



PINELANDS  
PRESERVATION  
ALLIANCE

# STATE OF THE *pinelands* | 2015

AN ANNUAL REPORT BY THE PINELANDS PRESERVATION ALLIANCE  
[WWW.PINELANDSALLIANCE.ORG](http://WWW.PINELANDSALLIANCE.ORG)





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## A Letter from the Executive Director

In January 2014, the Pinelands Commission declined to give a special exemption from its environmental rules to South Jersey Gas, which sought the exemption to build a natural gas transmission pipeline through the Pinelands Forest Area of Cumberland and Cape May County. That should have been the end of the matter. But it turned out to be just the beginning. More than a year later, South Jersey Gas returned to the Commission asking for approvals, claiming this time that its project really complies with the Pinelands regulations – even though it had acceded to the Commission's finding that the project violates the rules and needed a special exemption to proceed along that Forest Area route.

Unfortunately, the Commission's executive director is now finding ways to help South Jersey Gas get past the Pinelands rules, even suggesting that the Commission may allow the project to proceed without making any ruling at all on its compliance with the Comprehensive Management Plan. The executive director is the head of the staff, an employee of the Commission and not one of the 15 volunteer Commissioners that make up the Commission's governing body. It was the Commissioners who had defeated the exemption effort by a 7 to 7 vote in 2014. The Commissioners are being sidelined in order to clear the path for this development.

At the same time, the Commission is sitting on the sidelines as others work to reverse the destruction in Wharton and other State Forests in the Pinelands caused by irresponsible truck and other illegal, off-road vehicle activities. The Commission has taken no action after years of damage to implement its rules on motorized vehicle recreation on state lands. This year, it keeps to that passive stance as State Forest personnel struggle to devise and enforce motorized access plans to turn back the tide of destruction sweeping over our public nature preserves.

And just as important, the Pinelands Commission is not advancing needed reforms that the Commission itself has endorsed in its long-running Fourth Plan Review process. These reforms include new planning and rules to protect the Kirkwood-Cohansey Aquifer from over-pumping that is occurring in many parts of the aquifer's broad extent, protecting the Black Run watershed in Evesham Township from over-development, and strengthening the Pinelands Development Credit program. The Fourth Plan Review process started back in 2012, and the Commission issued a final report that endorsed several important reforms – in October 2014. A year later, the Commission has taken no action to adopt any of these reforms.

The lesson here is that in 2015, the Pinelands Commission continued to buckle under outside political pressure in order to serve favored development projects and activities and lack the will to carry out its statutory mission in the face of serious and growing threats.

The public relies on the Pinelands Commission to be independent, rigorous and forward-thinking in fulfilling its overriding mission of protecting the unique natural resources of the Pinelands. The staff and Commissioners need to hear this message from the public and from state political leaders if they are to overcome the pressures that are keeping the Commission back from fulfilling that mission.

# About this Report

The idea for an annual *State of the Pinelands* report was not spontaneous. It arose from the growing frustration of well-respected author and naturalist Howard Boyd. Howard, a PPA trustee, felt strongly that the public was getting an overly rosy picture of the activities of the Pinelands Commission, and that damaging actions taken by the Commission were going unnoticed. Howard's concerns were addressed by PPA in 2007 with the release of our first *State of the Pinelands* report.

Accordingly, PPA annually holds a lens to specific actions of government agencies that have either helped or harmed the Pinelands during the previous year. Since the fate of the Pinelands ultimately rests with the decisions of elected officials and government agencies, the greater purpose of this critique is to increase the transparency of government decision-making and foster public involvement in protecting the Pinelands. The report is therefore non-political. The report also provides an opportunity to acknowledge those individuals and organizations that have contributed extra effort to help maintain the special qualities of the New Jersey Pine Barrens.

This year's *State of the Pinelands* report, our ninth, highlights the actions of individuals and agencies at all levels of government. This report is representative of the scope of environmental policy issues that affect the Pinelands, and occupy the efforts of the Pinelands Preservation Alliance. It is not an audit, but a sampling of policy issues. **It is our hope that the *State of the Pinelands* report will raise public awareness and help citizens become more active in protecting this special place for today and for future generations.**

Six criteria were used to guide our assessment, specifically whether an action:

1. upholds the integrity of the Comprehensive Management Plan (CMP);



PPA members and friends at the offices of Senator Nilda Cruz-Perez District 5 asking her to defend the Pinelands.

2. protects native habitats, for plants and wildlife;
3. safeguards the quality of Pinelands water in aquifers and surface waters;
4. insures the integrity of the water supply for both people and the ecosystem;
5. enhances the cultural and historic resources of the area; and
6. advances education about the Pinelands.

Where a government agency followed their rules and took appropriate action we gave the agency a *thumbs up*. In cases where the agency drifted from their regulatory mandate and took an action that in our opinion was detrimental we gave the agency a *thumbs down*. There are situations in which it is too early to tell what will happen on an important issue. We note those in the section *Important: Your Action is Needed. These are the issues where your voice is needed to bring about a positive outcome.*

## Thank you!

Thank you to our members, volunteers and partners! Your contributions large and small send the message that the Pinelands are worthy of protection. We are proud to work on your behalf every day.

# Issues Spotlight – Pipeline

## South Jersey Gas Pipeline

*“Since the Pinelands were created, I have never seen an example where this type of concerted effort was being made to run roughshod over the Pinelands Commission.”*

Former Governor Tom Kean, New Jersey Monthly, November 2015

The South Jersey Gas Pipeline issue should serve as a wake-up call showing how vulnerable the Pinelands really are to political meddling despite its 36 years as a national model of sound land use planning at both the state and federal levels. It shows what can happen when politics and money converge. It also shows that the Pinelands Commission has been seriously weakened and divided.

