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Nancy Wittenberg
Executive Director

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey

March 27, 2015

9:30 a.m.

Agenda

1. Adoption of minutes from the January 30, 2015 CMP Policy & Implementation Committee meeting
2. Executive Director's Reports
Franklin Township Ordinance O-6-14, amending Chapter 253 (Land Development) of the Township's Code by adopting revised sign standards
3. Plan Review
 - Black Run Watershed
 - Memoranda of Agreement
4. Pilot program for special events and expanded economic opportunities in the Agricultural Production Area: discussion of possible schedule
5. Public Comment
6. Other Items of Interest

CMP POLICY & IMPLEMENTATION COMMITTEE MEETING

Richard J. Sullivan Center
Terrence D. Moore Room
15 C Springfield Road
New Lisbon, New Jersey
Friday, January 30, 2015 – 9:30 a.m.

MINUTES

MEMBERS IN ATTENDANCE: Chairman Mark Lohbauer, Candace Ashmun (via telephone), Sean Earlen, Paul E. Galletta, Robert Jackson, Ed Lloyd, Richard Prickett and Ed McGlinchey (2nd Alternate)

OTHER COMMISSIONER PRESENT: Alan W. Avery, Jr.

STAFF PRESENT: Executive Director Nancy Wittenberg, Stacey Roth, Larry Liggett, Susan R. Grogan, Paul Leakan, and Betsy Piner. Also present was DAG Kristen Heinzerling.

Chairman Lohbauer called the meeting of the Policy and Implementation (P&I) Committee to order at 9:40 a.m. and announced that Commissioner Ashmun was attending by telephone.

Ms. Roth noted the presence of a Commission quorum.

Ms. Heinzerling read the Open Public Meetings Act statement.

Ms. Roth said that those Commissioners present who are not members of P&I were welcome to participate in discussion but could not be allowed to vote. She said the Committee serves in an advisory capacity to the Commission and makes recommendations to the full Commission but does not take action.

1. Adoption of minutes from the October 31, 2014 CMP Policy & Implementation Committee meeting

Commissioner Prickett moved the adoption of the October 31, 2014 meeting minutes. Commissioner Jackson seconded the motion. The minutes were adopted with all Commissioners voting in the affirmative except Commissioner McGlinchey, who abstained.

Ms. Wittenberg announced that item #3 on today's agenda, the presentation by Winslow Township, was withdrawn.

2. Executive Director's reports

**Barnegat Township Ordinance 2014-23, amending Chapter 55 (Land Use) by
adding mixed use development as a conditional use in the Neighborhood
Commercial Zone within the Pinelands Regional Growth Area**

Ms. Grogan said that Barnegat Township Ordinance 2014-23 affects one zoning district in the Pinelands Area of Barnegat Township, the C-N (Neighborhood Commercial) Zone within the Regional Growth Area (RGA). The ordinance adds mixed use development as a conditional use within the C-N Zone to allow retail and commercial development on the ground floor and age-restricted multi-family apartments on the second and third floors. Previously, only commercial, retail and institutional uses had been permitted. The Commission's interest is how Pinelands Development Credits (PDCs) will be used for the residential component. The Ordinance permits a maximum density of 11 units/per acre with the required use of PDCs for 25% of all units. She said this was not the traditional PDC requirement of a base density with a PDC obligation on any bonus units; rather it is a mandatory percentage that will guarantee the use of PDCs. Ms. Grogan also said the sole property in the zone that will qualify for mixed use development is a 15-acre parcel on which some 42 rights would be required if the project were built to maximum density. She said that there is an old approval for this project but the developer is amending the application and photos have appeared in the newspaper of the proposed project. Ms. Grogan said a public hearing had been conducted but no one spoke and no written comment had been received. She said staff recommends approval of the ordinance, based on the fact that this is in the RGA and will mandate the use of PDCs.

Commissioner Ashmun moved the recommendation that the Commission certify Barnegat Township Ordinance 2014-23. Commissioner Earlen seconded the motion.

In response to a question from Commissioner Galletta if it were common to see age restricted housing on second and third floors, Ms. Grogan said that although she had not seen it in the Pinelands Area, she had seen it elsewhere. She added that the Township is supportive of the project.

Chairman Lohbauer called the vote and all voted in favor.

**3. Plan Review: Discussion of policies, guidelines and procedures for the
consideration of Memoranda of Agreement**

Chairman Lohbauer said during the Plan Review process, the issue of Memoranda of Agreement (MOAs) had been raised and he had discussed it with Ms. Wittenberg. He thought perhaps the issue might best be reviewed by an *ad hoc* Committee consisting of representatives of state, county and municipal governments as well as the public. He said he was exploring the issue and more discussion will take place as to how to proceed. He noted the meeting materials included in today's packet reflect the complexity of the issue. He said he did not want to nominate a committee today but to begin considering it.

Commissioner Ashmun said when the Commission convened the *ad hoc* committee to discuss alternate design wastewater treatment systems, a relatively small group of Commissioners, as well as individuals with technical knowledge, had gathered helpful and useful knowledge. She said if the MOA review were undertaken by such a Committee, the full Commission would then review its recommendations and perhaps develop rules.

Commissioner Avery stated that although he was not a member of this Committee, he was here today to disagree with the formation of a committee for this particular issue. He said this is the one issue arising from Plan Review in which he was most interested. He said the end results of any study are likely to be controversial and he wanted as many Commission members as possible to work on MOAs themselves. He said he did not believe any external involvement was needed.

Commissioner Lohbauer reiterated that an *ad hoc* Committee would be purely advisory.

Commissioner Avery responded that no one was more aware of the requirement of eight votes to pass any motion by the Commission. However, he said he felt a working group recommendation would develop a life of its own and, should the Commission choose not to accept any recommendations, it would be accused of ignoring its own committee. He said a working group would have weight beyond that of the Commission.

Commissioner Lloyd said he agreed the MOA process needed examination. He had no strong opinion if it were to be done by an *ad hoc* or the P&I Committee but it needed to be open and involve the public.

Commissioner Galletta said he would like to poll the full Commission regarding changing the MOA process before proceeding. He did not feel the P&I Committee alone should decide how to proceed.

Commissioner Ashmun said the Commission needed to get as much information and be as efficient as possible.

Commissioner Jackson said the P&I Committee needed to deal with MOAs rather than the full Commission. He said there are certain things in the MOA process that need to be changed.

Ms. Heinzerling cautioned the Committee not to address any specifics of the recent past unless it chose to go into closed session.

Commissioner Jackson said he was not thinking of any specific MOA, but the Committee needed to look at foundational issues behind MOAs and not keep making the same mistakes.

Commissioner Earlen said he supported Commissioner Galletta's recommendation to go to the full Commission and see if there is an interest in taking up the issue. He felt this interest was a response to a sole application.

Commissioner McGlinchey said, prior to being a Commissioner, he had served on the *ad hoc* Septic Committee convened by former Commission Executive Director John Stokes. He said he

didn't disagree with polling the full Commission but hoped this could be an opportunity to reach out to and include some members of the public.

Commissioner Prickett said as long as he'd served as a Commissioner, MOAs have been a concern. He said he believed the Commission need to look at the procedure and saw no harm in listening to the public.

Commissioner Jackson said he supported Commissioner Earlen as long as the Commission had an opportunity to see if it needed to address what needs to be tweaked.

Commissioner Ashmun said she had recommended the formation of an *ad hoc* Committee in order to get input from the municipalities, counties and other state agencies with which the Commission worked to develop MOAs. She said they had all been on the other side of dealing with the issue.

Chairman Lohbauer stated: 1, this MOA review would in no way be a review of any previous applications, rather an evaluation as to how to proceed going forward; and 2, the Comprehensive Management Plan (CMP) does not call for a vote in order to establish a new Committee. He said he would ask all Commissioners of their interest in addressing MOAs but was not putting the question of establishing an *ad hoc* Committee to a formal vote.

Ms. Heinzerling said the Committee would meet in closed session to discuss matters related to attorney-client privilege.

At the suggestion of Commissioner Lloyd, the Committee chose to receive public comment prior to meeting in closed session.

4. Public Comment

Mr. Bill Wolfe recommended that the Commission impose an administrative moratorium on any waivers or MOAs until it performed a critical review of the status of "equivalent levels of protection" in an open and transparent way. He said this was a recommendation he had made during the discussions of the South Jersey Gas (SJ Gas) application in July 2013. He said the documents posted on the Pinelands Preservation Alliance's (PPA's) web site reveal that Commission staff had engaged with the applicant starting back in 2012. Also, he described other information that he characterized as showing conflicts. He said the Committee's upcoming closed session this morning would not constrain him from speaking about legal concerns related to the MOA. He said the public has no confidence in the Commission's Executive Director or the Counselor due to the revelations in the posted documents. He said the Commission needs to ask for whom its staff works. There had been ongoing conversations with the governor's office and the Board of Public Utilities (BPU). Mr. Wolfe said the Executive Director is supposed to review staff recommendations but that process was tainted by the interjection of SJ Gas. Referencing correspondence between SJ Gas and the Commission's counselor asking about the veracity of a statement he had made, Mr. Wolfe said he wanted his comments reviewed by staff, not by the applicant. Mr. Wolfe said the recusal process for Ed Lloyd (*at the time of the vote on the SJ Gas application*) had been reviewed by the New York Times and emails indicated that the

Governor's Authorities Unit had been involved in near real time. He said decisions are being made not by the Commission but by Trenton.

Commissioner McGlinchey said he took exception with Mr. Wolfe naming names and said he should speak only in generalities.

