



# **NEW JERSEY PINELANDS COMMISSION**

## **MONTHLY MANAGEMENT REPORT**



Native grass pink orchids blooming in June

**JUNE 2021**

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# 1 EXECUTIVE OFFICE

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## 1.1 ACTING EXECUTIVE DIRECTOR

### 1.1A COMMITTEE MEETINGS

- The June Climate Committee and Policy & Implementation Committee meetings were canceled.

### 1.1B RULEMAKING

- **Stormwater management:** Following approval by the Governor's office, the Commission adopted a resolution to authorize the proposal of Comprehensive Management Plan (CMP) amendments related to stormwater management on June 11, 2021. Staff filed the rule proposal with the Office of Administrative Law (OAL) on June 14, 2021 and responded to a question from OAL on June 29, 2021. The proposal will be published in the July 19, 2021 issue of the New Jersey Register, with public comments accepted through September 17, 2021.

### 1.1C OTHER ITEMS OF INTEREST

- On June 10, 2021, the Commission received a memorandum from the Governor's Authorities Unit, outlining the parameters for the reopening of state offices during July and August. In accordance with the guidance, the staff prepared the Commission's Return to Office plan and submitted it to the Governor's office for approval. The plan was approved on June 29, 2021. It establishes a hybrid work schedule for July and August, with staff spending a minimum of two days per week in July and three days per week in August in the office. The staff will work remotely on the remaining days of each week. The Commission's offices will remain closed to the public during this time period and all meetings and public hearings will be held remotely via Zoom, Teams or other means.

## 1.2 LEGAL AND LEGISLATIVE AFFAIRS

### 1.2A LITIGATION (STATE; FEDERAL; OFFICE OF ADMINISTRATIVE LAW; OTHER)

#### STATE:

- **I/M/O New Jersey Pinelands Commission Resolution PC4-20-08:** Docket No. A-002499-19; On May 24, 2021, the South Jersey Gas (SJG) Company filed a motion for leave to supplement the record on appeal with a Certification of its President. SJG sought to include this certification to clarify the scope of its proposed project. The Pinelands Preservation Alliance opposed SJG's motion on June 3, 2021. On that same date, the Commission submitted a letter to the Court indicating it was taking no position regarding SJG's motion. The Court issued a decision denying SJG's motion on June 10, 2021. On June 21, 2021, over one year after this appeal was filed and on the same evening the Pinelands Preservation Alliance filed its reply brief, the New Jersey Chapter of the Sierra Club filed a Motion to Appear as Amicus Curiae, along with its proposed merits brief. In its merits brief, Sierra Club seeks to raise

new issues, not previously raised by the parties in the appeal, and to introduce new evidence into the record about unrelated pipeline projects that were not before the Commission. The Commission filed its opposition to Sierra Club's motion on June 29, 2021.

- **I/M/O New Jersey Natural Gas Application for The Installation and Operation of The Southern Reliability Link, Docket No. A-000925-17T1:** On May 19, 2021, the Pinelands Preservation Alliance submitted petitions to the New Jersey Supreme Court asking it to review the Final Decisions of the Appellate Division in the substantive, process and third-party hearing denial appeals regarding the Commission's approval of the portions of New Jersey Natural Gas Company's gas transmission line located within the Pinelands. Both Mr. & Mrs. Caruso and Ms. Kovath joined PPA in its petition of the decision in the third-party appeal denial matter. The Commission filed its opposition to these petitions on June 23, 2021.
- **I/M/O DVT Enterprise, LLC and 256 TRR II, LLC T/A Maplewood Estates:** As discussed in the January 2021 Monthly Management Report, this appeal involves a development that received its local approvals from the Jackson Township Planning Board in 2005, for which the period of protection has lapsed. The parcel was rezoned from Pinelands Village to Forest Area (FA-6) in 2005. The Appellant's appeal is based on a letter from staff to the applicant of an adjacent development questioning whether the Commission considered Maplewood Estates to be a separate development. The Appellate Division, on its own motion, requested the parties file briefs as to whether the staff letter constituted a final agency action. The Appellate Division on June 22, 2021, issued an Order with supplemental discussion, dismissing this appeal. The Court held that the within appeal constituted an interlocutory appeal filed without leave from the Court, because the staff letter in dispute was not a final agency action. The Appellate Division did not retain jurisdiction.

