



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands




PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
SUSAN R. GROGAN
Acting Executive Director

MEMORANDUM

To: CMP Policy & Implementation Committee

From: Susan R. Grogan 
Acting Executive Director

Date: July 21, 2021

Subject: July 30, 2021 Committee meeting

Enclosed please find the agenda for the Committee's upcoming meeting on July 30, 2021. We have also enclosed the following:

- The minutes from the Committee's May 28, 2021 meeting;
- A memorandum and draft letters to the State legislature on the pending forest stewardship bills previously discussed by the Committee; and
- A memorandum from Chairman Prickett with revised CMP amendment recommendations related to application exemptions and Horizontal Directional Drilling (HDD) in the Pinelands Area. Please note that Susan Lockwood from the Division of Watershed Management and Restoration at NJDEP will be attending the Committee meeting to make a presentation on NJDEP's draft HDD regulations.

As indicated in his memorandum, Chairman Prickett has asked that Committee members provide him with any specific topics they would like to discuss at the meeting relative to exemptions and HDD so that he can structure the discussion accordingly. Please email Jess Noble with this information and she'll take care of providing it to the Chairman in advance of the meeting.

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

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

Pinelands Commission YouTube link:
<https://www.youtube.com/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Agenda

1. Call to Order
2. Adoption of minutes from the May 28, 2021 CMP Policy & Implementation Committee meeting
3. Continued discussion of the Commission's comments on pending forest stewardship legislation
4. Update on the Commission's Electric Transmission Right-of-Way Maintenance Pilot Program and upcoming rulemaking schedule
5. Continued discussion of CMP amendments related to Horizontal Directional Drilling (HDD) and utility distribution line exemptions
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/channel/UCBgpC8sbR3Acrjo7ppxs3Uw>

Meeting ID: 833 5477 1666

May 28, 2021 - 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Richard Prickett, Alan Avery, Ed Lloyd and Mark Lohbauer

MEMBERS ABSENT: Jordan Howell and Jerome H. Irick

STAFF PRESENT: Nancy Wittenberg, DAG Kristina Miles, Stacey P. Roth, Susan R. Grogan, Brad Lanute, Gina Berg, Marci Green, John Bunnell, Paul Leakan, Ernest Deman, Jessica Noble, Jessica Lynch and Betsy Piner. Also in attendance was Jamera Sirmans 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 9:31 a.m. *(Please note that the sequence of the meeting below is that of the actual meeting, not that of the written agenda)*

2. Adoption of open and closed session minutes from the April 30, 2021 CMP Policy & Implementation Committee meeting

Commissioner Lohbauer moved the adoption of the open and closed session minutes of the April 30, 2021 Committee meeting. Commissioner Avery seconded the motion, noting that although he had not attended the meeting, he had read the minutes. All voted in favor of adopting the minutes.

3. Executive Director's Report

Winslow Township Ordinance O-2021-005, adopting a Redevelopment Plan for the Randevco Redevelopment Area in the Pinelands Regional Growth Area

Mr. Joseph Gallagher, Winslow Township Administrator, joined the meeting at the beginning of this discussion.

Mr. Lanute reviewed the Executive Director's Report on Ordinance O-2021-005, referencing Exhibit #1, the map identifying the Randevco Redevelopment Area, consisting of five lots of roughly 84 acres entirely within the Regional Growth Area (RGA). He said the parcel is located

between NJ Route 73 and Tansboro Road and most of the land was previously zoned in the Township's Pinelands Town Center District with a single 5-acre lot that was previously zoned PC-2, which is a commercial zone. The Redevelopment Area is composed of undeveloped woodlands and vacant fields that were previously farmed.

Mr. Lanute said the Randevco Redevelopment Plan (Plan) will enable the development of a new town center through a mixture of commercial and residential uses compactly arranged around a community focal point with commercial development along Route 73 and residential development along Tansboro Road. He said the Commercial and Residential Districts are identified on the zoning map (Exhibit 3), along with a "floating" Main Street Mixed Use Overlay District. He said the boundaries of the latter District will be established in conjunction with the redeveloper's proposed location of a Main Street right of way. The final boundaries of both the Main Street right of way and the floating overlay zone are to be established upon preliminary site plan approval by the Township Planning Board.

Mr. Lanute further elaborated on the standards of the Main Street Mixed Use Overlay District, noting that it will connect Tansboro Road with NJ Route 73 and has a minimum contiguous area extending perpendicularly 300 feet out from each side of the Main Street right of way for a minimum of 800 feet along the Main Street. This is equivalent to a minimum area of about 12 acres, including the right of way. This area will permit single-use and mixed-use buildings as well as public gathering spaces to serve as the community focal point. The Plan requires that at least 50% of the proposed building square footage within the overlay be devoted to mixed-use, multi-story buildings. The Plan also requires that at least 50% of the proposed square footage above the ground floor of mixed-use buildings be devoted to residential uses. In addition to multi-family residential and residential above commercial, the district will permit office buildings; hotels; health clubs; retail businesses; banks; restaurants; theaters; and public parks. A public gathering space of at least 5,000 square feet must be provided in the overlay district.

Mr. Lanute said the Commercial District is approximately 32 acres in size, and in addition to the commercial uses permitted in the Main Street Mixed Use Overlay, it would permit: research facilities; hospital or related health-care facilities; places of worship; and principal-use solar facilities.

He said the Residential District is approximately 52 acres in size, and permits: single-family detached dwellings; two-family dwellings; townhouses with up to 6 units per structure; and multi-family dwellings. The Plan requires that 25% of the residential district be reserved for open space and recreation, of which a minimum of half is required to be devoted to unoccupied, naturally vegetated open space.

