

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/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666.

July 30, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Jerome H. Irick, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: Jordan Howell

STAFF PRESENT: Susan R. Grogan, Stacey P. Roth, Charles Horner, John Bunnell, Ernest Deman, Paul Leakan, and Dawn Holgersen. Also present was Rudy Rodas, with the Governor's Authorities Unit.

1. Call to Order

Chairman Prickett called the Comprehensive Management Plan (CMP) Policy and Implementation (P&I) Committee meeting to order at 9:33 a.m. and Ms. Grogan identified all staff attending/participating in the meeting.

A moment of silence was observed to reflect the passing of Executive Director Nancy Wittenberg. Chairman Prickett expressed condolences to her family.

2. Adoption of minutes from the May 28, 2021 CMP Policy and Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the minutes of the May 28, 2021 Committee meeting. Commissioner Avery seconded the motion. All voted in favor.

Prior to the vote, Chairman Prickett recognized staff member Betsy Piner for her preparation of meeting minutes and wished her well in her retirement.

3. Continued discussion of the Commission's comments on pending forest stewardship legislation

Commissioner Lohbauer recused himself from the discussion of the legislation. He was placed in a Zoom "waiting room" at 9:38 a.m.

Ms. Roth said that she had drafted a letter in response to four bills currently in the Senate Environment Committee. She said that Commissioner Lloyd had comments that were not previously addressed by the P&I Committee.

Ms. Roth mentioned Senate bill number 3548, which establishes a minimum acreage goal for prescribed burning and establishes a schedule. She stated that Commissioner Lloyd suggested the letter include the following: "Prescribed burns should be dictated by conditions on the ground not by an artificial number of acres. Setting a numeric goal may lead agencies to undertake additional risks that the accompany burns based upon the number of acres rather than ecological need and analysis."

Ms. Roth explained that Senate bill number 3549 establishes restoration plans. She stated that Commissioner Lloyd suggested the addition of the following: "Ecosystem Restoration Plans may be far more appropriate than plans limited to forest stewardship. A broader examination of the ecological values of these lands and their current uses would promote the preservation of all environmental attributes of the Pinelands."

Ms. Roth said that those were the two suggested additions. She indicated that since this is the Commission's letter, she wanted the committee to discuss the matter before making the additions.

Commissioner Prickett said that he likes the term ecosystem restoration as it is thought-provoking. He said that it he is pleased with the changes.

Commissioners Avery and Irick both agreed with the changes.

Ms. Roth said that she will make the changes and forward the letter to the Governor's legislative office so they can be included with other agencies' comments.

At 9:47 a.m. Commissioner Lohbauer returned to the meeting.

Mr. Horner provided a presentation on the Greenwood Wildlife Management Area Forest Stewardship Plan (*attached to these minutes*).

Mr. Horner explained that the New Jersey Department of Environmental Protection (NJDEP) contacted the Commission for comments as they are beginning to prepare a forestry plan for the Greenwood Wildlife Management Area located in the Townships of Lacey and Manchester in Ocean County. He indicated that the plan will be for about 3,000 acres out of about 32,000 acres in the area. He said NJDEP has indicated that a priority in the forest stewardship plan is to increase early successional habitat.

Mr. Horner said that Commission staff has prepared two categories of comments to address the plan. He said the first set are what he considers to be goals, not necessarily regulatory requirements in the CMP.

He identified seven goals for this plan. The first is that growing an existing forest intact to its full ecological potential should be the policy for most public lands in the Pinelands. It will increase forest carbon sequestration to reduce climate change.

The second goal is that no forestry should occur in the Pinelands Area solely to increase early successional habitat. Creation of early successional habitat should rely on naturally occurring disturbances.

The third goal is that prescribed burns should use what is called “hot burn,” which is indicative of the intensity of the burn to reduce canopy tree and shrub cover, expose mineral soils and foster threatened and endangered (T&E) species that rely on those conditions. He said that they should also investigate the effects of growing season burns on the wildlife before they enact this policy.

The fourth goal is that forest management should be limited to what is necessary for public safety, to replace non-native tree species with native species, and to re-establish rare native forest types where they have been lost.

The fifth goal is for fire breaks and plow lines to be designed to discourage unauthorized off-road vehicle (ORV) use.

The sixth goal is that when proposed to create early successional habitat, the scale of forestry should be minimal until monitoring can determine if the forestry is successful.

The seventh goal is to eliminate new habitat management for non-native animal species.

Mr. Horner identified the second category of comments, which address the mandatory forestry requirements in the CMP. He mentioned that the regulations are for both private and public lands. He outlined four of the requirements in the plan.

First, NJAC 7:50-6.46(a)1 states that forestry must maintain native forest types.

Second, NJAC 7:50-6.46(a)4 states that forestry shall not have an irreversible adverse impact on habitats critical to the survival of T&E animal species or local populations of T&E plants.

Third, NJAC 7:50-6.46(a)9ii states that forestry should minimize the use of herbicides. He clarified that herbicides can be used when other forestry methods cannot meet forestry goals.