Commissioner Lloyd said he generally agreed with Commissioner McGlinchey's position but this is a tough situation in which the public is addressing the record that exists. He said he shared the concerns that the public should not attack individuals.

Ms. Fran Brooks, a resident of Tabernacle Township, asked if the Commission had a time frame for reviewing MOA standards. She also asked if this review would include an evaluation of existing public comment procedures.

Chairman Lohbauer responded that the schedule and scope for the review had not yet been established.

Ms. Georgina Shanley, a resident of Ocean City, NJ, said she had read the documents provided through an Open Public Records Act (OPRA) request on PPA's web site and she agreed this is a faulty process. She expressed concern with collusion between the applicant and staff. She said the MOA had been designed by the applicant before the BPU, the Pinelands Commission or the public ever knew about it. The public had not been allowed deeply into the process. For example, she said, at the April 11, 2014 Commission meeting, when asked if there had been any further meetings with the applicants (since the defeat of the vote approving the pipeline), Ms. Roth had responded, No. However, the emails posted on the PPA web site show evidence of communication. Ms. Shanley said the Commission cannot keep going into closed session. The CMP is being gutted for the sake of tax relief and jobs. There is no interest in protecting, preserving and enhancing the Pinelands; the Commission needs those who care deeply about the Pinelands, not politicians, serving on its Board.

Mr. Fred Akers, with the Great Egg Harbor Watershed Association, said he had been coming to these meetings for more than 10 years on a regular basis. He said he agreed with the concept of reviewing the MOA process and noted that he observed a significant change several years ago when the Commission introduced the concept of accepting cash payments. He said previous mitigation measures were required to be undertaken by the applicant. For example, he referenced the Robert Miller Airpark expansion requiring an offset for land for threatened and endangered species. He said he believed the money going into the fund was somehow trickling down to pay staff. If an applicant cannot provide the offset, then that may be an issue to review. He said he supported the review of the process and deals with cash payments.

Ms. Margo Pellegrino, a resident of Medford Lakes, said she hoped the Commission members who spoke out against a review of MOAs take a look at the process.

Ms. Marilyn Miller, a resident of Toms River, said she cannot imagine how Commission members feel being in a hot spot. She said she commended anyone who spoke up about the

MOA process. Also, she said the MOA process turns the Commission into a real estate agency. She said she had a passion for the Pinelands and was bothered that there is an MOA process.

Mr. Doug O'Malley, with Environment New Jersey, said he represented some 20,000 citizens. He thanked the PPA for its advocacy in using the OPRA laws to obtain the record to show what was happening during the 2012-2014 (S.J. pipeline application) process. He thanked Chairman Lohbauer for raising the issue of reviewing the MOA process. He said the Commission cannot be seen as a handmaiden of an applicant or the Governor's office. He said the posted documents show the level of involvement of SJ Gas in the process. Mr. O'Malley said the four governors who submitted the letter opposing the pipeline had been involved in the Pinelands process and had noted that there will always be an applicant pushing a particular agenda. Mr. O'Malley also said that although the Commission accepted extensive public comment, individuals were limited to only three minutes. However, SJ Gas was granted more than three minutes. The review of the MOA process needs to make sure this never happens again. He noted the delay of nominees to the Commission and said the quality of the Commissioner is necessary if the public is to keep faith in the Commission. He concluded by saying whether it is a pipeline in the 1970s or today, there needs to be an air tight process that does not allow an applicant to have undue influence over the process.

Mr. Marianne Clemente, a resident of Barnegat Township, NJ, said she had not planned to speak until she heard Commissioner Avery. She directed comment to Commissioner McGlinchey and said these names are public record so naming names is naming facts. She said the MOA process was designed for infrastructure issues to benefit Pinelands residents and clearly SJ Gas went beyond that limit. She said she supported a review of MOAs that included members of the municipalities and the public.

Dr. Emile DeVito, with the NJ Conservation Foundation, stated he was alerting the Commission to Assembly Bill 1958 that would make an exemption for agriculture in wetlands in violation of the Clean Water Act. He said that, if passed, the Environmental Protection Agency could revoke New Jersey's administration of the Federal 404 program. He said this represents a huge rollback of wetlands protection, and the Commission should determine how Pinelands wetlands standards and definitions might be affected.

Chairman Lohbauer allowed Ms. Clemente to address the Committee again but said that her question regarding conflict of interest would not be addressed due to current litigation.

Commissioner Avery noted that, at the January 16, 2015 Commission meeting, he had announced the acquisition of 1,200 acres by Ocean County as part of the MOA for the Robert Miller Airpark. He said actually it was 1,726 acres, as corrected by Ms. Theresa Lettman (*with PPA and in the audience today*). Also Commissioner Avery said it would be inappropriate for the staff not to talk with the public and with applicants. He said there is a pre-application process that expressly allows for such discussion and guidance.

Chairman Lohbauer added that there is a balance to be maintained.

Commissioner Lloyd said there is nothing wrong with staff talking with an applicant. Any such discussion must be part of the public record. He said his understanding of the MOA review was

that it must include the requirements related to 1. that the process must be open to the public and the Commission members; and 2. those substantive standards of the MOA must be clarified to be sure that the Commission protects the precious resources of the Pinelands.

Ms. Heinzerling announced that the Committee would now go into closed session and that it was possible that action would be taken. (Note: action can be taken only by a quorum of the Commission. As there were nine Commissioners in attendance, a quorum was present.)

At 10:55 a.m., Commissioner Lloyd moved that the Committee meet in closed session to discuss matters related to attorney-client privilege. Commissioner Jackson seconded the motion and all voted in agreement.

Members of the public and most of the staff left the room. Ms. Heinzerling said she would prepare the minutes of the closed session. The closed session commenced at 10:58 a.m.

The Committee continued its meeting in open session at 11:10 a.m.

Noting that this issue had not been on the agenda, Ms. Heinzerling read a resolution into the record regarding the maintenance of confidentiality by Commissioners in reviewing un-redacted documents. The text of that resolution (PC4-15-02) follows:

WHEREAS, in the course of working toward settlement of pending OPRA litigation Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), certain Pinelands Commission documents were produced in full and certain Pinelands Commission documents were produced in redacted form or withheld due to the confidential and privileged nature of these documents;

WHEREAS, individual board members have asked to review the documents that were redacted and/or withheld due to the confidential and privileged nature of the documents; and

WHEREAS, the documents were redacted and/or withheld under OPRA and in the ensuing litigation because certain privileges, including attorney-client privilege and deliberative process, attach to the documents; and

WHEREAS, in addition to Pinelands Preservation Alliance v. Pinelands Commission (BUR-L-1744-14), the Pinelands Commission is also defending other litigation, to which the documents pertain, related to its January 10, 2014 vote on the proposed Memorandum of Agreement between the Pinelands Commission and the Board of Public Utilities, In the Matter of the Resolution Authorizing the Executive Director to Enter Into a Memorandum of Agreement With The Board of Public Utilities Regarding Construction of Approximately 15 Miles of 22-Mile, 24-Inch Natural Pipeline in the State Designated Pinelands Area (A-003035-13); and

WHEREAS, due to the pending litigation, there is a need to ensure there is no inadvertent waiver of confidentiality or any privileges associated with the documents.

NOW, THEREFORE BE IT RESOLVED that Pinelands Commission acknowledges that the subject documents are privileged and confidential;

BE IT FURTHER RESOLVED that the Commission does not intend to waive any privileges attached to the subject documents and is specifically not waiving any privileges that attach to these documents when an individual board member reviews them; and

BE IT FURTHER RESOLVED individual board members remain under a duty to keep the documents and information contained in the subject documents confidential pursuant to N.J.S.A. 52:13D-25.

Commissioner Lloyd moved the adoption of the resolution. Commissioner Jackson seconded the motion and all Commissioners present voted in the affirmative with the exception of Commissioner Earlen, who voted No.

7. Other Items of Interest

Mr. Wolfe said that official action was taken today and he found it extraordinary at a Committee meeting.


Commissioner McGlinchey thanked Ms. Heinzerling for working to provide the documents to the members.

Commissioner Prickett reminded everyone of the upcoming Pinelands Short Course and encouraged attendance.

Chairman Lohbauer said he was not in the habit of commenting or responding to the public. However, today the Committee had heard some derogatory comments regarding the staff. The fact that Commissioners remain silent is not a reflection that public comment is condoned or that there is agreement. He said he took exception with derogatory comments and said he believed they merited an apology.

The meeting adjourned at 11:16 a.m. (moved by Commissioner Earlen and seconded by Commissioner Jackson).