Mr. Lanute said the Plan includes extensive standards unique to each of the districts, including those related to building placement, architectural elements, signage, landscaping and buffering, lighting, and fencing. He said the Plan provides many design parameters that the Township feels will result in the Town Center-like development that it is seeking, while also providing a lot of creativity and flexibility for the redeveloper. He noted that this is one of the more creative and innovative redevelopment plans we have seen in the Pinelands.

Mr. Lanute said the Plan permits up to 600 units in the Redevelopment Area, which equates to approximately 7 units per acre in the Redevelopment Area as a whole. The Plan includes an affordable housing requirement whereby 20% of the for-sale residential units and 15% of the for-rent units proposed be made affordable to low- and moderate-income families. He said this would result in an increase in the overall residential zoning capacity of the Township's RGA. Under the previous PTC and PC-2 zoning designations, the Redevelopment Area could have potentially yielded a maximum of 206 units. So this would be an increase of 394 additional units.

Mr. Lanute noted that the CMP does provide municipalities with the ability to zone portions of their RGA for higher densities, provided that the lands in question are appropriate for more intensive development, infrastructure exists or can be provided to support the increased density and sufficient opportunities for the use of Pinelands Development Credits (PDCs) are provided.

Mr. Lanute said, in terms of appropriateness for the intensity of development permitted, the plan aligns with the Township's long-term goals of increasing residential densities in proximity to NJ Route 73 in order to support additional commercial development along NJ Route 73. The Randevco Redevelopment Area fronts NJ Route 73 and focuses commercial development along that frontage with residential development in the interior of the redevelopment area and along Tansboro Road. He noted that the previous zoning for much of the area was Pinelands Town Center. This zoning designation was certified back in 2003 with the purpose of permitting a mixed use concept, including residential and commercial uses. The Township has long desired this type of mixed use development in this area.

Mr. Lanute said, during initial reviews of the plan, staff did have concerns about the potential presence of wetlands and wetlands buffers on the tract based on available GIS data. Commission staff found no wetlands during an on-site visit. He said the Plan requires that any development in the Redevelopment Area comply with the minimum environmental standards of the CMP. He said if wetlands or wetlands buffers are identified during the development application review, the CMP's wetlands standards will apply, as would all other minimum environmental standards.

He said, with respect to the availability of infrastructure to serve the Redevelopment Area, both water and sewer will be provided. Additionally, the Commission has an agreement in place with the Township and the Camden County Municipal Utilities Authority (CCMUA) that limits

withdrawals from the Kirkwood Cohansey aquifer. Based on the agreement, the Township submits annual reports detailing water use. The most recent report submitted for the year ending February 2021 shows that the Township has not yet reached its cap on the use of Kirkwood-Cohansey water. In the future, if the limit is reached, the Township will be required to purchase water from an alternative source.

Mr. Lanute said the Plan requires the acquisition and redemption of PDCs for 25% of all residential units in the Redevelopment Area, with limited exemptions for residential units developed on-site and made affordable to low- and moderate-income households. The PDC requirements adopted by the Redevelopment Plan will result in an opportunity for the use of up to 139 rights (34.75 PDCs).

Mr. Lanute said, under the traditional approach to meeting PDC requirements, municipalities must provide only the opportunity for the use of PDCs for 33% of the total number of residential units permitted in their RGA. Under this Plan, PDC use will be required for approximately 25% of the units. While this is a lower number than the 33%, the use of PDCs would be guaranteed if any residential units are developed in the Redevelopment Area.

Mr. Lanute said, based on these findings, staff concluded that the uses permitted by the plan are permitted in the RGA; that the increase in density in this area was appropriate based on the criteria of the CMP; and that PDCs are appropriately accommodated. He said the Commission held a public hearing on this ordinance at which no testimony was received, nor was any written comment received.

Mr. Lanute concluded by stating that staff finds that Winslow Township Ordinance O-2021-005 complies with the Pinelands CMP, and is recommending Commission certification.

During the course of the meeting, in response to questions from the Committee, Mr. Gallagher said the redeveloper is the Randevco Corporation, that the commercial space along the new Main Street area is not being pre-sold but the types of businesses will be market driven, that Hovnanian is the builder of the residential portion of the Area, that Winslow has an approved Affordable Housing Plan and that there had not yet been any discussions regarding energy efficient measures and the Township is working with the New Jersey Department of Transportation to minimize curb cuts and promote cross-access.

In response to a question from Commissioner Lohbauer, Ms. Grogan said the open space will be within the Residential District but its precise location will be determined as a function of how the area is laid out. Also, the wooded area along Route 73 is where the Commercial District is focused.

In response to a question from Commissioner Avery, Ms. Grogan said the PDC opportunities that Mr. Lanute had described apply only to this Redevelopment Area; the more traditional base/bonus PDC provisions are in place elsewhere in the Township RGA.

In response to a question from Chairman Prickett, Mr. Horner said when staff visited the site, they could not access the agricultural fields without rutting them but are confident that there are no wetlands.

In response to Chairman Prickett's question regarding "*11. Conformance with Energy Conservation*" in the Executive Director's report, Ms. Grogan said this has been a provision since the early 1980's and typically it is applied to master plans. She said she would prepare a discussion for a future Committee meeting, perhaps as part of a Climate Committee agenda.

Commissioner Lohbauer moved the recommendation that the Commission certify Winslow Township Ordinance O-2021-005. Commissioner Avery seconded the motion and all voted in favor.