### Some Background

In 2013 the Pinelands Preservation Alliance and the public became aware of an application by South Jersey Gas to construct 22 miles of 24-inch diameter, high pressure natural gas pipeline through Cumberland and Cape May Counties. One goal of the project is to bring natural gas to the B.L. England Power Plant, so it can be retrofitted and resume full-time operation. The proposed route through the Pinelands Forest Management Area violates the Pinelands Comprehensive Management Plan (CMP). The CMP permits such public service infrastructure in the Forest Management Area only when it is “intended to primarily serve the needs of the Pinelands” N.J.A.C. 7:50-5.23. In fact, the pipeline will be much bigger than needed to serve the power plant, and the plant primarily serves electricity demand outside the Pinelands, where the great majority of the residences and businesses in the region are located. In 2013, the Commission staff made a formal determination that the project violates the Forest Area rules and could only proceed if given a special exemption from the rules.

Months of public testimony, news stories, and hearings took place. Then in January 2014 - despite pressure from the governor’s office and Commission staff – the governing board of the Pinelands Commission made a courageous and landmark decision by refusing to waive the rules that protect the Pinelands. It was a stunning dramatic victory for the environment, but we knew it could prove short-lived.

During this process, we were interested in learning more about the informal communications that took place between Pinelands Commission staff and South Jersey Gas, so we had submitted Open Public Records requests to the Pinelands Commission, which the Commission denied. We filed a lawsuit, and the Commission changed its tune, releasing numerous emails that show the Commission staff, South Jersey Gas, and the governor’s office working closely and urgently together to get the project approved. Among the revelations were emails showing that Commission staff allowed South Jersey Gas to edit drafts of the official staff report to the Commissioners on the project and request exemption from the rules. Not surprisingly, no one told the governing board of the Commission this report was the joint work of its staff and the applicant, rather than an objective, arms-length analysis. (Funny that we were not given the opportunity to edit the report!) All these emails are available on our website.

### The Games Begin in Earnest

In March 2014, South Jersey Gas appealed the Commission’s decision to deny the exemption in New Jersey Superior Court, calling the decision “unlawful, arbitrary and capricious.” In April 2014 Senator Jeff Van Drew (D-Cape May) made several statements in the media that the South Jersey Gas pipeline was necessary and, according to the *Press of Atlantic City* that “other means of bypassing the regulations exist.” Later that month Pinelands Commissioner Leslie Ficcaiglia, a “no” vote on the pipeline, was suddenly removed from the Commission by the Cumberland County Board of Freeholders for no reason and without notice. Ficcaiglia had served on the Commission for 18 years. In May 2014 South Jersey Gas released statements that it was “incredibly optimistic” that the gas pipeline project would be revived. A few days later, Governor Christie nominated Dennis Roohr and Robert Barr to replace Commissioners D’Arcy Rohan Green and Robert Jackson, both of whom had voted “no” to the South Jersey Gas pipeline in January.

In 2015 public pressure stopped the Governor from replacing Commissioner Green but not Commissioner Jackson. In March 2015, after months of wrangling in the Senate Judiciary Committee, the nomination of Robert Barr to replace Robert Jackson came before the full Senate for a vote, and Barr’s nomination was approved by the narrowest of margins – one vote. Even that narrow margin was only achieved when one

senator was persuaded during a break in the action to switch his vote to “yes” after initially voting “no”! Afterwards, Senator Kip Bateman (R, Somerset) said in the Asbury Park Press, “*This is wrong. We’re stacking the deck. The Pinelands was set up to be an independent autonomous commission for very good reasons. We don’t want every time a board member or commission takes a vote to be looking over their shoulder thinking, ‘Oh my God, if I don’t vote the right way I’m going to be replaced.’*

## New Application – Same Violation

All these manipulations set the stage for South Jersey Gas to make their next move. In May 2015, it submitted an “amended” application to the New Jersey Board of Public Utilities and the Pinelands Commission. The application was exactly the same as the first unsuccessful application in all material respects. This time South Jersey Gas claimed to have new information showing that the project primarily serves the needs of the Pinelands – but in fact it was all old information. The utility also submitted the application as a “private” or commercial development this time, and the Commission’s executive director quickly stated that now she alone could decide whether to approve the project, completely excluding the Commission’s governing board. Apparently, even the changing out of two Commissioners did not give the project’s backers, including the Commission’s executive director, the confidence that the full Commission would support the development the second time around.

This is where things became truly surreal! We have never before seen the Commission staff bring a development to the Commission as a “public” development, and, when that didn’t work, bring the same development along as a “private” development. Never before have we seen a Commission executive director initially make a formal finding that a development violates the CMP, then, when the Commission declined a waiver of the rules, turn around and say that the same development actually complies with the CMP.

The second time around, the executive director of the Commission stated that the project complies with the CMP after all and that she would not allow the matter to be submitted to the 15-member governing board of the Commission, which had already voted against the project. Instead, she stated she would rule on the project herself. More recently, she has stated that ***no one at the Pinelands Commission will actually rule on whether the project is permitted under the Pinelands Protection Act and Comprehensive Management Plan!***

The Board of Public Utilities held two public hearings on the application and in December 2015 issued its final approval for the application to construct the pipeline.

PPA has filed appeals against the Board of Public Utilities, pointing out that the development violates the Pinelands rules and has only advanced due to numerous procedural manipulations. It is still the case that no agency – neither the Pinelands Commission nor any other agency – has made a new formal determination that the project complies with the Pinelands rules. The last such determination was made by the Commission in 2014, when the executive director found that project violates those rules.

***There have been many steps in the pipeline proposal process. Some key pieces are:***



### New Jersey Board of Public Utilities

In 2015 the NJ Board of Public Utilities issued key approvals authorizing the construction of the South Jersey Gas pipeline and allowing the project to proceed without obtaining local approvals from towns along the route. Its approval of this project is in direct conflict with established rules that forbid such infrastructure to be built in the Pinelands Forest Management Area. The BPU issued its approvals despite the fact that the state Pinelands Commission denied this project in January 2014.