## 1.2B LEGISLATION

- Both houses of the New Jersey Legislature are adjourned for the summer as of June 30, 2021.
- **A5894/S3926 - Authorizes Certain Offshore Wind Projects to Construct Power Lines and Obtain Real Property Interests; Grants BPU Authority to Supersede Certain Local Governmental Powers Upon Petition From Offshore Wind Project** - This bill would amend P.L.2010, c.57 (C.48:3-87.1 et al.), commonly referred to as the "Offshore Wind Economic Development Act," to authorize a qualified offshore wind project or an open access offshore wind transmission facility approved by the Board of Public Utilities (BOU) to place, replace, construct, reconstruct, install, reinstall, add to, extend, use, operate, inspect, and maintain wires, conduits, lines, and associated infrastructure, whether within, under, or upon the public streets, thoroughfares, rights-of-way, or any other public property of any municipality, county, or other instrumentality of the State, provided that the wires, conduits, lines, and associated infrastructure is located underground, except to the extent necessary as determined by the board. The bill further provides that a municipality, county, or other instrumentality of the State may not prohibit, or charge a fee for,

the use of public streets, thoroughfares, or rights-of way, other than a fee for a road opening permit. The issuance of a road opening permit may not be withheld, under the bill's provisions, except for bona fide public safety reasons. The bill also authorizes a qualified offshore wind project, or an open access offshore wind transmission facility approved by the board to obtain easements, rights-of-way, or other real property interests on, over, or through any real property owned by a municipality, county, or other instrumentality of the State that are necessary for the construction of a qualified offshore wind project. The bill also contains a public hearing process by which BPU would authorize acquisition of easements and other real property interests in land if the qualified offshore wind provided is unable to obtain such interest from a municipality, county, or other instrumentality of the State within 90 days. The bill also authorizes a qualified offshore wind project or an open access offshore wind transmission facility approved by the board to file a petition with the board seeking a determination that all municipal or county approvals, consents, or affirmative filings with other public entities required to construct the qualified offshore wind project are preempted and superseded, upon a finding by the board that such municipal or county approvals, consents, or affirmative filings are reasonably necessary for the construction of the qualified offshore wind project. If the board makes a determination preempting municipal or county action that is a condition of a permit or other approval of the Department of Environmental Protection or any other department or agency of the State, the department or agency may proceed to act without prior municipal or county approval, consent, or affirmative filing.

Lastly, the bill provides that a qualified offshore wind project approved by the board is to be deemed an electric power generator for 3 of the purposes of section 10 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-19). S2396 was substituted for A5894 and cleared both Houses of the Legislature on June 24, 2021.

### **1.2C OPEN PUBLIC RECORDS ACT**

A total of 14 Open Public Records Act (OPRA) requests were received in June. Of the 14 requests, eight were provided responsive material, three were advised that there was no responsive material, one request was withdrawn and the remaining request will be responded to in July.

## **2 INTERAGENCY COORDINATION**

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- **NJ Department of Environmental Protection (NJDEP):** Staff continued its coordination with NJDEP on landfill closure activities, focusing on closure of the Pemberton Township Landfill and installation of a solar energy facility. Based on the date of its cessation, the landfill in question is not subject to the CMP's landfill capping requirements remains subject to NJDEP landfill closure standards and all other CMP environmental standards.

- **Rutgers University and Multiple Partners:** Staff participated in a second project status meeting for the southern Barnegat Bay Watershed Restoration Plan.