Fourth, NJAC 7:50-6.47(a)1 states that forestry undertaken by any State agency shall maintain biological diversity and landscape integrity characteristics of the Pinelands.

Mr. Horner said that these goals and requirements will be forwarded to NJDEP to provide them with guidance when preparing the forest stewardship plan.

Commissioner Lohbauer said that he is pleased with the emphasis on pro-forestation. He said that NJDEP should minimize the use of forestry to create early successional habitat. He also said

that he supports the restoration of native species such as Atlantic White Cedar. He mentioned that those are similar to subjects being discussed by the Pinelands Climate Committee.

In response to a question from Commissioner Lohbauer, Mr. Horner indicated that staff would make NJDEP and other agencies aware of these goals when we are notified of such activity.

Mr. Horner also said that the best way to memorialize these goals is to amend the CMP. He went on to say that the Commission relies on the cooperation of all entities to administer these goals. Commissioner Lohbauer agreed that the CMP should be amended to reflect these goals.

Commissioner Lloyd agreed that these goals are needed.

Commissioner Avery expressed concern in what could be done on the 3,000 acres that would be consistent with these goals and asked if there was a specific area being considered for the early successional habitat.

Mr. Horner replied that NJDEP identified the limits of the 3,000 acres they are interested in, which include wildlife management fields that have been cleared in the past. He also said that staff can explore more as we find out more details from NJDEP. He clarified that the Commission staff's intent was to outline general goals we thought were important.

In response to a question from Commissioner Avery, Mr. Horner indicated that the Commission does not have information yet to indicate a focus on the old fields and said that this was a very preliminary step in preparation for the NJDEP's stewardship plan.

Commissioner Irick said that the staff had very comprehensive suggestions and that he supports changes to the CMP to support these goals. He also said that he would like to see strong representation to the NJDEP to ensure that the CMP is followed.

In response to a question from Commissioner Lloyd, Ms. Grogan said that staff wanted to make the Committee aware of NJDEP's request for comments by the end of July. Because this proposal will likely turn into a public development application in the future, a formal presentation to the full Commission would not be appropriate at this time.

Commissioner Irick stated that he supports the proposal of modifying the CMP to include these goals. Commissioner Lohbauer agreed.

Chairman Prickett asked for elaboration on the term "full ecological potential." He stated that the end of the process does not provide stability and that it gets to what is called sub-climax forest and it cannot reach the next phase because fires alter the succession. He said that "full ecological potential" should be clarified to describe Pinelands ecology. He also said that we need to clarify what are considered stable and not stable ecosystems.

Chairman Prickett also asked for clarification on the fourth goal. Mr. Horner explained that what the staff was trying to convey was a response to NJDEP's intent to create early successional

habitat, stating that it should be created naturally. He went on to say that forestry to create early successional habitat should be done minimally until it can be proven that the goal can be met.

Chairman Prickett expressed his support to move this discussion forward, under Ms. Grogan's direction.

Commissioner Lohbauer explained his thought that "full ecological potential" meant that every forest has an ecological potential that can be interrupted by human interaction. He also said that the forest should be altered through natural occurrences. Chairman Prickett agreed and opined on the influence of human interaction on forests.

In response to a question from Commissioner Avery, Mr. Bunnell said that the gypsy moth population has increased and that they could be considered a natural occurrence. He also said that fire, including man-made, could be considered natural.

Commissioner Avery also asked how extensive the damage is and whether this is an isolated occurrence. Mr. Bunnell replied that there has been a decline in beetle damage. He also said that he believes the process is cyclical and that the dead oak trees have provided habitats and cleared the way for pine growth. He went on to say that he believes that the gypsy moth prevents the oak trees from taking over.

In response to a question from Commissioner Avery, Mr. Bunnell said that the spotted lanternfly is just arriving in the area and that their host is the tree of heaven. He said that they also eat fruit trees. He went on to say that he is uncertain if they attack red maple and that if they did, it would be a significant impact. He said that it is too soon to tell.

4. Update on the Commission's Electric Transmission Right-of-Way Maintenance Pilot Program and upcoming rulemaking schedule

Ms. Grogan said that there are set of amendments that will need to be considered over the next couple months. She said the program was put into effect in 2009 and went on for ten years. She said at the end of 2019, the Commission passed a resolution that extended the program for two years to allow for a complete evaluation of the program.

Ms. Grogan explained that there are criteria in the CMP that the program has to be evaluated against, a report had to be presented to the Commission, and a determination made by the Commission as to moving forward with the program. She said the report will outline whether the program was a success and identify any issues that are found and any changes that need to be made. She said staff will then recommend a set of amendments to the CMP. She said this will need to be done fairly quickly.

Ms. Grogan went on to say that rulemaking is a lengthy process and that the Commission will need to get started as we are under a time deadline.

Commissioner Avery asked if the evaluations are underway, to which Ms. Grogan affirmed.

Commissioner Avery went on to ask what departments are working on the project. Ms. Grogan indicated that the Planning, Regulatory Programs and Science departments are providing a combined effort.