Certified as true and correct:



Betsy Piner,
Principal Planning Assistant

Date: February 12, 2015



DRAFT

RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION

NO. PC4-15-_____

TITLE: Issuing an Order to Conditionally Certify Ordinance O-6-14, Amending Chapter 253 (Land Development) of the Code of Franklin Township

Commissioner _____ moves and Commissioner _____
seconds the motion that:

WHEREAS, on November 5, 1982, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Franklin Township; and

WHEREAS, Resolution #PC4-82-82 of the Pinelands Commission specified that any amendment to the Township's certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, Resolution #PC4-82-82 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

WHEREAS, on July 22, 2014, Franklin Township adopted Ordinance O-6-14, amending Chapter 253 (Land Development) of the Township's Code by adopting revised standards for signs, including digital message boards and changeable message signs; and

WHEREAS, within the Pinelands Area, Ordinance O-6-14 permits digital message boards and changeable message signs in the Rural Development and Agricultural Production Areas; and

WHEREAS, the Pinelands Commission received a certified copy of Ordinance O-6-14 on January 2, 2015; and

WHEREAS, by letter dated February 2, 2015, the Executive Director notified the Township that Ordinance O-6-14 would require formal review and approval by the Pinelands Commission; and

WHEREAS, a public hearing to receive testimony Ordinance O-6-14 was duly advertised, noticed and held on February 25, 2015 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m.; and

WHEREAS, the Executive Director has found that Ordinance O-6-14 is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

WHEREAS, the Executive Director has submitted a report to the Commission recommending issuance of an order to certify with conditions that Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is in conformance with the Pinelands Comprehensive Management Plan; and

WHEREAS, the Commission's CMP Policy and Implementation Committee has reviewed the Executive Director's report and has recommended that Ordinance O-6-14 be conditionally certified; and

WHEREAS, the Pinelands Commission has duly considered all public testimony submitted to the Commission concerning Ordinance O-6-14 and has reviewed the Executive Director's report; and

WHEREAS, the Pinelands Commission accepts the recommendation of the Executive Director; 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

1. An Order is hereby issued to certify with conditions that Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is in conformance with the Pinelands Comprehensive Management Plan. To obtain full certification of Ordinance O-6-14 by the Pinelands Commission, Franklin Township must amend Chapter 253 in accordance with Attachment A of this Order.
2. Franklin Township shall have until August 8, 2015 to adopt and submit the revisions to Chapter 253 to the Pinelands Commission for approval pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto.
3. If the Township fails to submit the revisions to Chapter 253 pursuant to N.J.A.C. 7:50-3.45 and Attachment A hereto by August 8, 2015, or if such a submission is not fully certified by the Pinelands Commission, Ordinance O-6-14 shall be disapproved.
4. Any additional amendments to Franklin Township's certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

ATTACHMENT A TO EXECUTIVE DIRECTOR'S REPORT, DATED MARCH 27, 2015,
ON FRANKLIN TOWNSHIP'S ORDINANCE O-6-14

Adoption of the following amendments will make Ordinance O-6-14 consistent with the standards and provisions of the Pinelands Comprehensive Management Plan:

§ 253-183 – Signs in R-A, ~~PR-R, PA-P, I, P-I~~, and Medium-density Residential Zone.

The following sign regulations shall apply to single-family residential and institutional uses within R-A, ~~PR-R, PA-P, I, P-I~~, and Medium-density Residential Zone.

§ 253-185 – Signs in Zones B, [and] NC, ~~and PN-C~~.

The following sign regulations shall apply in Zones B, [and] NC, ~~and PN-C~~:

§ 253-185.1 – Signs in HC ~~and PH-C~~ Highway Commercial Districts.

The following sign regulations shall apply in the HC ~~and PH-C~~ Highway Commercial Districts:

§ 253-185.2 – Signs in IC, [and] LM, ~~and PLM-I~~ Districts.

The following sign regulations shall apply in Zones B, [and] NC, ~~and PN-C~~:



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Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

REPORT ON ORDINANCE O-6-14, AMENDING
CHAPTER 253 (LAND DEVELOPMENT)
OF THE CODE OF FRANKLIN TOWNSHIP

March 27, 2015

Franklin Township
1571 Delsea Drive
Franklinville, NJ 08322

FINDINGS OF FACT

I. Background

The Township of Franklin is located in the southwestern Pinelands in Gloucester County. Pinelands municipalities adjacent to Franklin Township include Monroe Township, also in Gloucester County; as well as Buena Borough and Buena Vista Township in Atlantic County.

On November 5, 1982, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Franklin Township.

On July 22, 2014, Franklin Township adopted Ordinance O-6-14, amending Chapter 253 (Land Development) of the Township's Code by revising various standards related to signs, including digital message boards and changeable message signs. More specifically, Ordinance O-6-14 permits digital message boards and changeable message signs within the Township's Rural Development and Agricultural Production Areas. The Pinelands Commission received a certified copy of Ordinance O-6-14 on January 2, 2015.

By letter dated February 2, 2015, the Executive Director notified the Township that Ordinance O-6-14 would require formal review and approval by the Pinelands Commission.

II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- * Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, introduced on March 11, 2015 and adopted on July 22, 2015.

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

1. Natural Resource Inventory

Not applicable.

2. Required Provisions of Land Use Ordinance Relating to Development Standards

Ordinance O-6-14 amends Chapter 253 (Land Development) of the Code of Franklin Township by revising various standards related to signs. Ordinance O-6-14 establishes what kinds of signs are permitted within the Township's various zoning districts as well as the number and size of signs permitted at each use. Additionally, Ordinance O-6-14 adopts standards for LED (light-emitting diode) or LCD (liquid-crystal display) digital message boards, illuminated and changeable message signs, including restrictions on their location. LED (light-emitting diode) or LCD (liquid-crystal display) digital message boards are defined by Ordinance O-6-14 as digital signs with changeable content, designed such that the content can be changed a limitless number of times. Pursuant to Ordinance O-6-14, digital message boards and changeable message signs would be restricted to the PR-R, P-I, PH-C, PN-C, and PLM-I Districts in the Township's Rural Development Area and the PA-P District in the Township's Agricultural Production Area.

The scenic management standards of the CMP include a prohibition on signs that are designed to attract attention by physical or lighting change in the Pinelands Area. However, by their very nature, changeable message signs and digital message boards involve messages and advertisements that move or change on a regular basis. This presents a potential conflict with the CMP, which also requires that the character and composition of signs in the Pinelands Area be harmonious with the scenic values of the Pinelands, to the maximum extent practical. But, it is important to note that the sign standards set forth in the CMP were written in 1980, prior to the use of digital or LCD/LED technology in advertising signs. Also noteworthy is the fact that the CMP does not dictate the type of lighting (internal or external) that signs in the Pinelands Area must use. Thus, it is not the use of LCD/LED technology (internal illumination) itself that raises an issue. Rather, it is the fact that digital or LCD/LED signs often involve the changing of one static image to another, or even the use of video, to attract attention. It is the Commission's position that municipal ordinances that adequately address scenic management in their sign ordinances can, in fact, be consistent with the CMP. Indeed, it is the Commission's position that, within development-oriented management areas (Pinelands Regional Growth Areas, Pinelands Towns, and Pinelands Villages), where virtually all types of residential and nonresidential development are permitted by the CMP, it is entirely consistent with the CMP for a municipality to permit the use of digital signs.

While Ordinance O-6-14 does prohibit scrolling, flashing, blinking, and other similar lighting effects, maximum luminance levels are not among the standards adopted by Ordinance O-6-14 to regulate changeable message signs or digital message boards. Nor, does Ordinance O-6-14 require that all changeable message signs or digital message boards be equipped with automatic

dimming controls so that the light emitted by such signs can be adjusted appropriately depending upon ambient lighting conditions. Ordinance O-6-14 also does not regulate how long each message on a changeable message sign or digital message board must remain before a different message is displayed. Although Ordinance O-6-14 incorporates some standards to control the location, size and appearance of changeable message signs and digital message board signs, the Ordinance's language, as adopted, inadequately addresses the scenic values of the Pinelands. But, even if Ordinance O-6-14 had properly addressed the CMP's scenic standards, digital signs are inappropriate within Agricultural Production Areas; they are particularly inappropriate in Rural Development Areas, where the CMP designates all public, paved roads as scenic corridors. Changeable message signs and digital message boards are simply not appropriate outside of the designated development areas of the Pinelands.

Given the rural nature of the area in question and CMP standards and objectives for scenic management, Ordinance O-6-14 is not fully consistent with the land use and development standards of the Comprehensive Management Plan. However, with the adoption of the amendments set forth in Attachment A, or revisions comparable thereto, this standard for certification will be met.

3. Requirement for Certificate of Filing and Content of Development Applications

Not applicable.

4. Requirement for Municipal Review and Action on All Development

Not applicable.

5. Review and Action on Forestry Applications

Not applicable.

6. Review of Local Permits

Not applicable.

7. Requirement for Capital Improvement Program

Not applicable.

8. Accommodation of Pinelands Development Credits

Not applicable.

9. Referral of Development Applications to Environmental Commission

Not applicable.

10. General Conformance Requirements

Ordinance O-6-14, amending Chapter 115 (Development Regulations) of the Code of Franklin Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

11. Conformance with Energy Conservation

Not applicable.

12. Conformance with the Federal Act

No special issues exist relative to the Federal Act. However, Ordinance O-6-14, amending Chapter 253 (Land Development) of the Code of Franklin Township, is not fully consistent with the standards and provisions of the Pinelands Comprehensive Management Plan.

With the adoption of the amendments set forth in Attachment A, this standard for certification will be met.

13. Procedure to Resolve Intermunicipal Conflicts

Not applicable.

PUBLIC HEARING

A public hearing to receive testimony concerning Franklin Township's application for certification of Ordinance O-6-14 was duly advertised, noticed and held on February 25, 2015 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no testimony was received.

