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Attention: Kevin Koslosky, David Smith, and Judeth Yeany

Department of Environmental Protection
Green Acres Program
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**Comments by the New Jersey Chapter of the Sierra Club
on Jackson Township's Proposed Diversion of the
Jackson Mills Road Compost Facility**

The New Jersey Chapter of the Sierra Club opposes Jackson Township's application for a diversion of 2 acres of a Green-Acres-encumbered parcel (new Block 2201, Lot 2), presently the temporary location of the Jackson Mills Road Compost Facility, to make this non-recreation and non-conservation use permanent. Jackson Township does not claim, by this application, to meet a compelling public need or provide a significant public benefit; it improperly cites the altered state of the land as a reason to divert it; it understates the impact of the existing facility; the proposed replacement land is not substantially equivalent, in terms of public outdoor recreation or conservation purposes, to that being diverted; and the analyses of alternate sites and costs are both deficient.

Compelling public need or significant public benefit

The Township's application does not claim that the compost facility meets a compelling public need or provides a significant public benefit. Rather, it simply states that the facility "fills a need within the Township" (page 1), by helping the Township meet the requirements of the New Jersey Statewide Solid Waste Management Act; providing "a local, cost effective, sustainable solution to disposing of organic waste"; and supplying the Township and its residents with free mulch.

These benefits neither meet a compelling public need, nor do they "significant public benefits" such as would justify a diversion of land out of Green Acres protection. Nearly every local government action yields a public benefit—for example, schools, fire and police protection, road widening. To meet the goals of the Green Acres program, the public benefit must be of an unusual magnitude, and that is not the case here.

Characteristics of the site proposed to be diverted

Jackson Township asserts that the site proposed to be diverted has never been used for recreation (application, page 18). Nor was it suitable habitat for any native species when the Township acquired the land in 2003, the site having already been cleared (page 3). However, these are conditions under the Township's control. Regarding habitat, nothing stopped the Township from allowing the site to go through its natural succession stages, eventually joining other portions of the property as "suitable forest and forested wetland habitat for one or more species designated as threatened or endangered species by NJDEP". Regarding recreation, nothing stopped the Township from developing the land for active public outdoor recreation, at least so far as we can tell from the application. Instead, six years after purchase, the Township moved its composting facility there (page 3). *The present unsuitability of the site is due to choices made by the Township. Allowing local government units to degrade land, then cite its degraded state in support of a diversion, will lead to the unnecessary loss of priceless open space in New Jersey.*

The Township notes that the "compensation proposal. . . is consistent with the Township's Zone Plan," presumably because the proposed replacement land will be left wooded (page 18). The application includes no corresponding notice that the existing composting facility is a non-conforming use, since "The site is located within the ROS (Recreation and Open Space) Zone District." (Page 17).



Impact of the proposed diversion on existing parkland

Jackson Township notes that, since the composting facility already exists, the diversion will not impact Block 2201, Lot 2 (page 4). This is looking at the situation backwards. What matters, for purposes of the Green Acres program, is that there is an *existing impact*, which *should be removed*, absent a compelling public need to locate the composting facility at its current location.

The Township's assertion that there is no parkland adjacent to Block 2201, Lot 2, also takes the wrong point of view. Block 2201, Lot 2) doesn't border any parkland, but the permanently diverted composting site will be non-parkland in its midst.

Moreover, the impact of the existing facility on the surrounding parkland is understated. We are told that "The replacement land is not large enough to accommodate the operation of the [composting] facility, as the replacement land is bordered ~~an~~ on all sides with residential development and buffering from these uses will be required." (Page 14). The buffering is needed, according to the Township, because "proposed future sites will likely be met with strong opposition from area residents. Residents will continue to be concerned that the facility's operation will diminish property values and negatively affect the quality of life for residents who live in close proximity to alternative sites." (Page 13). Yet the diverted parcel consists of two acres, while the proposed replacement parcel is twice that area. Thus the area of parkland impacted by the current facility must be greater than four acres, and the Township should be requesting a diversion of greater than four acres, with correspondingly higher replacement land requirements.

Characteristics of the proposed replacement land

Much of the area proposed as replacement land is wetlands, which cannot be developed anyway. Replacing protected land with undevelopable land defeats the purpose of the Green Acres program, which is to increase the amount of protected open space.

Even if it contained no wetlands, the proposed replacement parcel is too small to adequately compensate for what is proposed to be diverted. While the New Jersey Chapter supports the preservation of small parcels as habitat when appropriate, four acres of woodland, isolated from any other public open space, are effectively useless as replacement land for a public outdoor recreation facility. The area will not be developed for active recreation, and is not large enough to accommodate hiking or bicycling trails. It should be preserved independently of any land preservation undertaken as compensation for a diversion.