Commissioner Avery expressed a concern with staffing and asked if another extension could be made to give the staff more time. Ms. Grogan replied that the CMP only allows one extension.

Ms. Grogan said there is a backlog of rulemaking efforts, including the forestry rules just discussed this morning. She said that due to staffing concerns, moving forward with so many different amendments is challenging. She said that the pilot program is a priority due to the time constraints.

Commissioner Avery explained that he wanted to make sure the Commission has enough resources to ensure the program is considered carefully.

Commissioner Lohbauer also expressed a concern on a lack of staffing. He asked if there is something the Commissioners could do to speak to the Governor's office.

Chairman Prickett said he has also spoken with the Governor's office about the need to replace necessary staff. He said that he can try again and that he is unsure what else can be done. He also voiced his concern about overburdening the remaining staff. He expressed his support for the Commission staff.

Commissioner Lloyd mentioned that Ms. Wittenberg was working on packages for three new staff.

Ms. Grogan confirmed that Ms. Wittenberg had begun working on putting together various hiring requests. She said that she finished and submitted a memo regarding filling the vacant positions about a month ago. She said a separate request to promote some existing staff was also submitted.

Commissioner Avery said that as the Chairman of the Policy and Budget (P&B) Committee, he is aware of the efforts to fill positions. He also expressed concerns about staff retention.

5. Continued discussion of CMP amendments related to Horizontal Directional Drilling (HDD) and utility distribution line exemptions

Ms. Susan Lockwood, from the Division of Watershed Management and Restoration at NJDEP, joined the meeting at the beginning of this discussion.

Ms. Grogan explained that she believed having insight from NJDEP could address questions and concerns previously expressed by Committee members and might provide a path forward.

Ms. Lockwood introduced herself and provided a presentation on Directional Drilling Draft Rules for NJDEP (*attached to these minutes and on the commission website at: <https://nj.gov/pinelands/home/presentations/2021-PinelandsHDD.pdf>*).

Ms. Lockwood said that the Governor's Protection Against Climate Threat (PACT) initiative has caused NJDEP to revisit its rules on directional drilling. She said this began in 2019.

She said NJDEP had a stakeholder outreach process and surveyed staff to identify rules that should be amended.

Ms. Lockwood explained that NJDEP has a general permit for underground utility lines. She said that currently, utility lines that are jacked or directionally drilled beneath wetlands or waterways do not require a permit.

She said since those rules were adopted, several gas pipelines have been installed through the State. She also said that directionally drilled natural gas lines have resulted in inadvertent returns into wetlands and waterways.

Ms. Lockwood indicated there is now a concern that there are adverse effects from HDD. She said the conclusion was that it was necessary to review utility lines being installed using HDD beneath wetlands and waterways.

She said that the Division of Land Resource Protection (formerly known as Division of Land Use Regulation)(LRP) requested assistance from the New Jersey Geological and Water Survey (NJGS). She explained that the LRP did not have experience with underground drilling.

Ms. Lockwood said that NJGS oversees other NJDEP programs and rules relating to drilling, such as the well-drilling program. She said they may also make changes to their well-drilling rules. She also said that they needed scientific study on the effects of HDD. She indicated that it usually takes 1 – 1½ year to assess. She said that she believes the assessment is pending.

Ms. Lockwood outlined the draft rule amendments. The first would be to require an application for installation of utility lines using HDD below wetlands and waterways.

Second, applicants would be required to demonstrate that they will not have an impact on these features. She said she is unsure what the demonstration would look like.

Third would be to delete the reference to jacking below wetlands and waterways as it is not technically feasible. She explained the process of jacking as the utility pipe being pushed through the ground, the soil cleaned out, and pushed in further, then repeating the process. She mentioned that this would not be possible in the water table as the pipe would fill with water.

Fourth, applicants would be required to demonstrate that the water table would not be intercepted if jacking is the preferred method beneath transition areas or in floodplains. She said there is a method in NJDEP's septic regulations for determining whether the project is in the water table.

Ms. Lockwood outlined the addition of requirements for HDD. First would be the use of potable water in the drilling and/or utility line installation. She mentioned that she does not know what they currently use. She said that it is to ensure there would be no contamination of wetlands/waterways in case of an “inadvertent return.”

Second would be the use of National Science Foundation (NSF) 60/61 certified drilling fluids and additives to conduct drilling operations. She said that it is the American National Standard for evaluation of water treatment chemicals. She said that use of those materials ensures that contamination would be limited in the case of accidents.

Third would be the submission of a contingency plan for drilling operations, including preparedness procedures to minimize environmental impacts from inadvertent returns. She said that is necessary given the uncertainty of drilling underground.

Fourth would be to fill any abandoned bore holes. She indicated that currently, a failed drilling hole is abandoned without being filled. She said the filling is dependent on the depth of the hole. She said the purpose of filling the holes is to prevent a pathway between surface and groundwater.