Written comments were accepted through March 4, 2015 and were received from the following:

March 4, 2015 letter from Theresa Lettman, Director of Monitoring Programs, Pinelands Preservation Alliance (see Exhibit #1)

March 4, 2015 email from Fran Brooks (see Exhibit #2)

EXECUTIVE DIRECTOR'S RESPONSE

Both Ms. Lettman's letter and Ms. Brooks' also express the opinion that digital signs violate N.J.A.C. 7:50-6.107(a). The scenic management standards of the CMP do indeed prohibit signs that are designed to attract attention by physical or lighting change. Since digital signs involve messages or advertisements that move or change on a regular basis, this presents a potential conflict with CMP provisions that require that the character and composition of signs in the Pinelands Area be harmonious with the scenic values of the Pinelands, to the maximum extent practical. However, it is important to note that the CMP's sign standards were written in 1980, well before the advent of digital or LED/LCD technology in advertising signs. Also noteworthy is the fact that the CMP does not dictate whether signs within the Pinelands should be lighted internally or externally. So, it isn't the use of LCD/LED technology (internal illumination) itself that raises an issue. Rather, it's that digital signs often involve the changing of one static image to another, or even the use of video, to attract attention. Thus, it is the Commission's position that municipal ordinances that adequately address scenic management in their sign ordinances can be consistent with the CMP. Indeed, it is the Commission's position that, within development-oriented management areas (Pinelands Regional Growth Areas, Pinelands Towns, and Pinelands Villages), where virtually all types of residential and nonresidential development are permitted by the CMP, it is entirely consistent with the CMP for a municipality to permit the use of digital signs.

CONCLUSION

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance O-6-14 does not fully comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to conditionally certify Ordinance O-6-14 of Franklin Township.

PWT/SRG/CFR
Attachments

ATTACHMENT A TO EXECUTIVE DIRECTOR'S REPORT, DATED MARCH 27, 2015,
ON FRANKLIN TOWNSHIP'S ORDINANCE O-6-14

Adoption of the following amendments will make Ordinance O-6-14 consistent with the standards and provisions of the Pinelands Comprehensive Management Plan:

§ 253-183 – Signs in R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

The following sign regulations shall apply to single-family residential and institutional uses within R-A, ~~PR-R, PA-P, I, P-I,~~ and Medium-density Residential Zone.

§ 253-185 – Signs in Zones B, [and] ~~NC, and PN-C.~~

The following sign regulations shall apply in Zones B, [and] ~~NC, and PN-C:~~

§ 253-185.1 – Signs in HC and ~~PH-C~~ Highway Commercial Districts.

The following sign regulations shall apply in the HC and ~~PH-C~~ Highway Commercial Districts:

§ 253-185.2 – Signs in IC, [and] ~~LM, and PLM-I~~ Districts.

The following sign regulations shall apply in Zones B, [and] ~~NC, and PN-C:~~



PINELANDS PRESERVATION ALLIANCE

Bishop Farmstead ♦ 17 Pemberton Road ♦ Southampton, NJ 08088
Phone: 609-859-8860 ♦ ppa@pinelandsalliance.org ♦ www.pinelandsalliance.org

March 4, 2015

Susan Grogan
Pinelands Commission
15 Springfield Road
P.O. Box 359
New Lisbon, NJ 08064

Re: Franklin Township Ordinance - O-6-2014

Dear Ms. Grogan:

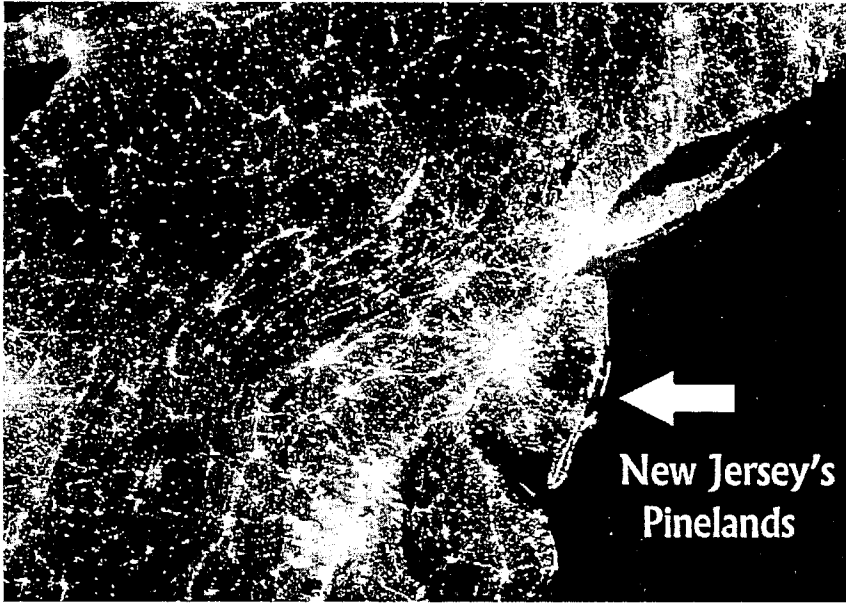
Franklin Township has passed Ordinance **O-6-2014** which allows for electronic message signs in the Pinelands Rural Development and Agricultural Production Management areas of the township. PPA believes this ordinance should not be certified because it is not in conformance with the CMP. Section 7:50-3.1 (d) states:

A local authority that incorporates all of the elements of this Plan in its local plan and ordinances will be assured of certification. In contrast, municipal plans and ordinances that deviate from the essential nature of this Plan are unlikely to be certified. However, it is a policy of this Plan to allow municipalities the greatest degree of flexibility and discretion in the preparation of local plans and ordinances so long as the plans and ordinances do not conflict with the ultimate objectives and minimum requirements of this Plan.

Franklin's ordinance conflicts with the minimum requirements of Section 7:50-6.106 on signs which requires each municipality to adopt provisions in its ordinances that contain section 7:50-6.107 (a). This section states:

No sign, other than warning or safety signs, which is designed or intended to attract attention by sudden, intermittent or rhythmic movement, or physical or lighting change, shall be permitted in any area.

Applying the Pinelands Commission's EIA scores to the PR-R and PA-P zones reveals that the area is largely made up of an 80% combined score.



The dark rural areas of the New Jersey Pinelands will change quickly if these types of signs are allowed. The Comprehensive Management Plan got it right in 1980 when it wrote the sign section. The proof is the night sky of New Jersey. Allowing electronic messaging signs in the rural areas will not only allow for ecological light pollution but take away the view shed residents have of the sky.

Respectfully submitted,

Handwritten signature of Theresa Lettman in cursive script.

Theresa Lettman
Director of Monitoring Programs

From: Fran Brooks <brks627@gmail.com>
To: Betsy Piner <betsy.piner@njpinelands.state.nj.us>
Date: 3/4/2015 3:53 PM
Subject: Public Comments: Franklin Township Ordinance 0-6-14

Exhibit #2 Executive Director's Report on Franklin Twp. Ordinance O-6-14 March 27, 2015
--

78 Moores Meadow Road
Tabernacle, NJ 08088

Ms. Betsy Piner
Principal Planning Assistant
New Jersey Pinelands Commission
15 Springfield Road
PO Box 359
New Lisbon, NJ 08064

Dear Ms. Piner,

I am writing to oppose the certification of the Franklin Township Ordinance O-6-14. This Ordinance will permit LED or LCD digital message boards (AKA digital signs) in the PR-P, P-I, PH-C Districts within the Rural Development Area and the PA-P District within the Agricultural Production Area. My opposition is based on the following reasons:

1) The Ordinance Violates Section 7:50-6.107 (a) of the Mandatory sign provisions.

The CMP recognizes the importance of a static display to the visual character of the Pinelands by expressly prohibiting moving images except to provide for public safety. The enforcement of the letter and spirit of this requirement is particularly important because of the visual and spatial characteristics that were defined by a vernacular of past generations. That vernacular was static and relied on color and physical design to identify the land use.

Contrary to the CMP provision, the Commission has approved the use of digital signs in the Regional Growth Area (RGA) in Egg Harbor Township and in the RGA in Monroe Township (Minutes, Planning and Implementation Committee, May 30, 2014). It also approved digital signs in the Pinelands Towns and Village Areas in Buena Vista Township (Pinelands Commission, November 14, 2014). These approvals violate the current CMP standards.

2) Approval of the Franklin Township Ordinance violates the decision to prohibit digital signs in Rural Development Areas.

Approval of this ordinance will continue the pattern of digital sign creep into another Pinelands management areas, the Rural Development and Agricultural Production Areas. Certification is contrary to a decision that expressly prohibited such signs in the RDA (and FA). During the discussion of the Monroe Township sign ordinance (0:19-2013), at the May 30, 2014 Planning and Implementation Committee meeting, staff expressly stated that it "has included language in the Executive Director's report to both restore the mandatory CMP sign provisions and prohibit the changeable message signs in the FA **and RDA**" [emphasis added] (Minutes, May 30, 2014, page 4.).

3) The Pinelands Commission has not undertaken a study of digital signs as it said it would.

The Commission should not continue to interpret and re-interpret the CMP sign provisions each time it receives an individual municipal sign ordinance application that contains digital sign provisions. At the October 10, 2014 presentation on the 4th report on the implementation of the Pinelands CMP, staff recommended that the digital sign issue should be examined. Certifying the Franklin Township ordinance is wholly inconsistent with this recommendation. It is time for the Commission to undertake a re-examination of the CMP sign provisions and develop proper standards that address digital signs before it approves another sign ordinance.

Thank you for your attention to these comments.

Sincerely,

Fran Brooks



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



Chris Christie
Governor

Kim Guadagno
Lt. Governor

General Information: Info@njpinels.state.nj.us
Application Specific Information: AppInfo@njpinels.state.nj.us

Mark S. Lohbauer
Chairman

Nancy Wittenberg
Executive Director

MEMORANDUM

To: Members, CMP Policy and Implementation Committee

From: Nancy Wittenberg, Executive Director *NW*

Date: March 18, 2015

Subject: National Park Service Funded Monitoring Programs

Each year, we receive funding from the National Park Service that sustains our environmental and economic monitoring programs. As part of the process, we prepare annual progress reports on both programs, draft copies of which are attached for your review.

Please note that cost sections are still being prepared but we thought it would be worthwhile to give the Committee a preview.