### Pinelands Commission

In 2014, the executive director of the Pinelands Commission found that the South Jersey Gas pipeline project violates the Pinelands Comprehensive Management Plan (CMP). In fact the Executive Director’s Report dated January 3, 2014 states “staff determined that the proposed pipeline development was not consistent with the Forest Area land use standards (Subchapter 5) of the Pinelands CMP.” In 2015, she has stated that she now thinks the same project complies with the CMP, claiming to have new information that was in fact available to the Commission all along. She has used her position to keep the matter out of the hands of the Commission’s 15-member governing board, and has most recently stated that no one at the Pinelands Commission will make a new ruling on whether the project is permitted under the Pinelands Protection Act and the Comprehensive Management Plan.



## Public Access to “Public” Documents Denied

PPA was forced to file a formal complaint in Superior Court to compel the Pinelands Commission to release documents related to the South Jersey Gas pipeline matter. This action was necessary after numerous attempts to obtain information from the Commission through the Open Public Records Act (OPRA) were repeatedly denied. PPA prevailed as soon as the Attorney General’s office got the complaint, and the Commission had to pay our attorney’s fees. The documents should have been produced without a lawsuit.



## New Jersey Department of Environmental Protection

In May 2015 the DEP issued a memo (at the request of South Jersey Gas) in which it stated that the route that violates Pinelands rules is the best of all alternatives. This memo contains numerous errors and omissions. The memo was created “behind the scenes” with no public review or comment, or even any regulatory basis for such a memo, and was signed by political rather than regulatory staff. Nevertheless, the document was cited by the Board of Public Utilities in its approval of the pipeline route.



## The Governor

In May 2014, shortly after the Pinelands Commission denied a special exemption for South Jersey Gas, the governor made two nominations to replace Commissioners who voted against the pipeline deal. One of the nominations, Robert Barr of Cape May County, has since replaced Commissioner Robert Jackson (*Learn more about Robert Jackson on page 13*). No governor should use his or her power to nominate people for the purpose of advancing pet projects. Doing so undermines the independence of the Pinelands Commission and the integrity of good government.



## State Legislators

The governor’s appointments to the state Pinelands Commission are subject to approval from the full Senate. In March 2015 the Senate had the opportunity to stop

political interference and deny the nomination of Robert Barr to replace Robert Jackson. Several Senators spoke out against this blatant attempt to interfere with the Pinelands Commission, including Senators Smith, Bateman, Gill, Lesniak, Beck, and Weinberg. The vote was very close, showing significant support for the Pinelands and good government in our legislature. In the end Robert Barr was appointed to the Pinelands Commission by the narrowest of margins – one vote.



## Four Former Governors Raise Concerns

Governors Kean, Whitman, Byrne and Florio urged the full Senate to withhold the confirmation of Robert Barr to replace Robert Jackson on the Commission. “We believe that at this time and in the present circumstances, this nomination would undermine the independence of the Pinelands Commission.”

## Issues Spotlight – Wharton

### Wharton State Forest M.A.P.

Illegal off-road vehicle (ORV) use is one of the greatest threats to preserved open space in the United States. ORVs such as all-terrain vehicles, dirt bikes, street-legal trucks, jeeps and monster trucks have become more popular and affordable in recent years making it possible for drivers to access places (with the aid of GPS navigation) that they were never able to access by vehicle before. This high-intensity recreation is responsible for decimating thousands of acres of open land in the Pinelands and the country.

The State of New Jersey estimated several years ago that illegal riding of ORVs is damaging over 300,000 acres of state park, forest, and wilderness each year, and is costing the State and taxpayers almost a million dollars per year in damages without the ability to assign that loss to the responsible parties. While there is investment in purchasing open space, there are limited funds available for the day-to-day maintenance and control of roads, natural areas and facilities, leaving stewardship and restoration to fall far behind. ORVs compact soils, disturb wetlands, destroy vegetation and cause sedimentation and erosion in waterways and often bring in its wake various household trash and debris.

For years, PPA and other organizations have called for a set of actions to address this crisis in the Pinelands. Recommended actions include closing off access to severely damaged areas, improving law enforcement in the forest and block access to paths created in the process of fighting fires. We were encouraged to learn that the New Jersey Department of Environmental Protection (DEP) would release a Motorized Access Plan (M.A.P.) for Wharton State Forest in August 2015.

Wharton State Forest is the largest single tract of land in the New Jersey State Park System and is located in the heart of the Pinelands Preservation Area – the area that is supposed to have the highest level of protection. Managing motorized recreation in Wharton State Forest could serve as a model for other publically owned land in the state – not only because of its size but because of the amount of damage that is occurring here.

The M.A.P. designated approximately 225 miles for motorized vehicle access and placed some sensitive areas and forest fire service push lines (that were not roads) off limits to vehicular traffic- leaving them open for walking, biking, and horseback riding. The DEP issued a press release explaining the need and purpose of the plan. They published a draft detailed map that outlined the roads that were open to motor vehicle access and those that were not. It clearly showed where you could hike, bike, ride horses and access rivers that flow through the forest.

The DEP is well within their powers to manage access in this way. According to New Jersey DEP regulations (N.J.A.C. 7:2-2.2) “The State Park Service shall designate or direct any and all recreational or other use on its lands and waters and within its facilities to such specific areas or locations within or upon said land, waters, and facilities as will be in the best interest of conservation, recreation, preservation and management of the natural and historic resources and the health, safety, and welfare of all persons concerned.”

It is clear that allowing unfettered motorized access in Wharton State Forest is **not in the best interest** of the people who come to enjoy its scenery or the natural resource itself. It isn’t a question of **whether** we need to manage motorized access in our state forests – it is a question of how we should do it.