Ms. Lockwood said they were considering adding the requirement of having a certified well driller onsite during construction. She indicated that NJGS advised her that stakeholders pushed back on this proposal.

Chairman Prickett expressed concern about what is being done with drilling spoils. Ms. Lockwood replied that it was a question that has not been posed to them and that she does not have an answer. She said that she can pass the question along.

Commissioner Lloyd requested that NJDEP eliminate the use of the term inadvertent return. He referred to it as an unpermitted discharge. He explained that, with an expected failure rate of 50%, it shouldn't be considered inadvertent.

Ms. Lockwood said that NJDEP was asked to require individual permits for HDD projects rather than general permits. She also said their approach to this is going to be incremental. She indicated the challenge in going from unregulated to requiring a permit. She went on to say there are smaller, less damaging HDD projects for other utilities that would be better suited for a general permit.

In response to a question from Commissioner Lloyd, Ms. Lockwood said they do not have a clear timeline for the rules. She indicated that some deadlines have passed. She explained that even though the freshwater rules have fewer additions for climate change, it went through legal review about four times. She believes there may be something out near the end of the year. She went on to say that it seems that freshwater, flood hazard, and coastal rules may follow each other in quick succession as they have been worked on together.

Ms. Lockwood said that some stakeholders had suggested they wait for the Science Advisory Board report before creating rules relating to HDD. She said that NJGS advised that they are comfortable without it.

Commissioner Lohbauer agreed that the term inadvertent return is an industry term. He stated that the term should not be used. He said that he believes it is used to avoid admitting negligence. He said that he prefers terms such as spills or violation of permit.

In response to a question from Commissioner Lohbauer, Ms. Lockwood replied that she is unsure of the effects but is aware of the use of bentonite. She also said that the draft rules are broad.

Commissioner Lloyd suggested the use of the term unpermitted discharge. Commissioner Lohbauer agreed.

Ms. Roth mentioned that the NSF 60/61 documentation answers Commissioner Lohbauer's question on bentonite.

In response to a question from Commissioner Lohbauer, Ms. Lockwood indicated that she has seen some contingency plans and they don't seem to be good. She gave examples of providing bottled water and drilling new wells.

Ms. Lockwood said they do not have language to establish criteria to give them the ability to say no to an application. She went on to say that NJDEP has reviewed these applications with more scrutiny.

Commissioner Lohbauer expressed his opinion on the importance of identifying what is acceptable conduct. He mentioned the incidents during the construction of the Southern Reliability Link pipeline. He stated that there were six spills or unpermitted discharges over the course of two weeks, and the crews continued drilling. He suggested a provision be made to stop work when an incident occurs and for an evaluation to be done before work resumes.

Ms. Lockwood indicated that the rules are not to that extent yet. She said that these rules are in the beginning stages. She explained the use of stakeholder meetings to help develop proposals and the reluctance to add anything into a proposal that has not received stakeholder input.

Commissioner Lohbauer thanked Ms. Lockwood for her presentation. He also mentioned that he would like her to return again in the future to discuss this subject.

Ms. Lockwood indicated that there is a Science Advisory Board report on their website about the potential for releasing arsenic into groundwater while drilling.

In response to a question from Ms. Roth, Ms. Lockwood said that she believes the report included pipeline installation.

Chairman Prickett mentioned that there are different elements in bentonite based on where it was sourced. Ms. Lockwood added that there is naturally occurring arsenic in certain geologic formations that can be disturbed by drilling.

Commissioner Irick mentioned that spills tend to occur more frequently as pressure is increased during drilling. He asked if there will be a limit to the fluid pressure used for HDD. Ms. Lockwood replied that the subject has not been raised as an issue. She said she add this to her list of questions.

In response to a question from Commissioner Irick, Ms. Lockwood said that soil studies were provided in previous applications to determine if HDD is appropriate. She said that she believes applicants routinely have these studies done, as it benefits the companies.

In response to a question from Commissioner Irick, Ms. Lockwood said that the requirement to have a professional present on-site is under consideration, that it was something that fell under NJGS rules, and it should cross over to NJDEP rules.

In response to a question from Commissioner Avery, Ms. Lockwood indicated the stakeholder group was broad and may not have been targeted to HDD.

Commissioner Avery commented that HDD and jacking are common techniques that are used across many types of projects. He mentioned that offshore wind and larger solar projects use underground travel for grid connection.

Ms. Lockwood said that there is a lesser concern for drilling to install smaller lines. She said there is a recognition for it and there is consideration in the coastal rule discussions.

Commissioner Avery asked if the rules were adopted by NJDEP, would they apply to HDD projects statewide, or would the Pinelands Area be exempted. Ms. Lockwood affirmed that the rules would apply statewide.

Commissioner Avery commented that he would like to see NJDEP rules complement or supplement rules from the Commission. Ms. Lockwood explained that they try to write their rules with criteria to acknowledge the potential for stricter or different rules for the Pinelands Area.

In response to a question from Commissioner Avery, Ms. Lockwood replied that she will find out, but is sure there is a list of stakeholders available.