/R4K1/R4K2

Attachments

PINELANDS COMMISSION

**NEW JERSEY PINELANDS LONG-TERM
ENVIRONMENTAL AND ECONOMIC
MONITORING PROGRAM**

PROPOSAL FOR FY2015 FUNDING OF UPCOMING ACTIVITIES



**Mark S. Lohbauer
Pinelands Commission Chairman**

**Nancy Wittenberg
Executive Director**

DECEMBER 2014

NEW JERSEY PINELANDS LONG-TERM ENVIRONMENTAL-MONITORING PROGRAM

PROPOSAL FOR FY2015 FUNDING OF UPCOMING ACTIVITIES

DECEMBER 2014

THE PINELANDS COMMISSION

Mark S. Lohbauer, Chairman

Candace McKee Ashmun

Alan W. Avery, Jr.

William J. Brown

Joseph DiBello

Sean W. Earlen

Paul E. Galletta

D'Arcy Rohan Green

Robert Jackson

Jane Jannarone

Edward Lloyd

Ed McGlinchey

Richard H. Prickett

Gary Quinn

Francis A. Witt

Nancy Wittenberg, Executive Director

PINELANDS COMMISSION SCIENCE OFFICE

John F. Bunnell, Chief Scientist

Kim J. Laidig, Principal Research Scientist

Patrick M. Burritt, Research Scientist

Sarah R. Johnson, Research Scientist

Rebecca French-Mesch, Research Technician

Pinelands Commission

P.O. Box 359

New Lisbon, NJ 08064

609-894-7300

www.nj.gov/pinelands/

INTRODUCTION

In the early 1990's, the Pinelands Commission initiated a Long-term Environmental-monitoring Program with the ultimate goal of evaluating the ecological consequences of the Comprehensive Management Plan. The main objectives of the monitoring program are to characterize the effect of existing land-use patterns on aquatic and wetland resources and to monitor long-term changes in these resources. More information on the monitoring program can be found at <http://www.state.nj.us/pinelands/science/current/ltem/>.

This report briefly describes the historical development and current status of the monitoring program and related studies, work completed in 2014, and activities proposed for 2015. A two-year schedule that covers the monitoring program and related studies is also included.

WATERSHED SURVEYS

From 1992 through 2003, Commission scientists completed water-quality (pH and specific conductance), vegetation, fish, and anuran (frog and toad) surveys to characterize the effect of existing land-use patterns on streams and impoundments in the four major Pinelands watersheds: the Mullica River, Rancocas Creek, Great Egg Harbor River, and Barnegat Bay. In general, results of the surveys demonstrated that watershed-wide developed and upland-agricultural land uses were linked to elevated pH and specific conductance values and the presence of non-native plants and animals in Pinelands streams and impoundments.

These results reflected Commission pilot studies conducted in the Mullica River watershed and showed that pH and specific conductance and vegetation, fish, and anuran assemblages provide good measures of land-use-related watershed disturbance in the Pinelands. Specific conductance and pH are inexpensive, reliable, and easily measured field parameters that are correlated with much more costly and episodic water-quality parameters, such as nitrogen and phosphorus, which are also often undetectable in Pinelands surface waters. Although Commission survey sites are co-located with New Jersey Department of Environmental Protection (NJDEP) aquatic-invertebrate sites, Commission scientists rely on vegetation, fish, and anuran assemblages as biological metrics because they are more readily identifiable in the field, don't require intensive laboratory time or chemicals, and, most importantly, better reflect the amount of land use in Pinelands watersheds compared to aquatic invertebrates.

The four watershed reports and the data collected are available at the web page provided in the Introduction. From 2007 - 2012, Commission scientists completed a second round of water-quality and plant and animal surveys in the four watersheds and data from the second round were prepared for analysis. In 2013, Commission scientists summarized the most current land-use data for the Pinelands National Reserve, state designated Pinelands Area, nine Commission management-area units, four major watersheds, and the 258 stream and impoundment sites surveyed during the second round. Although analysis of the water-quality data was initiated, analysis of the plant and animal survey data was not. Due to the continuing lack of Science Office staff, Commission scientists focused on completing the field work that was planned for 2014 and deferred most of the data-analysis and report-writing tasks. No additional progress was made on data analysis in 2014.

In 2015, Commission scientists will continue to analyze the water-quality data and begin to analyze the plant and animal data from the second round of watershed surveys. Although sampling methods differed somewhat between the first and second round of surveys, we will compare the results of the two rounds to assess changes that may have occurred between survey rounds, determine if the refinement in methods affected the results, and evaluate which sampling methods would be most appropriate to use for future monitoring. The greatest difference in sampling methods between the two survey rounds was that Mullica River stream sites in the first round were all 100-m stream reaches, whereas stream sites located in the other three watersheds for the first round and all four watersheds for the second round were 20-m stream reaches. To minimize the differences in stream length sampled, we will compare normalized measures that are largely independent of sampling length, such as the percentage of native and non-native species at a site rather than native and non-native species richness and abundance. We will also explore ranking the stream and impoundment sites from the second round using the multiple-indicator approach developed from the Mullica River data and applied to the Rancocas Creek and Barnegat Bay data. A report that describes the relationship between land use and the various water-quality and plant and animal indicators will be initiated in 2015.

PINELANDS-WIDE WATER-QUALITY MONITORING

In 2005, a network of 47 benchmark stations was selected from the pool of sites sampled during the initial four watershed surveys for monitoring long-term trends in pH and specific conductance throughout the region. As mentioned previously, pH and specific conductance represent good surrogate measures of the effects of land use because they are both correlated with nutrient concentrations and are both strongly related to land use in Pinelands watersheds. These 47 sites have been sampled for plants and animals during the first and second survey rounds mentioned previously and will also be surveyed during future biological monitoring rounds. The 47 sites are distributed throughout the Pinelands, represent a range of pH and specific conductance values, and, with a few exceptions, have been monitored monthly during the eight-month growing season (March through October) of each year since 2005. We focus on growing-season sampling because water-quality gradients show greater contrast during this period and many sites are accessible only by unimproved sand roads that are unpredictable and difficult to traverse in the winter. Analysis of these data demonstrated that sampling could be reduced from a monthly (8 samples/year) to a bimonthly (4 samples/year) regimen without sacrificing the ability to adequately summarize water-quality conditions at the sites. The bimonthly sampling regimen was instituted in 2012 and will continue into the future. Samples were also collected from these sites in April, June, August, and October 2012 and January 2013 for analysis of nitrogen and phosphorus, and the analyses were completed by the Rutgers University Division of Pinelands Research. Because of the high cost of nutrient analyses, nutrient sampling at these sites in the future will depend on funding availability.

In 2014, we summarized the nutrient and corresponding pH and specific conductance data for each site. To evaluate the relationship between land use and water quality, pH and specific conductance and nitrogen and phosphorus data were correlated with 2007 land-use data for each site. We also compared the water-quality parameters between agriculture- and development-dominated sites and between the five sites with the highest and five sites with the lowest amounts of combined agricultural and developed land.

In 2015, we will continue to monitor pH and specific conductance on a bimonthly basis at this network of sites. We will initiate an analysis of the pH and specific conductance data from 2005 - 2014 to determine whether any trends in these parameters occurred during that period and continue to examine the relationship between pH, specific conductance, nitrogen, phosphorus, and land use. Results of these analyses will be included in the report mentioned above.

WATER-LEVEL MONITORING

Water-level monitoring at 35 forest plots and 37 intermittent coastal-plain ponds continued in 2014. The year of initiation, duration, and frequency of water-level monitoring vary among the different groups of the forest and pond sites monitored (Table 1).

In 2015, we will continue to monitor water levels at the forest plots and ponds. For the seven ponds with continuous recorders, we previously visited these sites quarterly to download the water-level data and maintain the recorders. Due to the loss of some data from malfunctioning recorders, beginning in 2015, we will download the data every other month in the growing season to prevent the loss of data during the critical time when ponds are drying. We will also initiate an analysis to summarize the hydrologic regimes associated with the forest-plots and ponds and to examine the relationship of water-level fluctuations among all of the water-level monitoring sites. Results of this analysis will be included in the report mentioned above.

Table 1. Initiation year and frequency of water-level measurements for various groups of forest plots and intermittent ponds established as part of the Commission environmental-monitoring program. Continuous water-level recorders collect data hourly.

Site Groups	Initiation Year	Measurement Frequency
5 Forest Plots	1987	monthly
30 Forest Plots	2004	monthly
14 Ponds	1996	13 monthly, 1 continuous
15 Ponds	2004	13 monthly, 2 continuous
5 Ponds	2010	4 monthly, 1 continuous
3 Ponds	2012	continuous

ANNUAL ANURAN SURVEYS

Since 1996, annual nighttime anuran-vocalization surveys have been conducted monthly from March - June at 20 ponds, including the group of 14 ponds noted in Table 1 as well as six additional ponds. These 20 ponds were selected as long-term anuran-monitoring stations because they are located on the western side of the Mullica River watershed along the interface between forest land and developed/agricultural landscapes. Eleven frog species and one toad species have been heard calling from these ponds, and 18 of the ponds serve as breeding habitat for the state-threatened Pine Barrens treefrog. Vocalization surveys were completed at the 20 ponds in 2014.

In 2015, we will continue to monitor calling anurans monthly from March - June at these 20 ponds. Although an initial analysis of vocalization data was completed in the 1990's as part of the Mullica River watershed report, we intend to analyze the full 1996 - 2014 vocalization data set and assess trends in species occurrence and numbers calling during the period. Results of this analysis will be included in the report mentioned above.