4. Stormwater Management - Review of final amendments and recommendation of formal rule proposal

Ms. Grogan said the meeting packet contained the draft resolution and rule proposal for stormwater management. She said what is new to the Committee is the up-front material, the background and impact statements and the explanation as to how these amendments relate to the New Jersey Department of Environmental Protection (NJDEP) stormwater rules. She said the draft stormwater rules have not changed since the Committee last reviewed them at its March 26, 2021 meeting. She said, as required, the proposal has been submitted to the Governor's Authorities Unit office of proposed rules but there has not yet been any response. Their authorization is required before the full Commission can move forward but she hoped to receive the endorsement of this Committee today.

Ms. Grogan offered to provide a presentation on the proposed rules, based on previous presentations, but there was consensus from the Committee that the in-depth review at previous meetings made this unnecessary.

In response to the Committee's recognition that this was a fine piece of work and an excellent job, Ms. Grogan said the credit goes to the entire stormwater team.

Commissioner Lohbauer moved the recommendation that the Commission propose rules related to stormwater management. Commissioner Lloyd seconded the motion and all voted in favor.

5. Discussion of Commission comments on forest stewardship legislation

Commissioner Lohbauer announced that he would recuse himself from this portion of the meeting. He was placed in a Zoom "waiting room" at 10:14 a.m.

Ms. Roth updated the Committee on actions related to forestry stewardship legislation since her last discussion at the April 21, 2021 meeting of the Land Use, Climate Impacts and Sustainability (now known as the Pinelands Climate) Committee.

She identified the bills by their Senate number only as the Assembly bills are identical and described them briefly.

- S2001: “The New Jersey Healthy Forests Act”, establishes forest stewardship program for state-owned land
- S3550: eliminates municipal approval for forest stewardship plans
- S3549: requires Forest Stewardship Plans for lands of which 25% or more are forested and acquired by counties, municipalities or non-profits for recreation and conservation purposes
- S3548: establishes an NJDEP yearly goal minimum goal of acreage and schedule for ensuring prescribed burns occur on a minimum of 50,000 acres in the Pinelands Area and an additional 10,000 acres Statewide.
- S3547/A4846 – Established the “Pinelands Forest Stewardship” Working Group to evaluate coordination and cooperation between federal, State, and local government entities and private landowners with respect to the development and approval of forest stewardship plans in the Pinelands Area.

Ms. Roth said Senator Bob Smith, the sponsor of these bills, wants to engage in a dialog regarding them, substitutions for which are likely. She said at the public hearing, he had articulated four questions to which she has drafted a response. She noted that she was also preparing a summary of the three-hour April 21, 2021 public hearing.

She said the questions to be addressed at the public hearing are as follows:

- 1) Whether the State needs a Forest Stewardship Program for its public lands, and if the answer is yes, what the elements of the program should be;
- 2) Whether, in terms of global warming, is a managed forest, i.e. surgical clearing, better or worse for a forest to be an efficient carbon sink?
- 3) In terms of ecosystem biodiversity, is a managed forest, better or worse for ecosystem biodiversity; and
- 4) What should the role be for the existing forestry program in the NJDEP in regards to a forest stewardship program for State owned lands and what is the appropriate role for State government generally?

She said Senator Smith made it clear that this was not a discussion about logging, rather what the state is doing to manage public forests so that they are not lost. She said this is a very controversial issue.

She provided more detail regarding each of the bills noting concerns:

- S3550: There is a concern of unintended consequences. The Pinelands Commission should be the ultimate reviewer of all activities yet has been omitted from the review of forest stewardship plans.
- S3548: Without financial resources to effectuate prescribed burns, there is a limit as to how the minimum acreage goals can be met. Furthermore, by scheduling them in November through March, the cold weather months, the Commission's Chief Scientist believes they will be less effective.
- S3547: Representation on the Working Group by individuals or entities with Pinelands experience is extremely limited, especially given the sole goal of the working group is to coordinate governmental review of and encourage and promote greater forest stewardship solely in the Pinelands Area. Of the 14 members, only one would represent the Pinelands Commission, its Chairperson, while NJDEP has two and the NJ Department of Agriculture has five.

Ms. Roth said the Commission's role as a regional planning agency is legislatively designated. She said she did not believe a substantive bill would move forward and the dialogue was ongoing but the purpose of her letter was to let Senator Smith know that the Commission wants to be involved.

Commissioner Avery said he agreed that there may be many changes to these bills and the Commission needed to make its concerns known. Commissioner Lloyd was in agreement and said that Ms. Roth had just expressed many of his concerns.

Ms. Roth said, at the hearing, an expert from Rutgers University had discussed the Hutcheson Memorial Forest (*near New Brunswick, NJ*) established in 1948 and noted that although the plan was to leave the forest alone, it is not working. There is a problem with overgrazing and lack of saplings, so now it requires active management.

She said Mr. Bob Williams had spoken and said the conditions in the Pinelands forests are much better.

Mr. Bunnell said Hutcheson is surrounded by development and contains many non-native plants; Pinelands forests are less easily invaded by non-natives.

In response to Commissioner Lloyd's request, Ms. Roth said she had incorporated Mr. Bunnell's concerns regarding cooler burns but would send her draft letter to him so that any additional comments could be included.

At 10:38 a.m., Commissioner Lohbauer returned to the meeting.