### 3 PLANNING

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#### 3.1 CONFORMANCE ACTIVITY

	Monthly Total	Calendar Year to Date
<b>Master Plans/Ordinances Received</b>		
Adopted	25	68
Drafted or Introduced	14	57
Total <sup>1</sup>	22	84
<b>Master Plans/Ordinances Reviewed</b>		
Substantial Issue Finding <sup>2</sup>	0	2
No Substantial Issue Finding	8	24
No Issue Finding	10	30
Total	18	56
<b>Finding Letters Issued<sup>3</sup></b>	9	33

#### 3.2 CULTURAL RESOURCE ACTIVITY

Activity	Monthly Total	Calendar Year to Date
Applications Reviewed	9	39
Surveys Required	1	4
Surveys Reviewed	1	3
Certificates of Appropriateness Required	1	3

**Notable Cultural Resource Activity:**

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<sup>1</sup> The total accounts for unique master plans and ordinances received (i.e., it does not double count drafted, introduced, or adopted submissions for the same ordinance).

<sup>2</sup> Ordinances and Master Plans that are found to raise substantial issues with respect to the standards of the CMP require formal review and approval by the full Commission.

<sup>3</sup> A single finding letter can pertain to multiple master plans/ordinances from the same municipality.

- Staff attended the virtual 2021 New Jersey History and Historic Preservation Conference for three consecutive Thursdays in June. Themes of the conference were: Advocacy and Preservation, and Underrepresented Histories.

### 3.3 PINELANDS DEVELOPMENT CREDIT PROGRAM

Activity	Monthly Total	Calendar Year to Date
PDCs Allocated	6.00	24.45
PDCs Severed	0.75	17.50
Acres Protected	29.45	509
PDCs Extinguished	4.50	4.50
Acres Protected	152	152
PDCs Sold	17.00	27.00
Average Sales Price per PDC	\$46,353	\$52,100
Average Sales Price per Right	\$11,588	\$13,025
PDCs Redeemed	0.50	10.25

#### Notable PDC Activity:

- **PDC Allocations:** 0.25 PDCs were allocated 10 acres in the Preservation Area District in Woodland Township. 3.25 PDCs (13 rights) were allocated to 68 acres in the Agricultural Production Area in Franklin Township. Finally, 2.50 PDCs (10 rights) were allocated to 56.48 acres in the Agricultural Production Area in the Town of Hammonton.
- **PDC Severances:** 0.75 PDCs (3 rights) were severed, permanently protecting 29.45 acres in the Agricultural Production Area in Monroe Township.
- **PDCs Extinguished:** A total of 69 acres were preserved through Green Acres acquisition, which automatically extinguished the PDCs associated with the acquired lands in the Agricultural Production Area and Preservation Area District. In addition, Burlington County's acquisition of farmland easements resulted in the preservation of 83 acres in Southampton Township's Agricultural Production Area.
- **PDCs Sold:** 16.75 PDCs (67 rights) were sold at a price of \$11,500 per right based on the terms of a contract negotiated in late 2020.

### 3.4 OTHER ITEMS OF INTEREST

- Staff attended the Rutgers Climate Change Resource Center - Climate Academy's presentation on Harmful Algal Blooms.

## 4 REGULATORY PROGRAMS

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### 4.1 APPLICATION ACTIVITY

Activity	Monthly Total	Calendar Year to Date
Pre-Application Conferences	11	75
Certificates of Filing	18	89
Public Development Reports	2	9
Forestry Certificates of Filing	0	5
PDC Letters of Interpretation	3	18
Non-PDC Letters of Interpretation	0	1
MOA Consistency Determinations	8	25
Review of Agency Determinations	67	477