Commissioner Avery expressed concern about the makeup of the stakeholders group. He also asked if it would be helpful to have NJGS answer technical questions from the Commissioners. Ms. Lockwood affirmed and mentioned that she was referred to NJGS for questions. She said that they have more technical and firsthand knowledge.

Commissioner Avery requested that contact info for NJGS be given to Ms. Grogan. He also commented that he would like to know from their experience if the industry standard failure rate of 50% would still apply given that there is more sand in the Pinelands Area compared to rock in other parts of the state.

Ms. Roth explained how NJDEP rules apply in the Pinelands Area. She said for wetlands protection, there is a memorandum of agreement (MOA) between NJDEP and the Commission from 1993. She said that the Commission acted as an agent of NJDEP for review of general permits in the Pinelands Area. She described the difference in wetlands definitions and standards between NJDEP and Commission rules. She also said that NJDEP's adoption of the HDD rules would be a good first step and that they would apply when the Commission reviews applications for general permits.

Ms. Roth clarified that the NSF 60 standard establishes minimum standards for additives being used in potable wells. She said that NSF 61 outlines standards for additives being used for municipal water supplies. She said that both are to ensure the safety of public health. She also clarified that the Commission does not review individual permits for NJDEP.

Ms. Roth indicated that there may be changes needed for Pinelands-only wetlands. She specified that it may be a subclass in the rules. Mr. Horner stated that the difference in wetland determination between NJDEP and Commission standards is not usually evident unless an application has been made directly to NJDEP. He said that has not become an issue and could not identify a number of times this has occurred.

Ms. Roth said that the NJDEP rules would be a starting point for the Commission.

Ms. Grogan said that the presentation clarified the process and that the use of the general permit would allow the Commission to be involved. She also said there will need to be some amendments to the CMP to address these standards and clarify the exemptions. She agreed that having NJGS answer the Committee's more technical questions would be helpful.

Chairman Prickett said that the Commission may have the opportunity to influence the rules to be more specific to the Pinelands Area.

Ms. Lockwood said that she would write up the Committee's questions and pass them along and will provide the Committee with another point of contact moving forward for more questions.

Commissioner Lloyd expressed his opinion on repealing exemptions. He suggested that there could be an exemption up to a certain size pipe. He also mentioned that he believes there has been inappropriate use of the term distribution line to claim exemption. He said that he is in favor of repealing all exemptions or specifically the exemption for pipelines, up to a certain size.

Commissioner Irick echoed Commissioner's Lloyd's concern on repealing exemptions. He said there needs to be clarification on the difference between service, distribution, and transmission

lines. He also said that there needs to be recognition of the difference between replacement and expansion of a line. He explained that he believes replacement should indicate like sized replacement and not a larger size, which he considers expansion.

Commissioner Irick expressed concern with HDD use in wetlands and wetlands buffers. He said that he leans toward the idea of no HDD use in wetlands and wetlands buffers.

Commissioner Irick said that there should be a definition of what is considered existing development. He said he does not like the idea of running utility lines through untouched areas to service existing development.

Commissioner Avery explained that he believed the list of exemptions was brought to review by the Commission staff. He said that he continues to support their review.

Commissioner Avery expressed concern that there has been no contact to those who have used HDD in the Pinelands for input. He said that he is unsure of the benefit of banning HDD when the alternative is to dewater and trench. In summary, he said that he is not supportive of changing the list of exemptions at this time.

Commissioner Irick suggested that there should be no development through wetlands or buffers at all. He repeated his position in favor of repealing the exemptions. He went on to say that we should create our own standards while we wait for NJDEP to enact rules.

Mr. Horner outlined seven pending exemption requests. He said that two of the proposals, one for a water main and one for a gas main, are in a residentially developed area. He indicated that HDD will not be used for installation. He said staff determined these two projects are exempt and notified the applicants of that determination.

Mr. Horner said the third proposal is from the New Jersey Department of Transportation (NJDOT). He said they are proposing 1,400 linear feet of cable for a signage system. He indicated that they intend to use HDD in a wetlands area. He mentioned that this is a public development application that will be presented to the Commission.

Mr. Horner said that there are three applications that are all intending to use HDD. He said that two of those are gas line extensions. One is 1 ½ mile and the other is seven-tenths of a mile in length. He said that they will be reviewed as private development applications and issued Certificates of Filing. He said that the third application is for a water main in Ocean County, in the Lakehurst/Manchester area. He said that it is a public development application.

Commissioner Lloyd said that the outline was helpful in learning what staff is currently reviewing. He asked if a list of applications claiming exemption could be included in the meeting packet or monthly report.

Commissioner Irick expressed concern and questioned the potential number of projects that are not known to the Commission because the applicant claims they are exempt. Mr. Horner replied that he does not know the number and that based on current rules, if the applicant believes a project is exempt, they do not have to apply. He went on to say that he believes staff does hear about most, if not all, significant projects.

Commissioner Irick again stated his suggestion of repealing the exemptions. He said the Commission should be making the determination if a project is exempt. He also proposed moving the suggestion to the full Commission. Chairman Prickett replied that now is not the time to do so and the Committee needs to give it more consideration.