6. Presentation on a research proposal

Mr. Bunnell said the US. Environmental Protection Agency (EPA) offers wetland program development grants during alternate years and it was such a grant that his office secured two years ago for the kingsnake study. He said EPA recently announced its latest round of grants. He said this was coincident with a recent video call he had with NJDEP Endangered and Nongame Species staff and some turtle researchers regarding warm weather prescribed burns. He said although such burns are more effective than cold weather burns, they pose greater danger to wildlife that are more active, particularly ground-nesting birds that might be on the nest with chicks when the fire rolls through or slow-moving reptiles such as snakes and turtles. He said as a result of that video call, the Science Office decided to start studying box turtles. He said the intent was to slowly accumulate enough turtles in a localized area to then subject them to a warm season burn to observe the results. He said he had spoken with Ms. Wittenberg about this initiative as part of the budget process and this grant opportunity arrived.

Mr. Bunnell provided a presentation on this research proposal to study box turtles (*Attached to these minutes and posted on the Commission's website at:*

<https://www.state.nj.us/pinlands/home/presentations/Habitat%20use,%20activity%20orange,%20Onesting,%20and%20overwintering%20of%20the%20eastern%20box%20turtle.pdf>

He said currently his office has seven turtles, two of which still need to be outfitted with transmitters. He said his proposal is to investigate the habitat, activity range, nesting and overwintering of the eastern box turtle. He said several years ago he had been part of a NJDEP study group assessing the status of reptiles and amphibians in New Jersey. After several anonymous rounds of discussion and analysis, the assembled experts categorized the animals as threatened, endangered, special concern, stable or unknown; box turtles were designated as a species of special concern. He said they are subject to multiple threats, including habitat loss, the pet trade, human consumption, roadside and utility line mowing, controlled burns, farm machinery, and cars on both paved and sand roads. He said they are declining throughout their range and their distribution and status are unknown in New Jersey. In addition, because most human activity (development, farming, etc.) occurs in uplands, upland species like the box turtle are vulnerable. Box turtles also use wetlands for foraging, overwintering, and thermoregulation. He said there is little known about the box turtle because there is limited funding to study reptiles. He noted that his office has tried to change that in the Pine Barrens in recent years.

Mr. Bunnell described the project details, noting the work will be very much like that of the snake studies. He said this is a four-year study, with field work from 2022 through 2024 and a year of data analysis and writing reports (2025). He said of the maximum total cost of \$433,000.00, the required 25% contribution match of \$108,000.00 would come from the Pinelands Conservation Fund, with the EPA contributing \$325,000.00. He described the applicability of this study, noting that it could be used to: evaluate the adequacy of uplands buffers to protect wetlands; value the upland and wetland habitats in the NJDEP state-wide wildlife habitat map; inform NJDEP Forest Service natural resource stewardship plans; and

guide the timing of forestry activities, roadside and utility mowing and perhaps prescribed burning.

Mr. Bunnell said there is much support for the study and he has received letters from Eric Stiles at NJ Audubon Society, Carleton Montgomery with Pinelands Preservation Alliance (PPA), Emile DeVito with NJ Conservation Foundation (pending), and John Heilferty, Bureau Chief, NJDEP Endangered and Nongame Species Program. He said NJDEP is very excited about a box turtle study. He asked the Committee for its support, and he would proceed with writing the grant and developing the budget.

In response to Chairman Prickett's question as to how the Science Office would coordinate this new project along with its existing projects, Mr. Bunnell said they are looking for perhaps 200-300 turtles in the same areas as their roughly 100 corralled rare snake dens and hopefully would be able to subject both to prescribed burning regimens and perhaps forestry activities to see how they respond. He said turtles will require less work than snakes.

Members of the Committee were fully supportive and Chairman Prickett said he was fond of box turtles and was supportive of these efforts. He said Mr. Bunnell's work was particularly interesting and he hoped that his work would help the Commission support the species. He said he looked forward to the results.

Mr. Bunnell said he would reference the Commission's support in his letter and that they could count on his office being overwhelmed as that was always the case.

Chairman Prickett said the Committee had received an analysis from AECON regarding carbon sequestration for two alternative plans the Committee had discussed for the Grassland Conservation and Management Area Relocation Site.

Commissioner Lohbauer said he appreciated the response.

Ms. Roth said the memorandum was a response to the Committee's question if Option Four was the one that provided the best carbon sequestration. She said since the report confirms that it is, and, as that was also the Committee's preferred option at its April 30, 2021 meeting, she would notify the South Jersey Transportation Authority to proceed with the Option Four Plan.

7. Update on discussion of Horizontal Directional Drilling (HDD) with the New Jersey Department of Environmental Protection

Ms. Roth said she had been in contact with the individual at NJDEP who is in charge of their rulemaking on the horizontal directional drilling (HDD) matter. She had provided Ms. Roth with materials and a presentation provided to the EPA, and they are coordinating their efforts.

In response to Chairman Prickett's question if staff had heard anything from the Governor's office regarding the Commission's interest in HDD, Ms. Grogan said she was unaware of any

formal request being made. She said it was discussed at the recent meeting with the new NJDEP Commissioner Shawn LaTourette. She said NJDEP is providing their drafts and they are not far from where the Pinelands Commission stands and she believes it will be helpful when writing the Commission's own rules.

Ms. Roth said once staff is more involved with its coordination with NJDEP, then it can approach the Governor's office.

Chairman Prickett summarized the recent discussions on HDD amendments, noting that the Commission doesn't know how many projects there are using HDD in wetlands, nor does the Commission know how many inadvertent returns (IR) have occurred. The Commission doesn't know what sort of drilling fluids are being used or where the slurry waste goes. He said the P&I Committee is considering a number of amendments, including requiring contingency plans for HDD projects within 100' of wetlands and requiring that drilling fluids (*bentonite and additives*) meet drinking water standards. He said at the last meeting, Commissioner Irick said that HDD be prohibited in areas of ecological value. As a result of various comments, Chairman Prickett said he has developed some other ideas.