WETLAND-BUFFER STUDY

Although most previous Commission research focused on the effect of upstream land use on streams and impoundments, the impact of adjacent land use on intermittent ponds and wetland forests has not been well documented. In 2008, the Commission received an EPA grant to quantify the relationship between the proximity of developed lands and the ecological integrity of anuran-breeding ponds and wetland-forest vegetation. Although funded by the EPA, this study contributes to the overall goals of the environmental-monitoring program by providing information on the effect of adjacent land use on forest vegetation, anuran assemblages, and pond-water quality. Five of the ponds established as part of the Wetland-buffer Study were incorporated into the water-level component of the environmental-monitoring program in 2010 to expand the distribution of the water-level monitoring network in the region (Table 1). In 2009 and 2010, all of the field work associated with the Wetland-buffer Study was completed, but progress on the project stopped in order to obtain two new EPA grants (see descriptions below). The two new EPA grants were necessary for the hiring of a replacement research scientist and a new research technician in late 2012. In 2014, we requested a no-cost extension for the Wetland-buffer Study to January 2016, but were notified by the EPA that the study would have to end in January 2015 because Wetland Program Development Grants may not continue beyond seven years. We were unaware of this EPA requirement.

Because the study was ended before we were able to analyze the data, in 2015, we will assemble a final report to the EPA that contains an introduction, methods used, and data collected. Data will be presented in tables with no analysis or interpretation. In 2015, we also propose to analyze the anuran-survey and forest-vegetation data as part of the environmental-monitoring program analysis and include the methods and data as well as results and interpretations in the comprehensive report mentioned above.

POND-VULNERABILITY STUDY

In 2011, the Commission received a grant from the EPA to evaluate the vulnerability of Pinelands ponds to the impacts of surrounding land use. Although funded by the EPA, the results of this study will also contribute to the goals of the program by providing information on the impact of surrounding land use on off-stream pond ecology. Moreover, the study will yield an assessment of the current ecological integrity of Pinelands ponds, the future vulnerability of ponds to potential land-use impacts at full build out, and serve as a baseline for assessing changes in pond hydrology, water quality, and plant and animal assemblages in the future. As with past EPA-funded studies, some of the ponds surveyed as part of this study will likely be incorporated into the water-level monitoring network in the future.

In 2012 and 2013, we used digital aerial photographs and identified approximately 3,000 natural ponds throughout the Pinelands. Water-quality and hydrologic monitoring and vegetation,

anuran, and odonate (dragonfly and damselfly) surveys will be completed for 100 ponds that represent a range of surrounding land-use conditions. Relationships between surrounding land-use conditions and water-quality, hydrologic, and biological indicator-based metrics will be determined. In 2013 and 2014, 100 ponds were selected for the study and staff gages were installed in all of the ponds. In 2014, we initiated water-level and water-quality sampling for all 100 ponds and completed plant and animal surveys for 53 of the 100 ponds.

In 2015, we will continue the water-level and water-quality sampling for all 100 ponds and complete plant and animal surveys for another portion of the 100 ponds.

CREATED-WETLAND STUDY

Like natural wetlands, created wetlands can provide the habitat necessary for wetland-dependent plants and animals, especially in human-dominated landscapes where natural wetlands may have been degraded or eliminated. However, it is not known what the impacts of land use might be on these habitats or to what extent created wetlands can function like natural Pinelands wetlands. Two types of created wetlands commonly found in the Pinelands are shallow excavations that intercept the groundwater (excavated ponds) and excavations designed to receive stormwater (stormwater basins). In 2012, the Commission received an EPA grant to compare attributes from natural ponds from the Pond-vulnerability Study described above and two types of created wetlands: excavated ponds and stormwater basins. Several excavated ponds are currently monitored for water levels and calling anurans (see the Water-level Monitoring and Annual Anuran Surveys sections above). The results of this study will contribute to the environmental-monitoring program because we will increase our knowledge regarding the comparability of water quality, hydrology, and plant and animal assemblages in natural and created wetlands; the impact of surrounding land use on the ecology of created wetlands (which are afforded the same protection as natural wetlands in the Pinelands); the location and current condition of reference (i.e., minimally disturbed) and degraded created wetlands; the location of rare species and which wetlands might be sources for non-native species; which ecological receptors are more vulnerable to current-use pesticides and emerging-amphibian pathogens; and the relationship between pesticides, amphibian pathogens, and land use.

In 2013, we used digital-aerial photographs to identify about 2,000 excavated ponds and 1,700 stormwater basins. Water-quality and hydrologic conditions and vegetation, anurans, and fish assemblages will be surveyed at a sample of 50 excavated ponds and 50 stormwater basins that represent a range of land-use conditions. Four degraded (i.e., maximum surrounding land use) and four reference (i.e., minimum surrounding land use) sites each from the pool of natural ponds from the previous study and excavated ponds and stormwater basins from this study will be selected to analyze for emerging-amphibian pathogens in larval anurans and current-use pesticides in water, sediments, larval-anuran food, and larval anurans. USGS and Montclair University scientists are collaborating with Commission scientists on the pathogen and pesticide component of the study. The functional equivalency of natural and created wetlands will be assessed by comparing all of the biotic and abiotic factors between the natural ponds, excavated ponds, and stormwater basins. In 2013 and 2014, 51 excavated ponds and 46 stormwater basins were chosen for the study and staff gages were installed in all 97 sites. In 2014, we initiated water-level and water-quality sampling for all 97 sites and completed plant and animal surveys

for a portion of the 97 sites.

In 2015, we will continue the water-level and water-quality sampling for all 97 sites and complete plant and animal surveys for another portion of the 97 sites.

COORDINATION AND OUTREACH

In 2014, Commission scientists participated in numerous coordination and outreach activities that would not have been possible without data collected as part of the environmental-monitoring program. Commission scientists briefed the Pinelands Commission on Science Office research for a recent ten-year period as part of a Comprehensive Management Plan review, gave a presentation on Pinelands frogs and toads at the 25th Annual Pinelands Short Course, presented the monitoring-program network for a workshop on monitoring the Kirkwood-Cohansey aquifer sponsored by the Partnership for the Delaware Estuary, gave a presentation on Pinelands fish and led a fish field trip for a Drexel University Pinelands ecology class, presented the results of the Kirkwood-Cohansey Project (which was completed using multiple natural and excavated ponds monitored as part of the program) to the Delaware River Basin Commission, presented an overview of the Pinelands and Science Office research at a Southampton Township Environmental Commission meeting, and staffed the water-quality and fish-sampling stations at the World Water Monitoring Challenge in Batsto, NJ.

In 2014, Commission scientists also provided data, photographs, and other information obtained through the environmental-monitoring program to various members of government and academic institutions and the general public. Commission scientists provided: Commission Regulatory Programs staff water-level data from forest-plot wells nearest to the town of Hammonton for the evaluation of seasonal-high water levels, water-level data from forest-plot wells nearest to Stockton College to Arthur Baehr (a professor at the Richard Stockton College of New Jersey), water-temperature and fish data for streams and impoundments to Kevin Berry (NJDEP Bureau of Freshwater and Biological Monitoring), formal opinions on the distributional status of individual reptile and amphibian and fish species to Jeanette Bowers and Karena DiLeo (NJDEP Endangered and Nongame Species Program) as part of the Reptile and Amphibian Delphi and Fish Delphi processes, the location of some Pinelands ponds to John Heilferty (NJDEP Endangered and Nongame Species Program) for vernal-pool volunteer training in southern New Jersey, data on the blackbanded sunfish and other Pinelands fish species to Rebecca Bouquin and Matthew Ashton (Maryland Department of Natural Resources), data on the distribution of several Pinelands frog species to Alex Baugh (a biology professor at Swarthmore College), vocalization recordings and photographs of southern leopard frogs to Jeremy Feinberg (Rutgers University doctoral student) for comparison to the newly discovered Atlantic coast leopard frog, frog-survey data to Matthew Schlesinger (New York Department of Conservation) for collaboration on a study of the newly discovered Atlantic coast leopard frog, advice on sampling fish for parasite research and potential study sites in the Batsto River and Mullica River for Rachel Paseka and Ryan Koch (Rutgers University doctoral and undergraduate students), photographs to Elizabeth O'Casey (National Park Service) for inclusion in a publication called *Scaling Up: Collaborative Approaches to Large Landscape Conservation*, nighttime frog and toad recordings to Thomas Kinsella (Stockton College) for use in the upcoming Noyes Museum of Art folk life exhibition, locations in the Pinelands where off-road vehicles have caused

damage and areas where illegal dumping has occurred to Michael Hogan and Albert Horner (citizens), and information on sites in the Mullica River watershed to Michael Neuhaus (photographer).

The Commission launched the Pinelands Research Series in early 2012. This is a forum for scientists to present their Pinelands-related research and is a free event that is open to the public. Because the talks are attended by a diverse audience from state and federal agencies, academic institutions, conservation groups, consultants, and the general public, they are an unprecedented means for distributing information among a wide range of stakeholders in the Pinelands region. Eleven presentations were hosted in 2012 and 10 in 2013. Topics covered in the presentations varied and many of the presentations are available on the Commission web page. Presentation topics in 2014 were population density and movements of northern pine snakes, neonate pine snake ecology, Pine Barrens gentian demography, sources of arsenic to streams, disturbance and Knieskern's beaksedge, nitrogen and phosphorus sources and loads to the Barnegat Bay, Lyme disease and eastern fence lizards, and forest susceptibility to southern pine beetles. Presenters were from the U.S. Geological Survey, Drexel University, Hofstra University, and Dartmouth College.