### 4.2 NOTABLE APPLICATIONS

- **Expired Recreational Vehicle Park Memorandum of Agreement (MOA), App. No. 1989-0852.005 and Wildlife Habitat Mitigation, Woodland Twp. App. No. 1982-3054.005:** By letter dated June 11, 2021, the staff reminded the owner of the 260-acre parcel on which a former MOA-authorized recreational vehicle park was located of the MOA requirement to impose a conservation deed restriction on the parcel. The letter also responded to an inquiry proposing to plant native Pinelands grasses on existing disturbed trails on the parcel as part of a wildlife habitat mitigation application.
- **Agricultural Subdivision, Borough of Woodbine. App. No 2021-0100.001:** The New Jersey Municipal Land Use Law provides that subdivisions proposing lots of five acres or larger for agricultural purposes do not require municipal subdivision approval. However, based upon the Pinelands Comprehensive Management Plan (CMP) definition of subdivision, agricultural subdivisions do require application to the Commission. By letter dated June 9, 2021, the Commission staff advised the applicant of the information necessary to complete the application.
- **Medical Marijuana Dispensary, Hamilton Twp. App. No 2021-0075.001:** Upon completion of an application, the Commission staff issued a Certificate of Filing on June 2, 2021 for the proposed 3,954-square-foot medical building located on the Black Horse Pike.
- **Leipe Tract Recreational Complex, Hamilton Twp. App. No. 1993-1180.004:** On June 17, 2021, the Commission staff sent a letter to the Township regarding 20 acres of critical habitat for a threatened animal species that has been previously identified on the 60 acre Leipe Tract Recreational Complex. The letter summarized the Commission application approval history. The letter also indicated that as a condition of Commission



approval of certain recreational facilities on the parcel, the Township was obligated to maintain the critical habitat. The Township is currently undertaking a survey to ascertain whether the concerned animal species continues to utilize the 20-acre area that was determined in 1999 to constitute critical habitat for the species.

- **Atlantic County Request for Emergency Authorization to Replace a Bridge, Hamilton Twp. App. No. 2005-0426.003:** On June 15, 2021, the Commission's Acting Executive Director issued an emergency authorization letter to Atlantic County to replace the existing New York Avenue Bridge. The County indicated to the Commission that the now closed bridge constituted a danger to public safety because emergency vehicles were encountering significant delays in responding to emergencies. The Commission staff letter requires that the County complete an after-the-fact application with the Commission.
- **Proposed Veteran's Housing, Barnegat Twp. App. No. 1987-1199.008:** The Commission staff discussed with both the applicant and the applicant's attorney the relevant Township zoning requirements for the proposed veteran transitional housing on an approximately 34-acre parcel located in a Pinelands Forest Area. The staff suggested possible approaches the applicant may wish to consider in preparing an application to the Commission. The concerned parcel is located partially in a Township residential zoning district that requires 17 acres per dwelling and partially in a commercial zoning district that fronts on Route 72.
- **Proposed Communications Tower, Pemberton Twp. App. No. 2006-0440.001:** The Township is proposing a communications tower on a 3.5-acre parcel. The existing Presidential Lakes Fire Company building is located on the parcel. In response to a Township inquiry, by letter dated June 25, 2021, the Commission staff advised that a significant portion of the 3.5-acre parcel is subject of a conservation deed restriction that was required to be imposed by a Commission Waiver of Strict Compliance approved in the late 1980's. That Waiver of Strict Compliance approved the development of 103 single family dwellings in the pre-existing Presidential Lakes housing development. The Commission staff letter advised that the proposed communications tower could not be located on the deed restricted portion of the 3.5-acre parcel.
- **Clearing Violation, Woodland Twp. App. No. 2004-0335.004:** Approximately three acres of Township road right-of-ways were cleared of forest vegetation by a private individual in July 2019. The Commission staff confirmed by letter dated June 11, 2021 to the Township that, provided vegetation replanting had occurred as proposed within certain of the road rights-of-way and certain of the concerned right- of ways had been gated as proposed to prevent vehicle use, the Commission staff considered the clearing violation resolved.

## 5 SCIENCE

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### 5.1 ENVIRONMENTAL MONITORING

- **Pinelands-wide Water Quality Monitoring:** Staff completed the June round of pH and specific conductance sampling at the 47 stream sites. This work is completed four times each year to monitor temporal trends in these two variables.
- **Water Level Monitoring:** In June, staff measured water levels at forest plots and ponds in the Commission network of long-term monitoring sites. This work is completed each month.