He said today he wanted to discuss prohibiting HDD in wild and scenic rivers and corridors and in the Special Agricultural Production Area (SAPA) and the Preservation Area District (PAD). He said these were the most sensitive areas that the Commission would want to protect from drilling fluids. Also, he suggested a requirement that slurry drilling waste be transported to sanitary landfills or a designated site.

Commissioner Lohbauer said he supported Chairman Prickett's comments but he is most interested in the Commission having the right to review any project involving HDD. Including the tools suggested by Chairman Prickett would help regulate that review. He said protection of sensitive areas makes sense.

Commissioner Avery said he was hesitant to do anything to restrict HDD in the Pinelands without knowing the statewide standards. He said he welcomed the Commission's opportunity to be a part of that process. He said we are only at the beginning as Ms. Roth and Ms. Grogan have indicated. He said the Commission seems to be more focused on HDD for gas pipelines yet there are many other types of development applications that propose HDD. He said the regulated community finds HDD beneficial in terms of cost, convenience, the ability to avoid traffic detours and opening roads. He said the Commission needed to know more before adding further restrictions. He did say he felt there might be merit in requiring any drilling fluids to meet drinking water standards. He said that clay is found commonly throughout the Pinelands and he believed it to be at the site of vernal ponds. He said he was not yet prepared to move forward on any major changes to the CMP. He said many of the alternative energy proposals require HDD to get the electricity to where it needs to go.

Chairman Prickett said he agreed and it is premature to want to move forward just yet. He said it was important to hear from all the stakeholders and where NJDEP is going. He said if we put too many restrictions on HDD, then developers might need to trench. He noted that bentonite is a weak acid when mixed with water so is compatible with Pinelands waters.

Commissioner Lohbauer said Commissioner Avery had good points but it was prudent to ask the questions. He said he concurred with Chairman Prickett that the Commission knows so little about the process that has potential for great harm. He said it is important to work with Commissioner LaTourette.

Commissioner Lloyd said the Commission needs to continue studying HDD but the Commission can move forward on repealing the utility distribution line exemptions. This will allow the Commission to review the projects. It does not change the standards and there is no need to wait for NJDEP.

Chairman Prickett displayed a map entitled “Ecological Critical Area Importance Values”, Plate 27 from the original CMP. He said the map identifies which wetlands are of most value. He noted the Commission’s Ecological Integrity Assessment study and said when staff evaluates a project, it should look at the value of the wetlands that are subject to HDD. He said his last proposed amendment requires that an evaluation be performed on a wetlands site proposed for drilling to determine if the use of HDD is appropriate for the site.

Commissioner Lloyd asked that HDD be put on the agenda for the next Climate Committee meeting.

Commissioner Lohbauer asked if staff could review these suggestions and also research bentonite.

Chairman Prickett said he would consult with Ms. Wittenberg as to staff workload.

In response to Commissioner Avery’s question if vernal ponds were created due to the presence of bentonite, Mr. Bunnell said there are probably at least 14 or 15 ponds in their studies where there is no clay but there are thousands of ponds in the Pinelands.

Commissioner Lloyd asked Chairman Prickett to circulate a draft agenda when he is ready to discuss repeal of the exemptions.

Chairman Prickett expressed concern with the workload that would be created for staff if these HDD projects are exempted. He said he would send his comments from today to the Committee to get more feedback.

Ms. Grogan said she thought it a good idea to provide an agenda and focus on how to proceed but was very concerned with the ability of staff to prepare for a full discussion, do research and be ready for the June 25, 2021 meeting, given limited staff and the need to coordinate with

NJDEP and the Governor's office. She suggested that the discussion be deferred to the July Committee meeting.

Chairman Prickett said he appreciated Ms. Grogan's feedback.

Commissioner Lohbauer said he recognized the workload of staff but asked that this Committee consider a future agenda item, when appropriate, on off-road vehicle (ORV) damage. He noted that the recent meeting with NJDEP Commissioner LaTourette had been wonderful and he hoped the Commission would be involved with the ORV working group. He said he would submit his ideas to Chairman Prickett and staff prior to the upcoming anniversary of the Commission's resolution designating existing roads within Wharton State Forest as appropriate for motor vehicles (Resolution PC4-17-30).

8. Public Comment

Ms. Rhyan Grech, with PPA, said she appreciated the discussion of the forestry bills, and agreed that these are unfunded mandates. She said there needs to be robust public participation, a thorough study of factors that impact regeneration, onsite surveys of rare plants and animals and the science staff should be involved in drafting these bills. Regarding HDD, she said she agreed with Commissioner Lloyd that the Commission not wait for NJDEP, rather for the Commission to proceed with the three-tiered approach agreed upon at its April 30, 2021 meeting. She said IRs can be just as problematic in areas not of high ecological significance and the Commission needs more information as to the number of projects using HDD, the number of IRs and a geotechnical analysis should be required. She said HDD was assumed to be a mitigation method but, with at least 13 documented IRs along the Southern Reliability pipeline, the Commission needs to know more about what the utilities are doing with this technique.

Chairman Prickett closed public comment at 11:45 a.m.

Mr. Leakan said that soon he would have a major announcement regarding the Pinelands Summer Short Course.