In 2015, Commission scientists will continue to provide coordination and outreach and host the Pinelands Research Series. Results of various monitoring program analyses and related studies described in this report will also be presented as future Research Series events.

ENVIRONMENTAL-MONITORING PROGRAM REVIEW

In 2015, we will initiate a process to have the environmental-monitoring program reviewed by the Science Advisory Committee. This Committee was established in 2000 to advise the Science staff and the Commission on the role of science in achieving the goals of the Comprehensive Management Plan. Committee members are Drs. Richard Lathrop (Chairman), John Dighton, Robert Nicholson, Peter Oudemans, and Walter Bien. Although the review process has not yet been finalized, we will provide the Committee with the information necessary to evaluate the current status of the environmental-monitoring program and provide advice on the future direction of the program. In 2015, we will also pursue the production of a brochure that highlights both the environmental-monitoring and economic-monitoring programs.

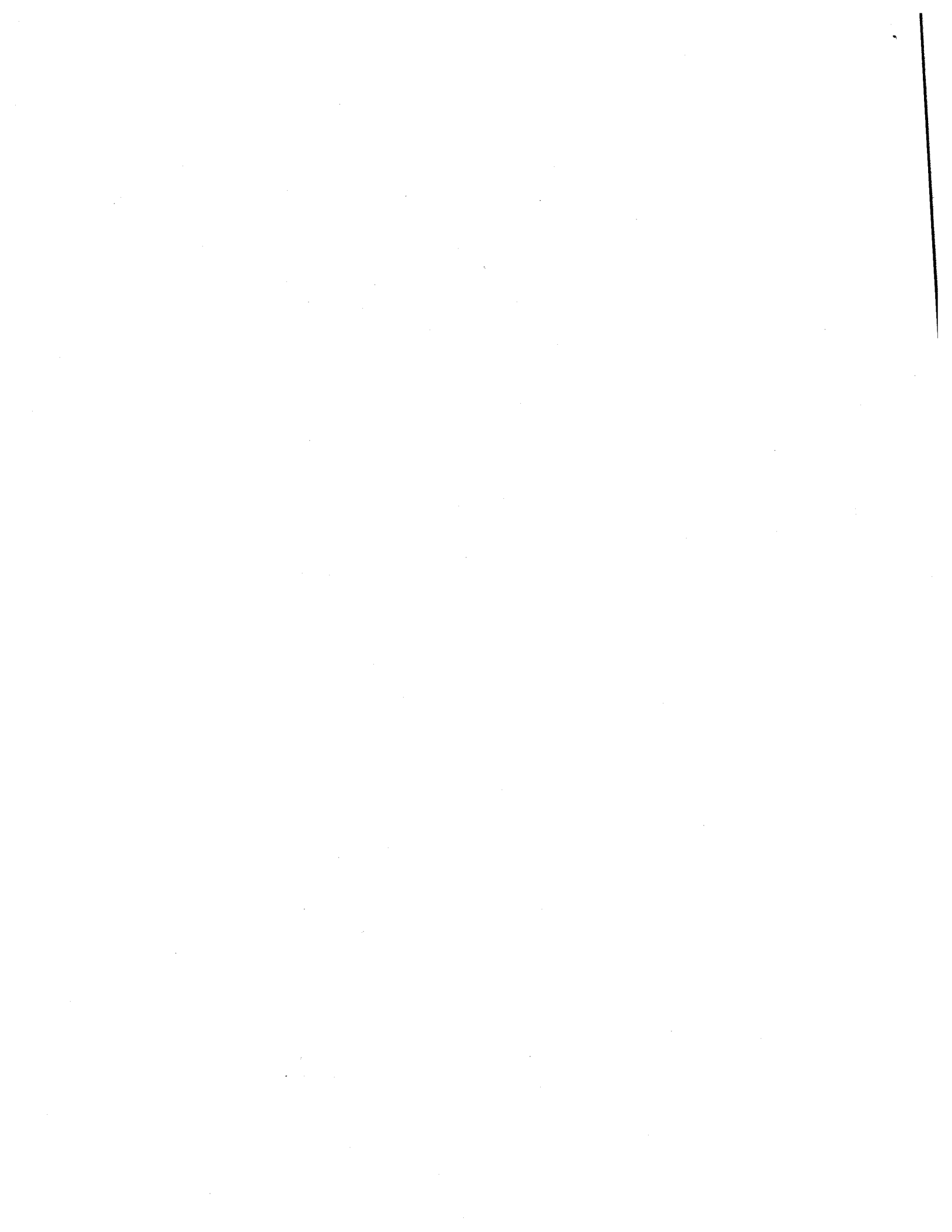
TWO-YEAR SCHEDULE FOR THE LONG-TERM ENVIRONMENTAL-MONITORING PROGRAM AND RELATED STUDIES.		
Program Component	1/15-12/15	1/16-12/16
Watershed Surveys	Continue analysis of second round of survey data	Complete analysis of second round of survey data
Pinelands-wide Water-quality Monitoring	Continue to monitor pH and specific conductance at the 47 sites and initiate the water-quality trend analysis	Continue to monitor pH and specific conductance at the 47 sites and complete trend analysis
Water-level Monitoring	Continue to monitor forest-plot and pond water levels and initiate analysis of the hydrologic data	Continue to monitor forest-plot and pond water levels and complete hydrologic analysis
Annual Anuran Surveys	Continue vocalization surveys at the 20 ponds and initiate analysis of the survey data	Continue vocalization surveys at the 20 ponds and complete survey-data analysis
Wetland-buffer Study	Analyze the anuran-survey and wetland-forest vegetation data	Submit final report to the EPA
Pond-vulnerability Study	Continue water-quality, hydrology, plant, anuran, and odonate surveys	Complete water-quality, hydrology, plant, anuran, and odonate surveys
Created-wetland Study	Continue water-quality, hydrology, plant, anuran, and fish surveys	Complete water-quality, hydrology, plant, anuran, and fish surveys
Monitoring-Program Reports	Initiate comprehensive report that includes the results of the analysis of the data from the watershed-surveys, Pinelands-wide water-quality sampling, water-level and anuran-survey data, and Wetland-buffer data and complete a 2015 annual-progress report/proposal	Complete the comprehensive report and the 2016 annual-progress report/proposal

ESTIMATED LONG-TERM ENVIRONMENTAL-MONITORING EXPENSES IN 2015 AND 2016 TO BE FUNDED BY MODIFICATION #02 TO COOPERATIVE AGREEMENT P13AC00554.

EXPENSES	1/15-12/15	1/16-12/16	TOTAL
PERSONNEL			
<u>SALARIES</u>			
CHIEF SCIENTIST			
RESEARCH SCIENTISTS (3)			
RESEARCH TECHNICIAN			
ADMINISTRATION			
<u>FRINGE BENEFITS (51%)</u>			
TOTAL PERSONNEL			
PROFESSIONAL SERVICES			
SUPPLIES AND EQUIPMENT			
OTHER (1)			
INDIRECT COSTS (2)			
TOTAL			

(1) INCLUDES TRAVEL, MEALS, AND OTHER MISCELLANEOUS EXPENSES.

(2) INDIRECT COSTS ARE CALCULATED AT THE NEGOTIATED RATE OF 16.89% OF DIRECT COSTS



NEW JERSEY PINELANDS LONG-TERM ECONOMIC MONITORING PROGRAM

PROPOSAL FOR FY2015 FUNDING OF UPCOMING ACTIVITIES

DECEMBER 2014

THE PINELANDS COMMISSION

Mark S. Lohbauer, Chairman

Candace McKee Ashmun

Alan W. Avery, Jr.

William J. Brown

Joseph DiBello

Sean W. Earlen

Paul E. Galletta

Robert Jackson

Jane Jannarone

Edward Lloyd

Ed McGlinchey

Richard H. Prickett

Gary Quinn

D'Arcy Rohan Green

Francis A. Witt

Nancy Wittenberg, Executive Director

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INTRODUCTION

In the mid-1990s, the Commission initiated a Long-term Economic-monitoring Program with the ultimate goal of evaluating the economic consequences of the Comprehensive Management Plan. The main objective of the program is to continually evaluate the health of the economy of the Pinelands region in an objective and reliable way. These objectives have typically been accomplished by two means: through the publication of an annual report of indicators and through the commissioning of *ad hoc* special studies. The annual report takes the “temperature” of the regional economy, while the special studies have, in the past, taken a more in-depth look at specific topics.

Discussed below is a description of the work completed from January 2014 through December 2014, the current status of the monitoring program, and upcoming activities.

Annual Long-Term Economic-Monitoring Report

The 2013 Long-Term Economic Monitoring Report was released in April of 2014. Data collection for the 2014 Annual Report began in mid-2014. Scheduled for release in spring 2015, the 2014 Report will be the 17th such report compiled by the Pinelands Commission.

Core Variables Updated

Sixteen of the 21 core variables will be updated in the 2014 Report, including data from the long-awaited 2012 Census of Agriculture. Additionally, housing data is being added as a supplemental variable. The variables not updated were those that are released on multi-year intervals such as the decennial U.S. Census and the five-year Economic Census. The 2013 October shutdown of federal agencies has contributed to the delay of certain data.

Improved Data Sources

In an effort to have data available at a finer scale than municipal borders, the Pinelands Commission purchased a GIS-based data package from the software company ESRI in 2013. ESRI produces current and five-year estimates at the block-group level. These estimates will continue to be used in the 2014 Annual Report.