Commissioner Lohbauer said that he agrees with Commissioner Lloyd's and Commissioner Irick's opinion to repeal the exemption where it applies to HDD. He said that we know more about the process now than when the exemption rules were written. He again expressed his suggestion to not use the term inadvertent return.

Commissioner Lohbauer went on to say that he does agree with Commissioner Avery's opinion that HDD isn't just for natural gas pipelines, and that it is used for other important projects. He said that we should not allow another HDD project in the Pinelands without it being reviewed and stressed the need to create standards.

Chairman Prickett mentioned that Ms. Grogan, as Acting Executive Director, has not had the opportunity to review these issues. He suggested that Ms. Grogan be given time to respond to everyone's concerns.

Commissioner Lloyd expressed his interest in moving the matter to the full Commission. He said that he would like to hear more from Ms. Grogan and Ms. Roth to prepare a plan to move to the Commission. He suggested that the subject be put on the agenda for the next meeting.

Commissioner Avery repeated that he does not support changes to the exemptions at this time. He said that the suggestion is premature and that the Committee has not heard from enough sources to make the decision.

Ms. Roth expressed concern that the CMP does not have rules for HDD. She said that this creates issues with exemptions. She explained that if the exemptions were repealed, the CMP would not have standards against which to review the potential applications. She said that staff have been successful in asking for things that are not currently in the rules, including contingency plans.

Ms. Grogan said that this discussion has provided clarity on the matter of the exemptions. She said she recommends revision of the exemptions in lieu of repealing. The revisions could require applications for projects proposing the use of HDD. She echoed Ms. Roth's concern with the lack of CMP standards for HDD. She said that the exemption change should be made at the

same time as establishing substantive standards. She went on to say that there is some room in the current CMP exemption language to require applications for certain utility distribution line projects and that is how the staff is proceeding.

Ms. Grogan agreed to put the matter on the agenda for an upcoming Committee meeting.

6. Public Comment

Andrew Gold, on behalf of the Pinelands Preservation Alliance, expressed support for the Commission's comments on Senate Bill 3550, eliminating local review of forest stewardship plans. He said that local review is an integral part of the application process under the CMP. He explained that the bill would result in a loss of Commission and municipal oversight.

Mr. Gold said that the goals drafted in response to the proposed Greenwood Wildlife Management Area forest stewardship plan were excellent. He agreed with the limited use of herbicides. He asked if the Science department has studied the impacts of the use of herbicides. He also asked what constitutes a fire break.

Mr. Gold said that he appreciates the robust discussion on HDD. He expressed support for the Commission's moving forward with its own set of rules. He mentioned the difficulty in proving no impact from HDD. He said that the Commission needs to draw a line even if NJDEP does not. He also said that he agrees with soil testing for HDD. He went on to say we don't know the effects of spills on substances in the soil.

Mr. Gold also said that he doesn't think the HDD rules should be written just to address climate change, and that it needs a larger perspective.

Fred Akers, from the Great Egg Harbor Watershed Association, said that he appreciates the details in today's discussion.

Mr. Akers said that there have been projects that successfully used HDD in the past. He described a 24-inch gas line project into Egg Harbor Township. He said that he observed some of the construction and that it seemed to have no adverse impact. Mr. Akers also described a project from the Atlantic County Utilities Authority for a 30-inch sewer main from Bader Field to the sewage treatment plant. He said that there were no issues that he was aware of.

Mr. Akers said that the Commission needs to stress the importance of doing these projects right.

Chairman Prickett mentioned that Wild and Scenic Rivers has federal legislation behind it. He said that there is an agency that has to approve any projects in the Wild and Scenic areas. He said that seems like an agency that can say no, and that there are some agencies that have the ability to say no to a project.

Chairman Prickett closed public comment at 12:44 p.m.

Commissioner Lloyd reiterated his opinion that the exemptions need to be repealed. He said that he disagrees with Ms. Roth's suggestion that repealing the exemptions and creating standards should or must be done together. He said that he is not comfortable leaving the exemption determination to the companies doing the projects.

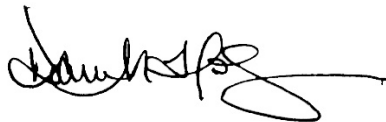
Commissioner Lohbauer said that agrees with Commissioner Lloyd. He thanked Ms. Grogan for her work as Acting Executive Director and the work of the Commission staff. He expressed his support to Chairman Prickett in contacting the Governor's office regarding staffing.

Commissioner Irick thanked the staff for their work and agreed with Commissioner Lloyd's comment to separate the issues of repealing the exemptions and creating standards.

In response to Commissioner Lloyd's question as to when the Commission would return to meeting at the office, Ms. Grogan said at the earliest, it would be in September. She said that staff is waiting for guidance from the Governor's office on reopening offices to the public.

There being no further discussion, Commissioner Lohbauer moved the closing of the meeting. Commissioner Avery seconded the motion. The meeting concluded at 12:48 p.m.