Vocal criticism followed the release of the DEP’s plan for Wharton – especially from users who don’t want their access to any part of the state forest restricted. Now we fear the DEP has stepped too far back from the original purpose of this plan.



*Wharton State Forest, High Crossing Road: Over the years roads like this have been greatly enlarged by 4x4s driving through large puddles and making pathways around them.*

In November they held a public meeting at Hammonton High School and during that meeting DEP officials stated that they are starting from scratch – that the M.A.P. their staff spent nearly four years creating no longer existed.

Roads on public lands represent many things to many people. Some feel that having unlimited access to any and all roads on our public lands is their right as a citizen of New Jersey. Others, who prioritize the protection of water, wildlife and habitat over motorized access, would like to see motorized access restricted in some way. Almost everyone – regardless of the side they are on – agrees that Wharton State Forest needs additional resources for enforcement and education, a map that shows visitors where they can and can’t go, and volunteers.

At this point it is unclear whether or not the DEP will implement this very important plan to protect Wharton State Forest. They did not set a timeline for the release of a new plan. One thing is clear, DEP has a statutory requirement to protect the environment– they should not be managing our public lands in a way that prioritizes motorized recreation for a few people over the protection of the natural and cultural resources that benefits the public at-large. Join our email list to stay informed about this issue and the many other important issues that impact the Pinelands. Email [Tom@pinelandsalliance.org](mailto:Tom@pinelandsalliance.org) to join – we never share your email with anyone ever.

# Important: Your Action is Needed

## Prescribed Burn Legislation

Fires are integral to Pinelands ecology, and fire management is a critical component of biodiversity maintenance and public safety. The state Assembly approved bill A-1275 last year by a vote of 78-0, but the bill stalled after being referred to the Senate Budget and Appropriation Committee in September 2014. The bill's provisions benefit natural ecosystems that require fire for regeneration, homeowners by reducing fuel load on adjacent lands, and the state by reducing their time in conducting prescribed burns that will now be done by private land owners. It would also create a prescribed burning certification program.

**Action Needed:** Contact your legislator and ask them to support Prescribed burn legislation. Contact information is online at [www.njleg.state.nj.us](http://www.njleg.state.nj.us)

## Wharton State Forest - Motorized Access Plan

In August 2015 the New Jersey Department of Environmental Protection (DEP) released a Motorized Access Plan (MAP) for Wharton State Forest. The M.A.P. designated about 225 miles for motorized vehicles and placed sensitive areas and forest fire service road cuts (that were not roads) off limits to vehicular traffic – leaving them open for walking, biking, and horseback riding. The DEP has been heavily criticized by interest groups, including ORV drivers and have put the M.A.P. on hold. It is unclear whether or not they will implement this very important plan to protect Wharton State Forest.

**Action Needed:** Contact NJDEP Commissioner Robert Martin and let him know that you support the Wharton Motorized Access Plan (MAP). (609) 292-2885 /[bob.martin@dep.nj.gov](mailto:bob.martin@dep.nj.gov).

## The Governor

**Expectations:** Ideally, the governor will lead by example, supporting and proposing statewide initiatives that have a positive impact on the Pinelands and its environs. It is imperative that the governor appoint people to the Pinelands Commission who

*believe in the bedrock environmental mission of the Pinelands. The governor should not use his authority and power to bypass Pinelands protections or make exceptions for special interests.*



## Statewide Water Supply Plan

The administration continues to drag its feet on releasing the Plan. The draft Plan was completed years ago, but is being held up in the governor's office. The purpose of the Statewide Water Supply Plan is to plan for future water supply needs, improve water supply capacity, ensure proper maintenance of aging water supply infrastructure, and investigate the status of major aquifers. The "current" Plan is nineteen years old, although five-year updates are mandated by law.



## Barnegat Bay Commitments Ignored

The governor has shown little will to carry through on key elements of his 10-Point Barnegat Bay Plan released almost five years ago. These include establishing a Special Area Management Plan for the watershed and requiring post-construction soil restoration standards to minimize stormwater runoff which contributes to pollution in streams and rivers. Another key element is to adopt more rigorous water quality standards. None of these three important elements of the governor's Plan have come to fruition.



*Barnegat Bay supports a diverse array of bird species like the egret pictured here. The degradation of habitat and water quality poses a threat to the survival of these, and other species of wildlife.*



## ExxonMobil Settlement - Environmental Thief

The decision by the administration to settle an environmental lawsuit against Exxon Mobil for a few pennies on the dollar has highlighted how settlement monies from lawsuits set aside for environmental remediation are being pilfered to help solve the state's budget woes. Of the \$8.9 billion originally sought, the state is now settling for a mere \$225 million. Of this approximately \$40 million will go to pay outside lawyers with only \$50 million actually going towards restoring wetlands and waters degraded by Exxon's activities. The rest of the money could go to the general fund if the administration has its way. Last year, in a separate settlement, the administration took \$140 million of a \$150 million settlement to help balance the budget. To make matters worse, the governor this year vetoed a bill (A-4281) that would have limited the diversion of settlement monies to no more than fifty percent after the first \$50 million was recovered.

## Pinelands Commission

**Expectations:** A Commission whose members, although of diverse viewpoints, have a shared commitment to the purposes of the Pinelands Comprehensive Management Plan (CMP), the courage to debate tough issues at meetings, and a respect for public process. This means being prepared to engage in discussion on agenda items, asking pointed and relevant questions of Commission staff, and always voting to protect the Pinelands' unique natural resources.

By statute, the Pinelands Commission has fifteen commissioners who make up the governing body of the agency: seven appointed by the Governor; one appointed by each of the seven Pinelands counties; and one person appointed by the U.S. Secretary of the Interior. The gubernatorial appointees are subject to the review and consent of the New Jersey Senate. Members of the Commission serve staggered three-year terms. The commissioners have final say with regards to all activities regulated by the CMP and, through the Executive Director, guide a staff of approximately 40 people.