There being no further discussion, Commissioner Lohbauer moved the closing of the meeting. Commissioner Lloyd seconded the motion. (*Note, as Commissioner Avery had left the meeting there was no quorum at this time*). The meeting concluded at 11:46 a.m.

Certified as true and correct



Betsy Piner
Principal Planning Assistant
June 15, 2021



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



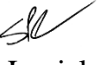
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General Information: Info@pinelands.nj.gov
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RICHARD PRICKETT
Chairman
SUSAN R. GROGAN
Acting Executive Director

MEMORANDUM

To: Members of the CMP Policy & Implementation Committee

From: Stacey P. Roth 
Chief, Legal & Legislative Affairs

Date: July 21, 2021

Subject: Pinelands Commission Comments on Forest Stewardship Bills

Attached please find our final draft of the Commission's comments regarding the pending forest stewardship bills. I have also attached a draft of the prior letter containing substantive additions suggested by Commissioner Lloyd. These substantive additions were not previously discussed by the Policy & Implementation Committee I had previously sent both of these documents to you in in early July. We will be discussing the letters at the June 30, 2021 meeting and whether the Committee wishes to include the substantive additions suggested by Commissioner Lloyd in the final letter that will be sent to the Governor's Legislative Office.



State of New Jersey
THE PINELANDS COMMISSION
PO Box 359
NEW LISBON, NJ 08064
(609) 894-7300
www.nj.gov/pinelands



PHILIP D. MURPHY
Governor
SHEILA Y. OLIVER
Lt. Governor

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

RICHARD PRICKETT
Chairman
SUSAN R. GROGAN
Acting Executive Director

July __, 2021

Senator Bob Smith
216 Stelton Road
Suite E-5
Piscataway, New Jersey 08854

Re: Forest Stewardship Bills
S2001/A3806 - The New Jersey Healthy Forests Act
S3550/A4844 – Eliminates Municipal Approval for Forest Stewardship Plans
S3549/A4843 - Forest Stewardship Plan Required for Certain Public Lands
S3548/A4845 – Sets Minimum Acreage and Schedule for Prescribed Burns
S3547/A4846 – Established the “Pinelands Forest Stewardship” Working Group

Dear Senator Smith:

The Pinelands Commission appreciates the opportunity to comment on the above slate of bills that pertain to the creation of a forest stewardship program for the State’s forested lands, in particular such lands located in the Pinelands Area. We understand that it is your intent to introduce substitute legislation for the above referenced forest stewardship bills in the near future.

These bills were discussed at a virtual public hearing conducted before the Senate Environment and Energy Committee meeting on the April 21, 2021. The purpose of the hearing, in addition to receiving testimony concerning these proposed forest stewardship bills, was to discuss the following issues: 1) whether the State needs a Forest Stewardship Program for its public lands, and if the answer is yes, what the elements of the program should be; 2) whether, in terms of global warming, is a managed forest, i.e. surgical clearing, better or worse for a forest to be an efficient carbon sink; 3) in terms of ecosystem biodiversity, is a managed forest, better or worse for ecosystem biodiversity; and 4) what should the role be for the existing forestry program in the Department of Environmental Protection in regards to a forest stewardship program for State owned lands and what is the appropriate role for State government generally.

As you know, the Pinelands Commission is the regional planning entity for the Pinelands as called for by the National Parks and Recreation Act of 1978, and created by the Pinelands Protection Act, N.J.S.A. 13:18A-1 *et seq.* The Pinelands Area is comprised of over 450,000 acres of State Forests, Wildlife Management Areas and other public forested lands. The Commission recognizes the importance of forestry issues and believes that it should play a role not only in this discussion, but in the development of any forest stewardship program proposed for these public lands.

Although the Commission recognizes that the above bills will be redrafted, it is providing its comments concerning same so that these comments may be taken into consideration when substitute bills are developed.

S3550/A4844

Our primary concern is with S3550/A4844, which would eliminate municipal review and approval of forestry activities proposed in a forest stewardship plan. The Commission's regulations are designed to ensure that municipalities are afforded the ability to review and approve any type of activity that would result in a disturbance of the land, including forestry activities. Consequently, municipalities should retain the ability to review and approve forestry activities to be conducted within their boundaries.

The primary reason stated for the bill's proposed elimination of municipal review of forestry activities proposed in forest stewardship plans, is delay as a result of the municipal review process. However, in 1996, the Commission amended N.J.A.C. 7:50-3.39, regarding certification of municipal master plans and ordinances, to preclude municipalities from requiring municipal site plan approval for forestry. As a result, municipalities were required to develop a permit process to review forestry applications. N.J.A.C. 7:50-3.39(a)5. Additionally, municipalities are required to act on a forestry application with 45 days of receipt of a complete application or the application is deemed approved. *Id.*

This bill would also have the unintended consequence of eliminating the Pinelands Commission's ability to prevent the implementation of forest stewardship plans that are inconsistent with the requirements of the Pinelands Comprehensive Management Plan (CMP). In the Pinelands Area, applications for forest stewardship plans for lands enrolled in the New Jersey Forest Stewardship Program are submitted to the Department of Environmental Protection. The Commission's and DEP's staffs jointly review these applications. When an application is completed and the applicant proceeds to the municipality for municipal review, revisions can occur in the forestry activities proposed. The Commission, however, retains the ability to review municipal approvals of forest stewardship plans to ensure that any such revisions do not raise a substantial issue with regard to whether the forestry operations prescribed in the forest stewardship plan are consistent with the requirements of the CMP and the municipal ordinances, which also implement the requirement of the CMP. Consequently, eliminating municipal approval of forest stewardship plans would also eliminate the means by which the Commission ensures the continued consistency of these plans with the requirements of the CMP.