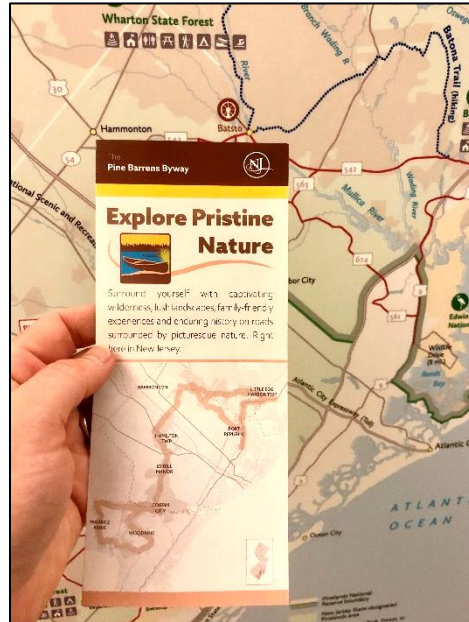
### 5.2 LONG TERM STUDIES

- **Kingsnake Study:** Staff continued to radio track kingsnakes in June. Several new kingsnakes were found that were large enough to implant with radio transmitters. Currently, 26 kingsnakes are being radio tracked as part of the study.
- **Joint Corn Snake Study:** Staff continued to monitor the drift fence for animals found under the wood and metal cover, in box traps, and in the new pitfall traps established along the fence array. In 2021, a total of 637 reptiles, amphibians, and small mammals have been captured or detected at the fence array.
- **Rare Snake Monitoring** Staff continued to track multiple corn snakes, pine snakes, and hognose snakes to locate their dens for long-term monitoring. Several of each species were gravid, or pregnant, when found so they are being held in the laboratory until they deposit eggs. The hatchlings will then be PIT tagged for permanent identification, and the adults will be tracked to locate their winter dens.
- **Eastern Box Turtle Study:** In 2021, staff members attached radio transmitters to 12 box turtles and have been tracking them. Staff submitted a grant proposal titled, "Habitat use, Activity Range, Nesting, and Overwintering of the Eastern Box Turtle," to the U.S. Environmental Protection Agency to possibly obtain funding for the study.

## 6 COMMUNICATIONS

### 6.1 COMMUNICATIONS & PUBLICATIONS

- **Website:** The Pinelands Commission's website was viewed 13,691 times in June 2021.
- **Inquiries/Correspondence:** The Communications Office received and responded to 103 inquiries from the public in June, including phone calls, e-mails, and media inquiries.
- **Press Releases:** On June 25th, the Communications Office wrote and issued a press release regarding the passing of Executive Director Nancy Wittenberg. The press release resulted in articles that were published by NJ.com, the Press of Atlantic City and the Pine Barrens Tribune. On June 29th, the Communications Office drafted a press release to announce the lineup of programs for the upcoming Pinelands Summer Short Course.
- **Pine Barrens Byway brochures:** In June, Communications Office staff finalized and picked up 10,550 copies of two different Pine Barrens Byway brochures, which were printed at Rowan College at Burlington County. Staff will distribute copies of the brochures at the Commission's headquarters and at various locations along the 130-mile Byway route, including the 16 towns through which the Byway traverses.
- **Office Support:** At the direction of the Executive Office, the Communications Office created and deployed an online Return to the Office Survey that was shared with all members of staff in June. All responses were anonymous.



**Above:** Commission staff picked up 10,550 copies of two newly printed Pine Barrens Byway brochures in June 2021.

### 6.2 EVENTS, OUTREACH & INTERPRETIVE PROGRAMS

- **Pinelands Summer Short Course:** In June, staff worked with Stockton University to finalize the lineup and then open registration for the fifth annual Pinelands Summer Short Course, which is scheduled for Thursday, July 15th. The event will include numerous socially distanced offerings, such as guided history tours, nature walks, a guided canoe trip, a ground penetrating radar demonstration and live music. It will be held at Whitesbog Village and Wells Mills



County Park.