Certified as true and correct

A handwritten signature in black ink, appearing to read 'Dawn Holgersen', with a long horizontal flourish extending to the right.

Dawn Holgersen
Office Assistant
September 14, 2021

Greenwood Wildlife Management Area Forest Stewardship Plan

The New Jersey Department of Environmental Protection, Fish and Wildlife Service (NJDEP F&WS) proposes to develop a forestry plan for 3,117 acres of the 32,353-acre Greenwood Wildlife Management Area.

The 3,117 acres of the Greenwood Wildlife Management Area subject of the Forest Stewardship Plan are located in both Lacey and Manchester Townships in Ocean County and in the Pinelands Preservation Area District.

The NJDEP F&WS has established as a priority that the Forest Stewardship Plan increase early successional habitat.

Prior to development of the Forest Stewardship Plan, the NJDEP F&WS has asked the Pinelands Commission to identify forest management goals that should be considered for inclusion in the Forest Stewardship Plan.

The Pinelands Commission staff has identified the following Forest Management Goals:

1. "Pro-forestation," growing an existing forest intact to its full ecological potential, should be the forest policy for most public lands in the Pinelands Area. This goal of growing and preserving mature forests will increase forest carbon sequestration to reduce climate change.
2. No forestry should occur in the Pinelands Area solely to increase early successional habitat. Creation of early successional habitat should rely on naturally occurring disturbances.
3. Where feasible, prescribed forest burning should incorporate "hot burn" techniques to reduce canopy tree and shrub cover, expose mineral soils and foster threatened and endangered (T&E) species that rely on those conditions. Such prescribed burns will assist in increasing early successional habitat. The impact of growing season burns on wildlife should be investigated prior to instituting this policy.


Forest Management Goals, continued:

4. Forest management should be limited to that necessary for public safety, to replace non-native tree species with native tree species and to re-establish rare native forest types, such as Atlantic white cedar, where it has been lost.
5. Installation of fire breaks and plow lines to address public safety should be designed to discourage unauthorized ORV use.
6. If forestry is proposed to create early successional habitat, the scale of such forestry should be minimal until monitoring is completed to determine if the forestry is successful in creating early successional habitat goals that are specified in the Forest Stewardship Plan.
7. Eliminate new habitat management for non-native animal species.

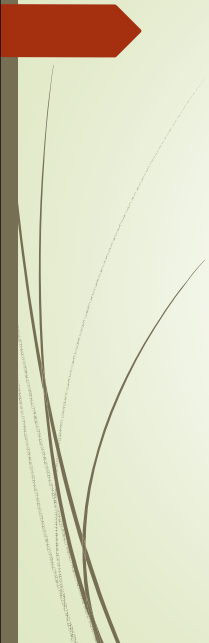
In addition to the "Management Goals," the Pinelands Comprehensive Management Plan contains mandatory regulatory requirements for all forestry in the Pinelands Area. These requirements are mandatory whether or not the forestry is undertaken by a private landowner or a public agency. Below, the Commission staff has identified certain of those Pinelands Comprehensive Management Plan regulatory requirements:

Pinelands Comprehensive Management Plan Mandatory Forestry Requirements

1. Maintain native forest types (N.J.A.C. 7:50-6.46 (a)1)
2. Forestry shall not have an irreversible adverse impact on habitat critical to the survival of T&E animal species or local populations of T&E plants (N.J.A.C. 7:50-6.46 (a)4)
3. Forestry should minimize the use of herbicides (N.J.A.C. 7:50-6.46 (a)9 ii)
4. Forestry undertaken by any State agency shall maintain biological diversity and landscape integrity characteristics of the Pinelands (N.J.A.C. 7:50-6.47 (a)1)




Directional Drilling
DRAFT DEP rules
Presentation to Pinelands
Policy Committee
July 30, 2021



NJ PACT

- The Governor's Protection Against Climate Threat (PACT) initiative has caused the DEP to revisit its rules.
- The Department has undergone an extensive Stakeholder outreach process and surveyed staff with the goal of identifying rules that should be amended.




N.J.A.C. 7:7A-7.2
Installation of underground utility lines-GP


Currently DEP does not regulate utility lines that are “jacked or directionally drilled” beneath wetlands or waterways:

(b) If a utility line is jacked or directionally drilled underground, so that there is no surface disturbance of any freshwater wetlands, transition areas, or State open waters and there is no draining or dewatering of freshwater wetlands, **no Department approval is required under this chapter.**

Since the existing rules were adopted:


- Several natural gas pipelines have been installed through the State using various installation methods.
- Directionally drilled natural gas lines have resulted in “inadvertent returns” into wetlands and waterways.
- Conclusion: It is necessary to review underground utility lines if proposed to be jacked or directionally drilled beneath wetlands and waterways.





