



RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-19-_____

TITLE: Resolution Invalidating Pinelands Resolution No. PC4-17-03 (regarding Application Number 2012-0056.001).

Commissioner _____ moves and Commissioner _____
seconds the motion that:

WHEREAS, the Pinelands Commission (Commission) is an independent political subdivision of the State of New Jersey created pursuant to Section 4 of the Pinelands Protection Act (the Act), N.J.S.A. 13:18A-1, *et seq.*, and charged with the implementation of the Act and the Pinelands Comprehensive Management Plan (the CMP), N.J.A.C. 7:50; and

WHEREAS, the Commission is also the planning entity authorized under Section 502 of the National Parks and Recreation Act of 1978; and

WHEREAS, on May 21, 2015, South Jersey Gas Company (“South Jersey Gas”) filed a revised application (“application”) to install approximately 15 miles of an approximately 22-mile, 24-inch natural gas pipeline within the Pinelands (“Project”); and

WHEREAS, the Project was intended to provide natural gas required to repower the BL England electrical generation plant (“BLE plant”) at Beesley’s Point in Upper Township 95% of the time and to provide natural gas redundancy to the southernmost portion of SJG’s service territory; and

WHEREAS, the proposed Project would be partially located within a Forest Area (9.51 miles); and

WHEREAS, the Project is considered “public service infrastructure” and is a permitted use in a Forest Area if it is demonstrated that the proposed infrastructure is “intended to primarily serve only the needs of the Pinelands,” N.J.A.C. 7:50-5.23(b)(12); and

WHEREAS, South Jersey Gas’s application represented that the Project’s primary purpose would be to provide the natural gas required to repower the BL England electrical generation plant (“BLE plant”) at Beesley’s Point in Upper Township, a utility company that is within the Pinelands; and

WHEREAS, after considering the application and public comment, the February 17, 2017 Executive Director’s Recommendation Report concluded that the Project was consistent with the CMP because the proposed pipeline serves the BLE plant, an existing Pinelands business, more than 95% of the time, thus it primarily serves only the needs of the Pinelands; and

WHEREAS, on February 24, 2017, the Commission approved the Project in its adoption of Pinelands Resolution No. PC4-17-03; and

WHEREAS, the Pinelands Preservation Alliance (“PPA”) the Sierra Club, and Environment New Jersey appealed the Commission’s approval of the Project adopted by Pinelands Resolution No. PC4-17-03; and

WHEREAS, R.C. Cape May Holdings, LLC, (“RCCM”) the entity that owns and operates BLE, intervened in the appeal; and

WHEREAS, on February 27, 2019, RCCM filed a motion seeking permission to withdraw as an intervenor because RCCM decided not to repower the BLE power plant; and

WHEREAS, RCCM’s decision not to repower BLE with natural gas fundamentally changes the factual basis for the Pinelands Commission’s finding that the project was “intended to primarily serve only the needs of the Pinelands,” N.J.A.C. 7:50-5.23(b)(12) that was included in Pinelands Resolution No. PC4-17-03; and

WHEREAS, due to the materially changed factual circumstances resulting from RCCM’s decision not to repower BLE using natural gas, the Project, as approved by Pinelands Resolution No. PC4-17-03, can no longer be demonstrated to primarily serve only the needs of the Pinelands; and

WHEREAS, in correspondence dated March 6, 2019, the Pinelands Commission’s Executive Director informed South Jersey Gas that, based on the new information that RCCM would not re-power BLE using natural gas, the factual basis for the Commission’s approval, as detailed in the February 17, 2017 Executive Director’s Recommendation Report, substantially changed such that the approval could no longer be justified and no response was received from South Jersey Gas; and

WHEREAS, Pinelands Resolution NO. PC4-17-03 adopted the February 17, 2017 Executive Director’s Recommendation Report: and

WHEREAS, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

NOW, THEREFORE BE IT RESOLVED that as the Project can no longer be demonstrated to be consistent with the CMP, Pinelands Resolution No. PC4-17-03 approving the Project is **NOT VALID**.

Record of Commission Votes

AYE NAY NP A/R*				AYE NAY NP A/R*				AYE NAY NP A/R*			
Ashmun				Irick				Prickett			
Avery				Jannarone				Quinn			
Barr				Lloyd				Rohan Green			
Christy				Lohbauer				Earlen			
Howell				Pikolycky							

*A = Abstained / R = Recused

Adopted at a meeting of the Pinelands Commission

Date: _____

Nancy Wittenberg
Executive Director

Sean W. Earlen
Chairman