Additionally, thanks to the New Jersey Treasury Department’s Division of Taxation, the 2014 Report will be able to report residential sales at a scale that was not previously attained. While the conversion of this data is time consuming, its inclusion will finally bring the reporting of some real estate data to a much more precise inside/outside the Pinelands Area level.

Once compiled, electronic copies of the 2014 Annual Report and paper copies of the Executive Summary will be distributed to advisory groups, stakeholder organizations, selected state and federal agencies, county and municipal governments, libraries, and various environmental, trade, and other non-profit organizations. The full report, as well as the executive summary, will be accessible via the Pinelands Commission’s website at <http://www.nj.gov/pinelands>.

PROJECTS

Pinelands Development Credit Supply & Demand Study (Ongoing)

In the fall of 2005, the Pinelands Commission staff began a reexamination of the effectiveness of the Pinelands Development Credit (PDC) program. The PDC program is an integral tool in the implementation of the Comprehensive Management Plan. In order to facilitate the process of directing growth to the appropriate areas of the Pinelands region, the PDC program was established to create a market for development rights in the Pinelands. Owners of properties in designated sending areas are afforded the opportunity to “sever” their development interests in their properties and sell those rights to land developers in receiving areas. The developers then use these rights to increase the maximum permitted development densities in Regional Growth Areas, thereby directing growth from preservation areas and agricultural districts to more suitable growth areas. Thus, owners of land in preservation areas and agricultural districts are financially compensated for deed-restricting their land from future development.

Since the PDC program is market-driven, its ultimate success depends upon a healthy balance between supply and demand pressures in the land development market in the Pinelands. Initially, the PDC program was slow to be used by both developers and land owners in the region. However, there had been quite a bit of activity in the PDC market before the current recession, with the price of a development right rising from an initial value of \$2,250 in 1985 to as much as \$40,000 in 2006. In recent years (mid-2012 to early-2014), PDCs have sold for about \$9,500 per right.

The Pinelands Development Credit Supply & Demand Study not only comprehensively reviewed which aspects of the PDC program have performed well, it also examined new ideas on how to further stimulate PDC use. The study was, and continues to be, relied upon by the Policy and Implementation Committee as it considers the prudence of new rules for the PDC program. With the completion of the Commission’s fourth five-year progress report (see below), it is expected that the Committee will resume its examination of the PDC program, with the LTEM program providing necessary supporting analyses. Data is being updated for this review.

Fourth Plan Review Report (Complete)

The Comprehensive Management Plan (CMP) (N.J.A.C. 7:50-1 *et seq*) requires that, at least every five years after its adoption, the Commission’s Executive Director comprehensively review the Plan itself, as well as all actions taken pursuant thereto by the Commission or the Executive Director. In June 2012, the Commission began the Plan Review process. The completed Fourth Progress Report on plan implementation was issued in October 2014, summarizing the Commission’s activities and accomplishments since 2002. A chapter on the LTEM program is included in the Progress Report.

Special Analysis: “Split Towns” (Ongoing)

The Commission began a special investigation in 2012 on the topic of “split towns” in the Pinelands. This analysis will examine the problem of data from split towns, an issue that has

confronted the Commission since it first began rigorously examining the region's economy.

The state-designated Pinelands Area encompasses portions of seven counties within southern New Jersey: Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Ocean. There are 53 municipalities that are completely or partially within the Pinelands Area. Most of the variables monitored in the Commission's annual report are obtained at the municipal level, since this is typically the most precise level of geography available. Municipal values are then aggregated into Pinelands and Non-Pinelands regions, based on a so-called "10% rule." Any municipality with at least 10% of its land within the Pinelands Area is considered to be a Pinelands municipality (i.e., within the Pinelands Area for purposes of the annual report). All of the remaining municipalities within southern New Jersey (i.e., the seven counties mentioned above and Salem County) are considered to be Non-Pinelands municipalities (i.e., outside of the Pinelands Area for purposes of the report). Of the 53 municipalities completely or partially within the Pinelands Area, 47 were considered to be Pinelands municipalities and six were considered to be Non-Pinelands municipalities.

Although it is less than ideal, this method of aggregating values based on the 10% rule has, in the past, been the most viable method for comparing Pinelands municipalities with Non-Pinelands municipalities based on data currently available. The drawbacks of this approach have always been readily acknowledged by the Commission. Many municipalities are split by the Pinelands Area boundary, so activities and phenomena present outside the Pinelands Area boundary are counted as occurring inside the Pinelands Area and *vice versa*. In some cases, areas inside a Pinelands municipality, but outside the Pinelands Area boundary, are growing rapidly. This growth can distort the Pinelands aggregate, indicating that the Pinelands is growing rapidly, while in reality much of the growth is occurring just outside of the Pinelands Area boundary.

Obtaining data at a sub-municipal level can circumvent this problem. For instance, the population for each Pinelands municipality was calculated at the block level using census data to obtain population counts for areas of Pinelands municipalities inside and outside the Pinelands Area boundary. The results of the 2010 Census count showed that, of the 53 municipalities with land in the Pinelands Area, approximately 313,000 people lived within the Pinelands Area boundary, while approximately 556,000 people lived outside of the boundary. Population between 2000 and 2010 grew 13% within the boundary and 11% outside of the boundary. The census block analysis further revealed that certain municipalities with as much as 30% of their land within the Pinelands Area had practically no residents at all within the Pinelands Area. As demonstrated, the Pinelands aggregates are including a measurable amount of Non-Pinelands activity and *vice versa*.

Analysis has shown that simply altering the 10% rule in favor of a 20%, 25%, or even 30% rule yields no significant difference in the value of the aggregates. As a result, other methods of obtaining sub-municipal data will be explored. The Commission believes that, through the use of GIS, it may be possible to attribute certain data to relatively precise geographic locations thereby allowing the Commission to more accurately access data within those municipalities split by the Pinelands Area boundary than would otherwise have been possible using the 10% rule. Doing so would enable the Commission to more accurately evaluate the impact of its policies upon those areas within the Pinelands Area and to better compare portions of southern New Jersey within the Pinelands Area to those outside. The Commission intends to examine only a select number of core

variables as part of this special analysis. It is hoped that the results of this ongoing effort will buttress the Commission's use of the 10% rule, revise it, or eschew it in favor of a more precise methodology.

Beginning with the 2013 Report, the block group data purchased from ESRI provides current and five-year estimates to some of the variables in the Report and may allow for a better split between the Pinelands and the Non-Pinelands data. The Commission continues to use the purchased data in the 2014 Annual Report.

In 2014, real-estate data that breaks home sales out to points (as opposed to areas) was acquired from the NJ Department of Treasury Division of Taxation. Staff is working to implement the new data for inclusion in the 2014 Annual Report and, if successful, future Annual Reports.

NPS LONG-TERM MONITORING PROGRAM REVIEW

In 2015, the environmental and economic portions of the National Parks Service's Long-Term Monitoring Program will undergo comprehensive reviews. The goal of the review of the economic portion is to take a comprehensive look at the program's accomplishments and identify areas for improvement and/or expansion. While the review process has not yet been finalized, the economic program will likely revive and expand upon a panel of experts to provide input on the program as it currently exists. Additional feedback may be obtained through workshops or "summits" with interested parties. Aside from the potential changes in economic reporting, a brochure summarizing results from both the environmental and economic programs will be produced.

COORDINATION AND OUTREACH

In spring 2015, the findings of the 2014 Report will be presented to the Pinelands Commission at a public meeting. The findings will then be presented to the Pinelands Municipal Council at a later date. Compact discs and electronic downloads of this and prior year's reports are made available to the public at no cost.

TWO-YEAR SCHEDULE FOR THE LONG-TERM ECONOMIC-MONITORING PROGRAM

Topic	1/15-12/15	1/16-12/16
Annual Long-Term Economic-Monitoring Report	2014 Report and summary to be issued spring 2015.	2015 Report & summary to be issued spring 2016.
Supplemental Data for Annual Report	Determine need and possibility of supplemental data.	Determine need and possibility of supplemental data, if funding is available.
Plan Review Project 1: Pinelands Development Credit Supply & Demand Study	Conduct <i>ad hoc</i> analyses for planned rule-making.	Conduct <i>ad hoc</i> analyses for planned rule-making.
Forth Plan Review Report	Report Completed; further action required on select rule-making.	Conduct <i>ad hoc</i> analyses on select topics for planned rule-making, if funding is available.
Special Study: "Split Towns"	Continue securing outside data and evaluating new, potential sources.	Continue securing outside data and evaluating new, potential sources.
Additional Special Studies	Identify need based on findings in annual reports. Identify needed resources, secure resources, and schedule.	Continue as needed, if funding is available.
Program Review	Plan and begin reviewing economic monitoring program.	Complete review, if necessary.

ESTIMATED LONG-TERM ECONOMIC MONITORING EXPENSES IN 2015 AND 2016 TO BE FUNDED BY MODIFICATION #01 TO COOPERATIVE AGREEMENT P13AC00554.

EXPENSES	1/15-12/15	1/16-12/16	TOTAL
PERSONNEL			
<u>SALARIES</u>			
PLANNING MANAGER			
PLANNER			
ASSISTANT(S)			
ADMINISTRATION			
<u>FRINGE BENEFITS (51%)</u>			
TOTAL PERSONNEL			
PROFESSIONAL SERVICES			
SUPPLIES AND EQUIPMENT			
OTHER (1)			
INDIRECT COSTS (2)			
TOTAL			

(1) INCLUDES TRAVEL, MEALS, AND OTHER MISCELLANEOUS EXPENSES.

(2) INDIRECT COSTS ARE CALCULATED AT THE NEGOTIATED RATE OF 16.89% OF DIRECT COSTS.