S3548/A4845

The Commission also has concerns regarding S3548/A4845, which sets a minimum acreage goal and schedule for prescribed burns in the Pinelands Area and statewide. The Commission recognizes the critical need for prescribed burning to address an overabundance of fuel within Pinelands forests and ensure the safety of Pinelands residents. The Commission agrees that establishing an annual acreage goal to address these concerns is laudable, but the proposed legislation will not result in an increase in prescribed burning. Establishing a prescribed burning goal without the financial or other resources required to actually implement burns, will do little to increase the number of prescribed burns conducted. Moreover, prescribed burns should be dictated by conditions on the ground not by an artificial number of acres. Furthermore, the bills requirement that these prescribed burning goals be incorporated by DEP into all applicable environmental and land management plans, programs, and surveys is unclear. In addition, directing that prescribed burns occur between November through March, cooler months, may actually reduce the effectiveness of these burns.

S3547/A4846

The Commission also questions the need for and composition of the working group established by S3547/A4846. This bill establishes “the Pinelands Forest Stewardship” working group in DEP to evaluate coordination and cooperation between various government entities and private landowners with respect to forest stewardship in Pinelands Area.

Government coordination regarding the review of forest stewardship plans already exists between the DEP and the Commission. As part of that process, the staff from both the DEP and the Pinelands Commission, work together to review forest stewardship applications for the Pinelands Area. This existing review process is working well.

Additionally, although the sole goal of the working group is to coordinate governmental review of and encourage and promote greater forest stewardship solely in the Pinelands Area, representation on the Working Group by individuals or entities with Pinelands experience is extremely limited. Although comprised of 14 members, the Commission has one member, its Chair. In contrast, DEP has 2 members on the working group and the Commissioner is also Chair. Similarly, the Secretary of Agriculture is charged with appointing 5 members to the working group. The Commission questions the need for the establishment of this working group when various State and local governmental entities, including the Commission, are already successfully coordinating their work with respect to forest stewardship in the Pinelands. As the legislatively mandated planning entity for the Pinelands, the Commission should be more integrally involved in the development of any forest stewardship program for the Pinelands.

With regard to the remaining bills, S2001/A3806 and S3549/A4843, these bills do not raise concerns regarding the State’s Pinelands protection program. The Commission therefore has no comments concerning same.

The Pinelands Commission welcomes the opportunity to become more involved in the discussion of these very significant issues.

Sincerely,

Stacey P. Roth
Chief, Legal & Legislative Affairs

c: Members of the Pinelands Commission
Susan Grogan, Acting Executive Director



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NANCY WITTENBERG
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June __, 2021

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216 Stelton Road
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Eliminating municipal and Pinelands Commission review of proposed Forest Stewardship Plans would also deprive the public of the opportunity to participate in the development and approval of such plans. Public participation in the municipal and Pineland's review of proposed plans would provide invaluable information and improve any stewardship activity. Members of the public are often far better informed about local conditions and should play a significant role in the consideration of stewardship plans. Public participation in the review of stewardship plans should be expanded rather than eliminated. Rather than eliminating the public from involvement in stewardship, a comprehensive stakeholder process should be developed to inform decision-makers about the current ecological values of the parcel including carbon sequestration, rare and threatened species, and water quality as well as the current use of the land.

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critical need for prescribed burning to address an overabundance of fuel within Pinelands forests and ensure the safety of Pinelands residents. The Commission agrees that establishing an annual acreage goal to address these concerns is laudable, but that the proposed legislation will not result in an increase in prescribed burning. Establishing a prescribed burning goal without the financial or other resources required to actually implement burns, will do little to increase the number of prescribed burns conducted. Additionally, the bills requirement that these prescribed burning goals be incorporated by DEP into all applicable environmental and land management plans, programs, and surveys is unclear. Moreover, directing that prescribed burns occur between November through March, cooler months, may actually reduce the effectiveness of these burns. 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.

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With regard to S3549/A4843, 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.

Lastly, with respect to the remaining bills, S2001/A3806, these bills do not raise concerns regarding the State’s Pinelands protection program. The Commission therefore has no comments concerning same.

The Pinelands Commission welcomes the opportunity to become more involved in the discussion of these very significant issues.

Sincerely,

Stacey P. Roth
Chief, Legal & Legislative Affairs

c: Members of the Pinelands Commission
Susan Grogan, Acting Executive Director

DRAFT

P&I Committee Members,

Please submit your topics to Jessica Noble for our discussion on amendments pertaining to Applicability 5 & 6 and HDD for the July P&I committee meeting.

At the May meeting I read an amendment which I emailed you a copy of along with supplemental material on Ecological Integrity, later that day. The amendment is also copied and underlined below.

7:50-6.83 Minimum standards necessary to protect and preserve water quality

A wetlands site proposed for Horizontal Directional Drilling shall be assessed for Ecological Integrity/Critical Ecological Importance and other criteria, to determine if the use of HDD is appropriate for the site.

Candy Ashmun frequently told me to review the Original CMP, which I did. I found the Critical Ecological Importance study I mentioned in the proposed amendment and, the first version of 4.1 Applicability which contained 6 exemptions compared to the 23 in the current CMP. I have pasted pages 183-184 from The Critical Area Study below. Pages 185-191 can be found in the Original CMP which is also linked below.