The Commission today consists of the following fifteen members: **U.S. Secretary of the Interior's Appointee:** Joseph DiBello. **Gubernatorial Appointees:** Mark Lohbauer (Chair), Candace Ashmun, D'Arcy Rohan Green, Robert Barr, Edward Lloyd, Richard Prickett, and Gary Quinn. **County Appointees:** Paul Galletta (Atlantic), Edward McGlinchey (Camden),

William Brown (Cape May), Jane Jannarone (Cumberland), Francis Witt (Gloucester), Alan Avery, Jr. (Ocean), and Sean Earlen (Burlington). The Executive Director is Nancy Wittenberg who reports to the commissioners.



## Educational Programs

This is still a reliable thumbs-up for the Pinelands Commission. Since its inception, the Pinelands Short Course has provided a wonderful opportunity for people to learn more about the unique natural, historic and cultural aspects of the Pine Barrens. The 26th Annual Short Course cosponsored with Richard Stockton College in Atlantic County featured a number of new presentations. Approximately 500 people attended the event. In addition, the Commission's science staff continues to hold a research series where experts discuss their work within the Pinelands on a variety of topics. These presentations are typically more technical in nature and open to the public.



## Tuckahoe Turf Farm Reversal

The Pinelands Commission first, and correctly, told Tuckahoe Turf Farm that the massive soccer tournaments it was hosting on preserved farmland violated both the Pinelands CMP and the deed restriction applied to the land when the owners sold their development rights years ago for hundreds of thousands of dollars. Then, under political pressure, the Commission simply reversed itself and said the tournaments are permitted – and did not even try to justify its action in writing. This action shows how easily the Commission buckles under political pressure. It is also scandalous that the state will not enforce conservation deed restrictions, for which landowners were paid real taxpayer money, when politicians intervene to help their own allies.



## CMP Plan Review - Stalled

In 2012 the Commission started its fourth Plan Review process for the CMP. This periodic review is required by both state and federal law to assess progress toward the CMP goals and identify opportunities to strengthen them. It is also an opportunity to evaluate how well their actions have managed "to preserve, protect and enhance the natural and cultural resources of the Pinelands National Reserve." The Commission released its Plan Review report in October 2014 but since then little if anything has been accomplished.

# New Jersey Department of Environmental Protection

**Expectations:** The DEP is responsible for protecting the state's environmental resources. It does this by developing and enforcing regulations that protect water quality, threatened and endangered species, and air quality; by overseeing state parks and wildlife management areas; by ensuring that there is enough water for both people and environmental needs; and by setting standards for contaminated site cleanup. Since there is significant overlap with Pinelands regulations, it is imperative that the DEP develops programs and enforces rules that are protective of the Pinelands

## Proposed Water Regulations

The proposed rules if enacted would weaken some key provisions of three existing regulations - stormwater management, flood hazard control and coastal zone management. The proposed rules are intended to "streamline" the review process for applications. PPA raised concerns that the rules would weaken water quality protections of headwater streams especially those of exceptional ecological significance classified as Category One (C1) waters. The U.S. Environmental Protection Agency has warned the DEP that the proposed stormwater rule will violate federal water quality standards. In addition, the Federal Emergency Management Agency (FEMA) has put the state on notice that minimum federal standards for flood protection and the National Flood Insurance Program would not be met. Both the Senate and Assembly have taken the unusual step of passing a resolution that states the proposed rule is inconsistent with the legislative intent of prior environmental laws. The DEP must decide how to respond - either by changing the rules, withdrawing them or going forward with their initial proposal.

## New Jersey Court System

**Expectations:** The judicial system is the branch of government responsible for interpretation and application of the law. This includes environmental

laws and the Pinelands Protection Act as well. Laws are implemented through regulations. Environmental laws and regulations are routinely a source of controversy; the root causes typically being the interpretation of their necessity, fairness or cost. The long-term integrity of the Pinelands and its resources depends on the strict interpretation of its laws and regulations. The judiciary should uphold the spirit and the letter of the law.



## Whistleblower Law Extends to Watchdog Employees

The New Jersey Supreme Court this year ruled that employees whose jobs involve identifying health and safety risks are entitled to protection under the Conscientious Employee Protection Act (CEPA), commonly known as the whistleblower law. The Court essentially affirmed an appeals court ruling that found whistleblower protections extend to employees who serve in a "watchdog" capacity. This would include environmental health issues such as air and water quality. Twenty-seven environmental, labor and community organizations filed legal briefs in the case.

## State Legislature

**Expectations:** The principle function of the State Legislature is to enact laws for the benefit and protection of New Jersey. At a minimum, legislators should not sponsor bills that undermine the intent of the CMP, and at best will sponsor legislation that actually protects and enhances environmental richness and diversity in New Jersey and the Pinelands.



## Habitat Enhancement Bill

The Assembly voted in favor of a bill (A-3133) that would allow homeowners to convert their lawns into wildlife habitat without subjecting themselves to municipal nuisance or lawn cutting ordinances. Under the bill sponsored by Assemblyman Bramnick, Burzichelli and Assemblywomen Munoz, the DEP would establish a certification program and rules. The use of native plants would be encouraged.



## Legislators do an End Run around the Pinelands Protection Act

The New Jersey Legislature gave a last-minute holiday gift to Tuckahoe Turf Farm by passing bill S2125/A3257 which would strips the Pinelands Commission of authority over farm-based recreational activities on deed-restricted farmland and gives it to county or state agriculture development committees. The bill was created to allow one land-owner, Tuckahoe Turf Farm, to make money from large-scale soccer tournaments. Never in the 36-year history of Pinelands Protection has the legislature made changes that resulted in a direct violation of the state Pinelands Protection Act and the federal National Parks and Recreation Act. We suspect most legislators approved this bill due to lack of knowledge but that is no excuse.