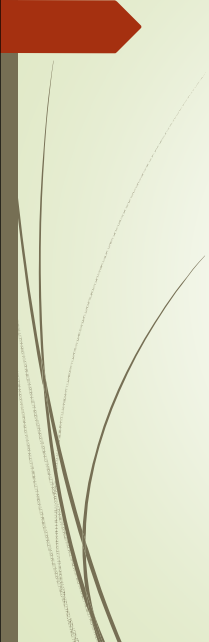
Assistance from the New Jersey Geological and Water Survey (NJGS)

- Division of Land Resource Protection (previously the Division of Land Use Regulation) requests assistance from the NJGS when it reviews directionally-drilled utility lines.
- Geologists and hydrogeologists in NJGS oversee other DEP programs and rules relating to drilling (for example, the well- drilling program).
- The NJGS provided guidance to LRP for its rules. Additional changes may occur via the well-drilling rules. Until that time, limited changes are being incorporated into the Freshwater Wetlands, Flood Hazard Area and CZM rules).



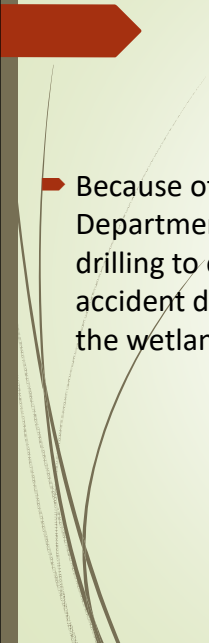
Draft Rule Amendments

- Require an application for installation of utility lines using direction drilling below wetlands and waterways
- Require applicants drilling beneath wetlands or waterways to demonstrate that they will not have an impact on these features.
- Delete the reference to “jacking” below wetlands and waterways since this is not technically feasible.
- If jacking is the preferred method beneath transition areas or in floodplains, require a demonstration that the water table will not be intercepted.



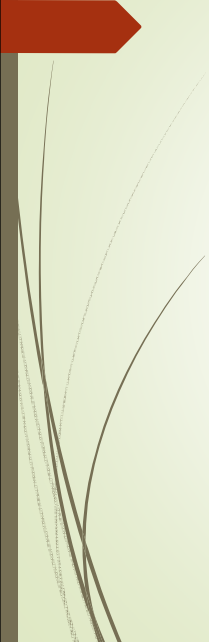
Add the following requirements for Directional Drilling

- Use potable water in the drilling and/or utility line installation;
- Use NSF 60/61 certified drilling fluids and additives to conduct drilling operations;
- Submit a contingency plan for drilling operations, including preparedness procedures to minimize environmental impact from inadvertent returns;
- Fill any abandoned boreholes.



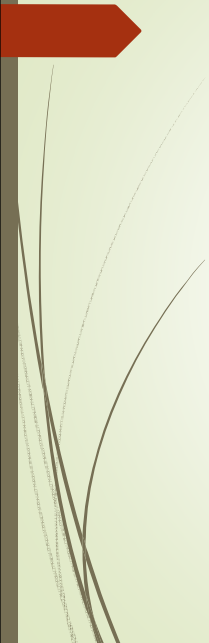
Potable Water

- Because of the proximity to wetlands and other waters, the Department is requiring the use of potable water during drilling to ensure that if an inadvertent return or other accident does occur, the drilling water will not contaminate the wetlands or waterway.




Require Use of NSF 60/61 Drilling Fluids

- NSF 60/61 is the American National Standard for evaluation of water treatment chemicals and is required by regulation or law in most U.S. states including New Jersey. This standard was created by a committee of industry experts. Many categories of water treatment chemicals, as well as well drilling aids fall under the scope of this standard.
- Use of these materials better ensures that contamination will be limited in the case of accidents or inadvertent returns.




Creating a Contingency Plan

- The contingency plan should address potential drilling failure and actions to be taken if there is an inadvertent return.




Filling of Abandoned Bore Holes

- Any borehole that penetrates 25 or more vertical feet below land surface shall be decommissioned in accordance with N.J.A.C. 7:9D et seq., using Department-approved grouts, as listed in the regulations at N.J.A.C. 7:9D et seq. (Well Construction and Maintenance; Sealing of Abandoned Wells Rules).
- The upper 25 vertical feet plus final borehole diameter of any open borehole, annular space between the borehole and any pipe or casing remaining in the borehole, and inside the pipe or casing must be grouted in accordance with N.J.A.C. 7:9D et seq. The grout shall be placed through either a drill rod or tremie extended down the borehole from the entry point until it reaches a vertical depth of 25 feet plus the hole diameter below the land surface.
- Any borehole shallower than 25 vertical feet below land surface shall be decommissioned using a Department-approved grout, clean fill, or cuttings from the borehole; and
- The top five vertical feet of all entry and exit points shall be grouted with cement or concrete.



Filling of Bore Holes

- Filling of abandoned boreholes with board-certified grouts both ensures that there is no easy pathway between surface or ground water and that the borehole does not provide a pathway or conduit, which could result in draining the wetlands or allow contamination to migrate.



Questions?

- Susan Lockwood
- NJDEP PACT Rule Team
- Susan.Lockwood@dep.nj.gov

