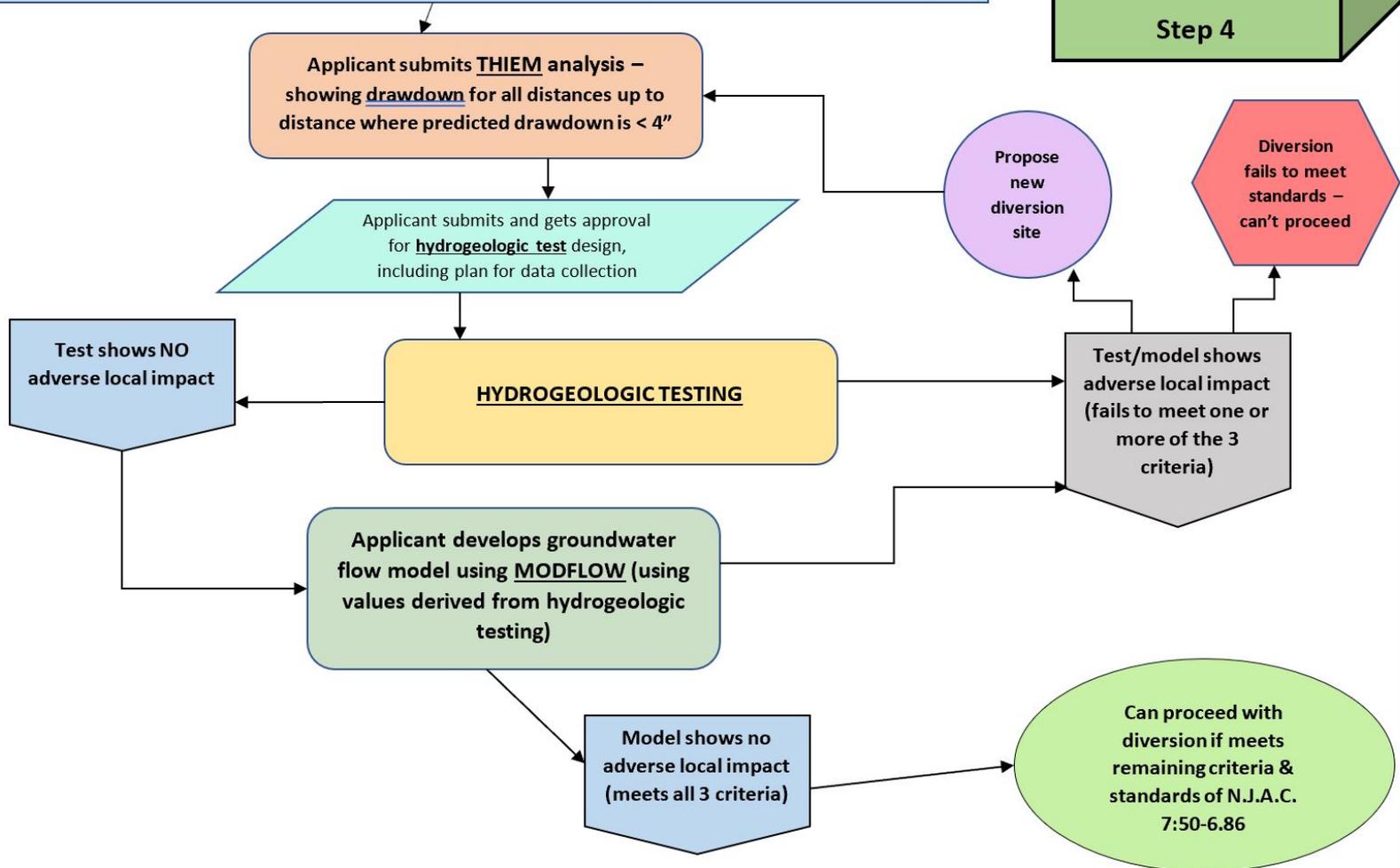
STEP 4: Applicant establishes whether there is **ADVERSE LOCAL IMPACT**: N.J.A.C. 7:50-6.86(d)7

Drawdown of water table:

- Preservation Area District, Forest Area or Special Agricultural Production Area (in affected HUC-11 watershed)
- more than 4" of the wetland nearest to estimated zone of influence (in affected HUC-11 watershed)

Intra-basin transfer
Diversion greater than 50,000 GPD

Step 4



APPLICATION FEE AMENDMENTS

- CURRENT RULE
 - % CONSTRUCTION COSTS
- REVISED RULE
 - \$6,000 FOR K-C WELLS >50,000 GPD
 - \$1,000 FOR ALL OTHER WELLS (GEOTHERMAL, NON-KC, ETC.)
 - ESCROW TO FUND REVIEW OF HYDROGEOLOGIC ANALYSES & MODELING

NEXT STEPS

- MAY 2022 P&I COMMITTEE REVIEWS RULE PROPOSAL
- JUNE 2022 COMMISSION REVIEWS AND AUTHORIZES RULE PROPOSAL
- JULY 2022 RULE PROPOSAL PUBLISHED IN NEW JERSEY REGISTER
- SEPTEMBER 2022 PUBLIC HEARING
- SEPTEMBER 2022 END OF 60-DAY COMMENT PERIOD
- OCTOBER 2022 P&I COMMITTEE REVIEWS RULE ADOPTION
- NOVEMBER 2022 COMMISSION REVIEWS PUBLIC COMMENT AND ADOPTS RULES
- NOVEMBER 2022 ADOPTION NOTICE FILED WITH OFFICE OF ADMINISTRATIVE LAW
- EARLY 2023 AMENDMENTS TAKE EFFECT

QUESTIONS