Alternatives analysis

The New Jersey Chapter believes that the alternatives analysis is inadequate. Jackson Township has presented four possible alternatives. There is no indication in the application that these are the only possibilities in the entire Township. In order to advance the goals of the Green Acres program, the entire municipality must be examined in a search for possible alternatives. Not every lot need be analyzed individually; for example, large numbers of building lots can usually be grouped together for this purpose. But if a comprehensive analysis is not done, there is no way of knowing whether the proposed site is the only "feasible, reasonable and available" alternative.

For example, the Township notes that its four selected alternative sites are all "located within Pinelands Jurisdiction." (Page 8). We are not told what portion of the Township is within the Pinelands, and why no alternate sites outside of the Pinelands were studied. Similarly, all of the alternate sites have habitat that may be suitable for threatened or endangered species, but we are not told if any parts of the Township *do not* contain such habitat.

Other deficiencies appear in Jackson Township's comments on specific alternative sites.

(1) The stated disadvantage of relocating the composting facility to another site in the Township, that land would have to be cleared and a driveway built, does not constitute sufficient grounds for rejecting an alternate site.

(2) The Township speculates that "The relocation of the existing facility to the replacement land may also result in the degradation of wetlands and surface water quality due to the presence of significant wetlands areas on the site as well as an unnamed tributary of the Toms River." (Underlining added.) It appears that there are no adverse impacts due to composting at the present site (letter from Kevin E. Koslosky, Bureau of Legal Services and Stewardship in the Office of Green Acres, to Phil Del



Turco, Business Administrator of Jackson Township, dated April 7, 2009). Since the same operations would be conducted on the proposed replacement land as are presently conducted at the current site, whatever by-products are produced will be produced in either site. It is therefore incumbent upon the Township to explain what by-products are produced, and why they have a worse impact on water than on land.

(3) The Township expresses concern about pollution from increased vehicular traffic, should composting be contracted out to a third party. This argument would have some force, had evidence been presented that the Township follows a “buy local” policy generally. For example, when contracting a paving job, does the Township weigh the bid against the contractor’s location, in an attempt to minimize vehicular traffic on roads?

Even if the Township did have such a policy, no specific data is provided. We are not told how many vehicle-miles per year are involved, nor the quantities and types of additional pollutants that would be produced. Nor, therefore, do we know what the percentage increase would be over and above pollution caused annually by Township police cars and school busses, for example. In the absence of such information, the New Jersey Chapter believes that there are much more effective ways to reduce vehicle emissions than by diverting Green-Acres-encumbered land to other uses.

Costs

(1) We are told that locating the composting facility in another location within the Township will incur “an increased cost associated with the transportation of the material to the proposed facility of approximately \$10,000 per year.” (Page 9). Given that four alternative sites were considered, it is simply not credible that they would all incur the same additional transportation costs. Further, the \$10,000 figure is not supported by any analysis. In order to determine the difference in transportation costs, the amount of organic waste generated in various parts of the Township must be mapped, and an annual ton-mileage calculated for each possible composting site. There ought to be software available that would make this easy to do. But diversion decisions must not be made on mere assertions.

(3) “The cost associated with third party collection and removal of organic materials” is put at “approximately \$125,000 annually.” (Page 9). As with the purported increased transportation costs for alternative (1), this number is utterly unsubstantiated. Moreover, the Township asserts that, under alternative (3), a transfer site would be required, at a cost of \$311,150. There is no explanation for this assertion. Depending on the distance of the third-party composter from the Township, there would not necessarily be any reason why the trucks that pick up the compost cannot carry it to the composting facility. For example, trucks that pick up both recyclable and non-recyclable waste in Bloomfield carry it out of the Township without resorting to a transfer station.

Conclusion

Jackson Township has not established that retaining the composting facility at its present location is the only reasonable, feasible and available option available. Further, the proposed replacement land is not substantially equivalent, in terms of conservation and/or public outdoor recreation values, to the land proposed to be diverted. The New Jersey Chapter of the Sierra Club believes that, in order to prevent the ongoing loss and degradation of New Jersey’s public open spaces, applications for diversions must be subjected to the strictest scrutiny. Jackson Township’s application being inadequate, it should be denied.

Contacts

For questions and comments, please contact Bob Moss, Green Acres Issues Coordinator, at bobmossnj@verizon.net, or Laura Lynch, NJ Chapter Conservation Chair, at njsierraclub@gmail.com.