



## New Jersey Pinelands Commission **PRESS RELEASE**

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### **Appellate Court Affirms Commission Action on Sanctuary Rattlesnake Settlement**

NEW LISBON, NJ – On January 3, 2003, the Appellate Division of the Superior Court of New Jersey issued a ruling in favor of the New Jersey Pinelands Commission regarding the settlement agreement for construction of The Sanctuary residential development, in Evesham Township. The agreement was approved by the Commission in November 2000 following litigation over the discovery of endangered timber rattlesnakes on the property in 1998. The case was argued before the court on October 29, 2002.

In a consolidated opinion the Appellate Division affirmed the action of the Pinelands Commission in settling the litigation with the developers. The Division further upheld the Superior Court's dismissal of the claim that the developer had violated the State Endangered and Nongame Species Act. Judge John E. Wallace, Jr. delivered the opinion of the Appellate Court.

In the first matter of the Commission's settlement action, the Judge Wallace wrote that the court was satisfied that "there is ample evidence to support the Commission's decision to approve the settlement." He further wrote:

"Simply put, the Commission did not act arbitrarily or abuse its discretion in reaching the settlement. The settlement was a practical solution for solving a problem that surfaced during construction of the later phases of the development. Appellants several assertions of error are clearly without merit."

Turning to the second appeal filed, the Court determined that, in light of its decision regarding the settlement agreement, "it would serve no useful purpose to remand the matter to the trial court."

Among it's findings, the Court wrote that the settlement agreement was supported by "substantial evidence." It further ruled that there is no conflict between the authority of the Pinelands Commission to implement the endangered species provisions of the Pinelands Comprehensive Management Plan and the Department of Environmental Protection's authority to enforce the Endangered and Nongame Species Conservation Act. In closing, Judge Wallace wrote:

"We are satisfied that the laws are complimentary and not inconsistent. That is, DEP's authority is concurrent with the Commission's, and the two agencies should exercise their powers in a harmonious fashion. They did so here."

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