The Original CMP Section 4-101. Applicability

For the purposes of this Article, the following shall not be considered development:

5. The repair of existing utilities and the installation of utilities to serve existing or approved development; or

The Current CMP 4.1 Applicability

5. The repair of existing utility distribution lines;

6. The installation of utility distribution lines, except for sewage lines, to serve areas which are effectively developed or development which has received all necessary approvals and permits;

I could not find the # 5 & 6 Applicabilty amendments to the CMP on the Commission's website page listing recent amendments.

<https://www.nj.gov/pinelands/cmp/amend/>

I would like to suggest that the P&I Committee discuss the possibility of removing the Preservation District, Forest Areas, Special Agricultural Areas and Scenic Rivers and Corridors from Applicability 4.1 # 5 & 6 and leaving Regional Growth and Rural development.

Thanks,

Rick Prickett

Pages 183-184 from The Critical Area Study are pasted below. 185-191 can be found in the Original CMP. <https://rucore.libraries.rutgers.edu/rutgers-lib/37795/>

CHAPTER SIX

Critical Areas

The Pinelands Commission defines critical areas as: (1) geographic areas which contain one or more significant natural, cultural, or economic resources which could be degraded or lost as a result of unregulated development; and (2) natural hazard areas in which development may result in the loss of life or property. A basis for the definition is provided in the federal and state Pinelands laws. In these laws, Congress and the New Jersey Legislature recognize that the Pinelands contain significant resources which have special values and that these may be lost or degraded by incompatible development. Both acts imply that the Pinelands are environmentally critical throughout. The ubiquitous nature of many of the region's valuable features, including groundwater, plants and wildlife, and scenic, cultural, and recreational resources, also argues for the designation of the entire Pinelands as critical.

Within the Pinelands, however, specific areas can be identified and mapped as being of more critical environmental importance than others. These areas can be distinguished by the presence of significant resources and their susceptibility to damage from uncontrolled or incompatible development. The selection of critical areas is the first step towards protection through either regulation or acquisition, two techniques which cannot be applied uniformly across the Pinelands.

The Commission's critical areas study was completed by the firm of Rogers, Golden, & Halpern (1980). The objective was to develop and execute a method for establishing a ranked list of critical areas in the Pinelands. The first step was the definition of significant, natural, and cultural resources. Significant resources are those which are identified as being necessary to maintain the essential character and integrity of the existing Pinelands environment. They are recognized as being valuable to the public in terms of economics, public health, safety, recreation, aesthetics, research, or education. Natural resources are the abiotic element of air, water, and soil and the biotic elements of individuals, species, populations, communities, and ecosystems. Cultural resources consist of archaeological or historic sites of national, state, or local importance, as well as sites which are of value to a local community's way of life. A specific resource may embrace more than one value. Its combined values may also change according to its proposed use.

Standards for Selection of Areas

Specific criteria were used to select critical areas. The criteria were derived from the Commission's consultant reports, from the Pinelands Technical Advisory Committee, from the literature on critical areas, and from the public through public participation workshops. Criteria used to delineate the different classes of critical areas were the presence of the following features:

Ecologically Critical Areas

- Linkage corridors
- Unique or exceptional ecosystems
- Pristine aquatic communities
- Headwaters

- Endangered animal species (national list)
- Diversity of vegetation types within a given area
- Plant or animal species proposed or under review for national threatened or endangered status
- Endangered, threatened, declining, or undetermined animal species (state list)
- Endangered, threatened, or undetermined plant species (Caiazza and Fairbrothers, 1980)
- Representative vegetation types
- Outlier, disjunct, or relict species
- Species at the limits of their geographic range
- Restricted and endemic species
- Breeding areas (nesting and spawning)
- Overwintering concentrations
- Migratory stopover areas
- Areas of scientific interest and research
- Oldest, largest, or exceptional specimen trees

Perceptually and Culturally Critical Areas

- Scenic areas
- Recreation areas
- Archaeological, historic, or architectural areas, including: (1) sites on or potentially eligible for inclusion on the National or State Register of Historic Places; (2) sites containing significant archaeological or historic resources; or (3) buildings on or potentially eligible for the Historic American Building Survey.
- Areas essential to the lifestyle of local residents

Economically Critical Areas

- Agricultural areas, including: (1) prime farmland; (2) unique farmland; or (3) additional farmland of statewide importance
- Timber areas suitable for potential production
- Mineral areas suitable for sand and gravel extraction

Natural Hazard Critical Areas

- Fire hazard areas
- Flood prone areas

Some criteria for the four classes of critical areas conflict when the uses of significant resources are incompatible. For example, the maintenance of habitats for rare or threatened species may conflict with timber harvesting practices. In general, ecologically critical areas are considered the most important.

Ecologically critical areas were emphasized by the Commission because both the federal and state Pinelands acts stress the importance of existing natural resources. The New Jersey Pinelands Protection Act stresses the need to maintain the overall ecological values of the Pinelands. It notes that development poses an immediate threat to the region's ecological resources, especially to the survival of rare, threatened, and endangered plant and animal species and their habitats, and to the maintenance of the existing high quality of surface and ground waters. Both acts require that a map delineating major areas within the Pinelands National Reserve which are of critical ecological importance be included in the Comprehensive Management Plan. The legislative emphasis on the ecological importance provides a basis for establishing a hierarchy of critical area classes. Of the four classes, the ecologically critical areas are paramount.

Criteria for Ecologically Critical Areas

As indicated above, ecologically critical areas are designated on the basis of resource quality, scarcity, or the role their resources play in the ecosystem. Used wisely, these natural resources provide many cost-free amenities and services to the public and to private landowners.