## Federal Government

**Expectations:** In 1978 Congress created the Pinelands National Reserve, the country's first Reserve. As provided in the federal law, Governor Brendan T. Byrne established the Pinelands Commission, and a Comprehensive Management Plan (CMP) was prepared and approved by U.S. Secretary of the Interior Cecil D. Andrus on January 16, 1981. The federal government's primary roles in the Pinelands protection effort are to provide a representative on the Commission, to finance public land acquisition and to monitor the implementation of the CMP. At a minimum the federal government should enforce federal environmental laws, vote responsibly on actions before the Commission, support the CMP, and provide the necessary funding for land acquisition through the Land and Water Conservation Fund (LWCF).

## Environmental Protection Agency



### Feds to State - Don't Trash Wetlands

The Environmental Protection Agency (EPA) has put the State on notice that a bill in the State Legislature to allow expansion of agricultural operations into wetlands will violate the federal Clean Water Act. The bill (S-1848) sponsored by Senators' Jeff Van Drew and Diane Allen would weaken the states Freshwater Wetlands Protection Act to allow previously prohibited cranberry and blueberry activities in wetlands.



### Air Force must follow Pinelands Standards

The EPA has taken a strong stance by ruling that the U.S. Air Force must comply with strict Pinelands groundwater standards. The Air Force claimed that they were exempt from cleaning up contaminated groundwater to Pinelands standards at the Joint Base (McGuire, Dix & Lakehurst) in Burlington County. They objected on the grounds that the cost to clean up groundwater to Pinelands standards was not justified. The EPA would have no part of that argument and in an 11-page decision ruled that the Air Force would have to meet background (natural) groundwater quality at the base because, "*The Pinelands National Reserve is, by definition, a special place entitled to special treatment.*"

## U.S. Department of Justice



### Oyster Crooks go to Jail

A family of three oyster harvesters and dealers from Cumberland County were sentenced to prison for illegally trafficking oysters, overharvesting, falsifying records and other related crimes. The men were sentenced in federal court during February 2015 to a total of 4 years in prison, 16 years of house arrest or supervised release, over \$96,000 in fines, and payment of \$140,000 to the State for the restoration of oyster beds in Delaware Bay. "The conspiracy to traffic in overharvested, unreported and illegally possessed oysters from the Delaware Bay violated laws that protect public health and ensure the sustainability of resources," said Assistant Attorney General John C. Cruden of the U.S. Department of Justice.

## Local Government

**Expectations:** There are 56 municipalities that are entirely or partly within the Pinelands National Reserve. The Pinelands Protection Act envisioned that local governments would be primarily responsible for implementing the CMP. While some things are mandatory such as density requirements, municipalities were given flexibility with implementation of resource management goals of the CMP as they revise their land use regulations. PPA therefore expects municipalities to propose ordinances and master plans consistent with the conservation goals of the CMP.



## Southampton Township

The Southampton Zoning Board, in November of 2014, turned down Allied Recycling for an application to add recycling to the existing long time salvage yard. The Board felt that it would be a substantial change to the already non-conforming operation on the property along New Road in Southampton Township. The salvage yard is in a Pinelands Rural Development Area and zoned Rural Residential by Southampton Township.

## Non-Governmental Organizations



### New Jersey Natural Gas - Another Pipe Dream

New Jersey Natural Gas (NJNG) has submitted an application to the Board of Public Utilities and Pinelands Commission to build a 28-mile long, 30-inch diameter high pressure pipeline. The pipeline, referred to as the Southern Reliability Link, starts outside the Pinelands boundary near the New Jersey Turnpike in Burlington County and terminates in Manchester Township, Ocean County. NJNG has provided various rationales for this new pipeline including obtaining access to a second supplier for its network, reaching new customers in Ocean County and providing a redundant source of gas to the Joint Base McGuire-Dix-Lakehurst, a United States military facility located in the Preservation Areas of the Pinelands. PPA's main concerns are that the pipeline doesn't comply with the CMP and its construction and maintenance could impact rare species populations and Pine Barrens habitats. The CMP states that development on the Joint Base must "serve the function of the Federal installation" and "where feasible" avoid the Preservation Area. It appears this project is aimed at using the Base as a conduit to reach developed areas of Ocean County rather than to serve the Joint Base.



### Six Flags Great Adventure Solar

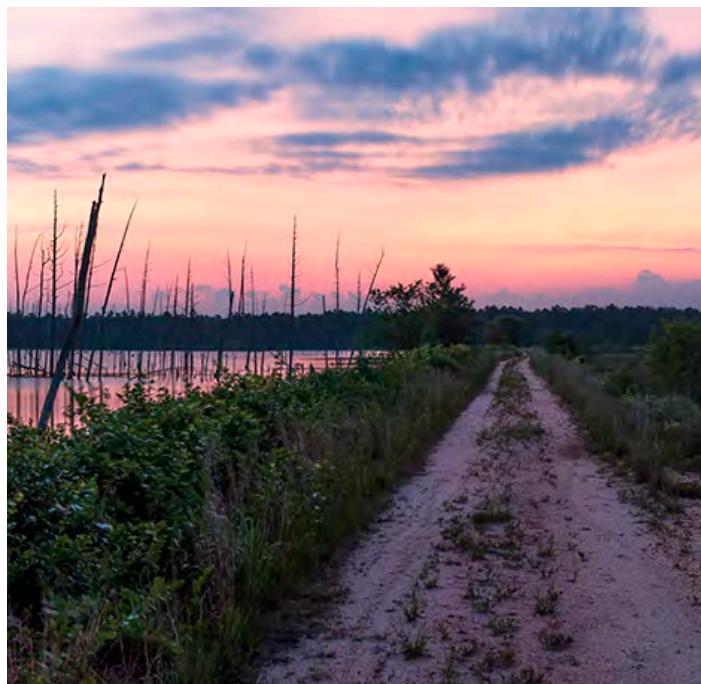
Six Flags Great Adventure in Jackson, NJ plans to cut down 66 acres of Pine Barrens habitat so that it can

build what it says will be the largest solar farm in New Jersey. Only 4.5 acres of parking area will be used for solar installation. Rather than constructing the solar array over its vast parking lot, it has chosen to destroy Pine Barrens habitat in order to increase their profit margin. The proposed project is adjacent to the Colliers Mills Fish and Wildlife Management Area located in the Pinelands National Reserve.