- **Pinelands Speaker Series Webinars:** Staff hosted three webinars as part of the Pinelands Speaker Series in June. The webinars included “Dragonflies and Damselflies,” “Coastal Flooding: Impacts, Risk and Communication,” and “NJForestAdapt: A Place-based GIS Decision Support Tool to Promote Climate Resilient Forests.” Two additional webinars have been scheduled for July 2021.
- **Pinelands Orientation for Newly Elected or Appointed Officials:** Staff continued to plan for this year’s event, which will be held virtually as part of the Pinelands Municipal Council’s meeting at 3:30 p.m. on July 27, 2021. It will be livestreamed on the Commission’s YouTube Channel. It will also be recorded and will be available for viewing on YouTube at any time.
- **Science Office Assistance:** A member of the Public Programs Office assisted the Science Office by measuring water levels at ponds and wells on June 6<sup>th</sup> and June 7<sup>th</sup>.

- **Education Programs:**  
A member of the Public Programs Office led a virtual field trip for the Pinelands Regional High School’s environmental science class at Double Trouble State Park on June 2, 2021.



- **Social Media Site Enhancements:** Staff continued to enhance the Commission’s social media pages in June 2021. Staff posted 23 photos and three videos on the Commission’s Instagram site. Unfortunately, due to authentication issues, the Commission has been unable to post on its Facebook page since the second week of April 2021. The Commission has contacted Facebook numerous times about the issue, but Facebook has yet to respond.

**Above:** Commission staff shared 23 photos and three videos on the agency’s Instagram site in June 2021, including this photo of black-eyed Susans blooming along the banks of Atsion Lake.

## **7 INFORMATION SYSTEMS**

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- **Pinelands Commission Information System Upgrades:** The Pinelands Commission Information System (PCIS) is the internal system of record for all applications to the Pinelands and associated transactions. Staff implemented enhancements and bug fixes to streamline operations and facilitate remote work.

- **Windows 10 and Office 365 Migration:** The Information Systems Office provides a stable and secure desktop environment. Staff continued migration of local user data to OneDrive to replace the local file share. The Information Systems team began utilizing Teams for ticket management and creating a document library.
- **Pinelands Development Credit (PDC) Bank System:** The Pinelands Development Credit Bank utilizes custom software to manage all operations including tracking data and issuing certificates. Staff worked to modernize this system to streamline the functioning of the bank. The final function from the legacy system, unencumber, was completed to wrap up the core transactions.
- **Permanent Land Protection (PLP) Data System:** The PLP system manages the data related to all the preserved land in the Pinelands National Reserve. Existing restrictions from the old system are being validated as fully migrated. Manual transfer of new restriction data is being performed by staff prior to full adoption of the new database. Staff began work on draft annual reports to be completed in July.
- **Threatened and Endangered Species System:** Staff maintains a database of threatened and endangered species sightings for internal use of the Pinelands Commission when reviewing applications. The Information Systems office continued to work with Science staff, Regulatory Programs staff, and DEP to ensure accuracy and timeliness of the data.
- **Legislation Tracking System:** The Pinelands Commission stays informed of all New Jersey State Legislation relevant to its rules and regulations. Staff identified additional data resources available from the NJ Legislature and is evaluating how they may be used in enhancing the tracking process.
- **Return to the Office Plan:** Governor Phil Murphy required all state agencies to put together a Return to the Office Plan as COVID restrictions are being loosened. The Information Systems staff worked with Business Services staff to determine what hardware and software would be needed to support the Pinelands Commission's commitment to this directive.

## 8 BUSINESS OFFICE

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### 8.1 FACILITIES

- Two HVAC units needed repair (in the Richard J. Sullivan Center building, TDM Room and the 1<sup>st</sup> floor of the Barn). The repairs were performed by state contract vendor Marlee Contractors.

### 8.2 FINANCIAL MANAGEMENT

- **Application Fees:** June 2021, Net Total: \$114,213.06; Year to Date Total: \$642,428.96. The FY 2021 Anticipated Budget for Application Revenue has been met and exceeded.