### New Jersey Conservation Foundation - Franklin Parker Preserve

In 2015 the New Jersey Conservation Foundation (NJCF) expanded the Franklin Parker Preserve to over 10,000 acres with the acquisition of an adjacent 473-acre parcel. The property, known as the Zemel tract, was purchased for \$418,142. The Preserve, named after the first chairman of the Pinelands Commission and long-time PPA trustee, is unique in that it connects Wharton State Forest, Brendan Byrne State Forest, Bass River State Forest and Penn State Forest. The Preserve has 28 miles of blazed trails including access to the 53-mile Batona Trail. The acquisition was made possible with funds from the state Green Acres Program, Pinelands Commission, various foundations, and private funds raised by NJCF.



Franklin Parker Preserve.

Credit: Ernest Cozens

# Individuals Who Have Made a Difference

## You Made a Difference!

Since 2013 when South Jersey Gas applied to the Pinelands Commission to build its natural gas pipeline, the public has continued to speak out at Commission meetings. This includes both the monthly Pinelands Commission meeting, and the Policy and Implementation Committee meetings. Most importantly, the public is engaging in other topics related to the Pinelands. The defeat of the South Jersey Gas application in January 2014 demonstrated that the general public and Pinelands advocates have the ability to rally support to protect the Pinelands.

## Robert Jackson

Robert Jackson served on the Pinelands Commission from 2008 to 2015. He was appointed in June 2008 by Governor Corzine, and is a resident of Middle Township in Cape May County. Mr. Jackson served as the Mayor of West Cape May from 2001-2005. In addition he serves as a member of the New Jersey Natural Areas Council. Mr. Jackson is active in his church and is an avid surf fisherman. He has a background in marine environmental studies and is a former owner of a surf fishing center. He

attended nearly all of the monthly meetings of the Commission during his tenure. Mr. Jackson served on the Commission's Policy and Implementation Committee and as an alternate on the Plan Review Committee. He was always thoughtful and deliberate when considering the complicated issues facing the Commission and he took the mission of the Pinelands Commission very seriously. This was evident when he made comments as one of seven Commissions who did not support the South Jersey Gas pipeline proposal in 2014, likely resulting in his removal from the Commission by Governor Christie in March 2015. Mr. Jackson was a friend of the Pinelands and voted accordingly. His presence will certainly be missed on the Pinelands Commission.



*Robert Jackson, Credit: PPA*

## Pinelands Adventures

Pinelands Adventures was launched by the Pinelands Preservation Alliance in 2015 with the goal of connecting more people with the amazing beauty of the Pinelands. Pinelands Adventures is located at the former site of Adams Canoe Rental on 1005 Atsion Road in Shamong, NJ. Rent a canoe or kayak on the Batsto or Mullica River or take a guided tour on water or land. Learn more [www.pinelandsadventures.org](http://www.pinelandsadventures.org).

# The New Jersey Pinelands

The New Jersey Pinelands is home to the most extensive surviving forest on the Eastern Seaboard between Maine and Florida. The Pinelands is a region of 1.1 million acres defined by federal and state legislation enacted to protect the unique ecological values of the Pine Barrens ecosystem by controlling development on a regional basis. The Pinelands landscape consists of generally flat, sandy and acidic soils deposited over millions of years of rising and falling sea levels. Early European settlers gave this region the derogatory name of “Pine Barrens” not because the region is barren of life, but simply because its acidic, sandy soils are an unfriendly medium for crops like wheat and vegetables. Indeed, the New Jersey Pine Barrens is a lush ecosystem that provides a haven for a growing number of rare species adapted to its unusual conditions. At least half of the Pinelands are privately owned – that is, not protected as state and local nature preserves.

In 1979 New Jersey adopted the Pinelands Protection Act. This Act implemented the federal statute, created the Pinelands Commission, and directed the Commission to adopt a Comprehensive Management Plan (CMP) to manage development throughout the region.

The Comprehensive Management Plan covers the 1.1 million acres of the Pinelands National Reserve. In addition to writing and amending the CMP, the Pinelands Commission applies the CMP by reviewing all development applications in 936,000 acres of the National Reserve. The New Jersey Department of Environmental Protection (DEP) implements the CMP in most of the balance of the Pinelands National Reserve through New Jersey’s coastal zone management rules (Coastal Area Facilities Review Act or CAFRA).

Even in the Pinelands, many residents do not know that all new development here is controlled – and in most areas severely limited – by the nation’s most innovative regional land use plan. The CMP is designed to preserve the pristine conditions found within the core of the Pinelands while accommodating increased human use and a regulated amount of growth around the region’s periphery. The Pinelands Commission’s staff of approximately 40 professionals is directed by 15 Commissioners, individuals appointed as follows: seven by the Governor with approval

of the state Senate, seven by the counties in the Pinelands, and one by the U.S. Secretary of the Interior.

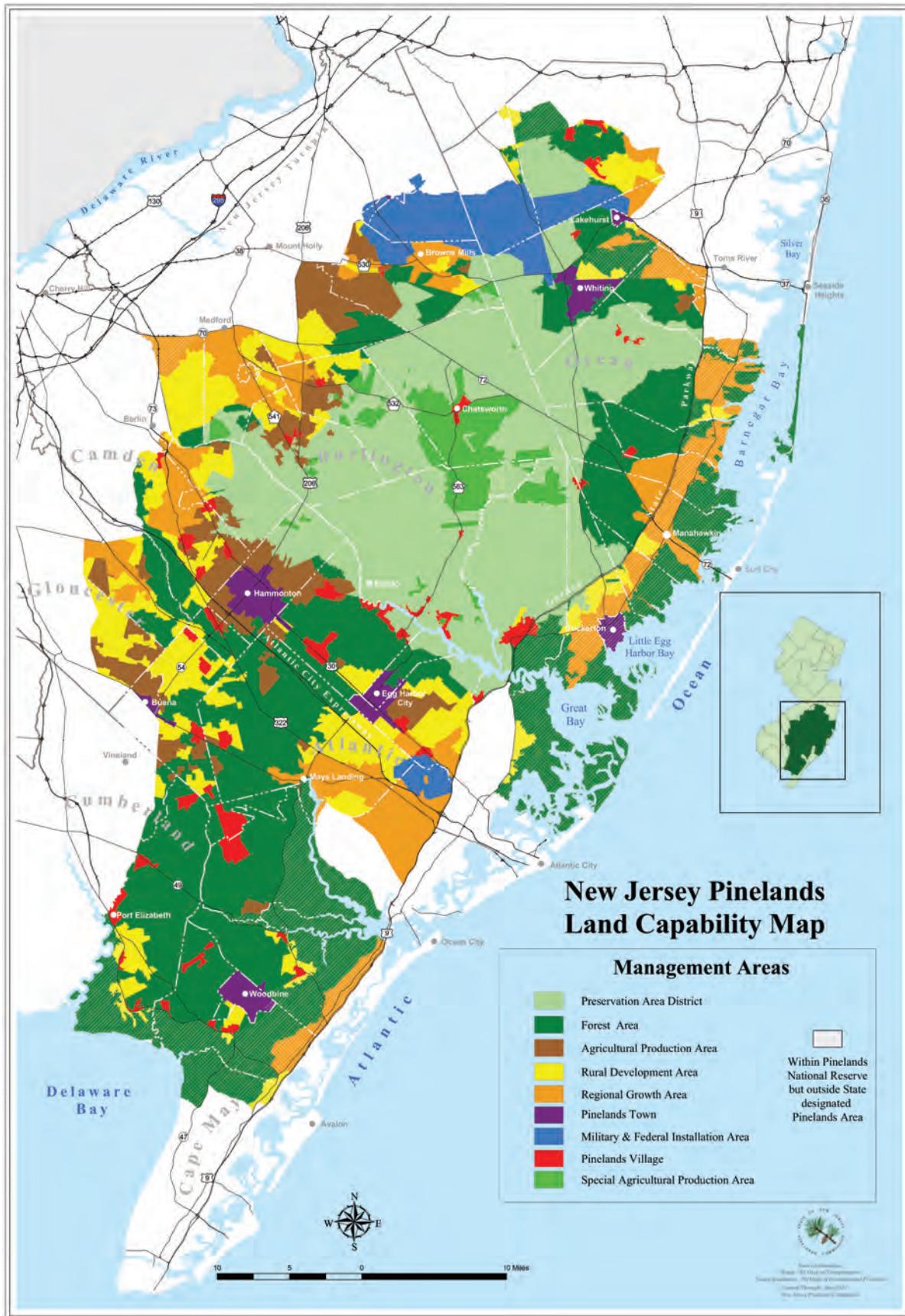
The DEP also plays key roles in protecting the Pinelands environment. In addition to its job of implementing the CMP in the coastal zone, the DEP regulates the distribution of fresh water from the aquifers that lie beneath the Pinelands, and it is the state agency that also controls the filling or dredging of wetlands here as elsewhere in the state.

The Pinelands Commission and DEP’s accomplishments in the Pinelands are numerous and remarkable. However, government agencies and their appointees are susceptible to changing political currents with short time horizons, when long-term vision is necessary to hold on to protection efforts. There is no guarantee that the Pinelands Commissioners’ decisions will always enforce the CMP and achieve its statutory mandate “to preserve, protect, and enhance” the Pinelands. There is no guarantee that DEP will consistently protect the water and other resources under its controls. It is up to the citizens of the state to monitor, engage, criticize and support these agencies as they do their work. *Ultimately, only the demands of the public will guarantee the survival of the Pine Barrens.*

## Pinelands Watch Network

Pinelands Watch is an activist network run by PPA. The goal is to help those who are concerned about conservation issues in the Pinelands to get involved and make a difference. Through this program citizens keep up to date on important issues and learn how to advocate for Pinelands protections. To receive the activist newsletter and other updates contact Theresa Lettman at [Theresa@Pinelandsalliance.org](mailto:Theresa@Pinelandsalliance.org).

# New Jersey Pinelands Land Capability Map





PINELANDS  
PRESERVATION  
ALLIANCE

Bishop Farmstead  
17 Pemberton Road  
Southampton, NJ 08088



Nonprofit Organization  
U.S. Postage  
**PAID**  
Permit #12  
Vincentown NJ 08088

The 2015 *State of the Pinelands Report*  
was released to our members and the  
public in February 2016.

Address Service Requested



## The Pinelands Preservation Alliance

Founded in 1989, the Pinelands Preservation Alliance (PPA) is a nonprofit environmental organization dedicated to preservation of the New Jersey Pinelands. PPA's principle objectives are three-fold:

- ~ **Issues:** PPA monitors issues coming before the Pineland Commission, the Department of Environmental Protection, county and local governments, courts, and the state's lawmaking bodies when legislation affecting the Pinelands is introduced. PPA supports the Comprehensive Management Plan (CMP) and acts to insure that the CMP is observed, enforced and improved.
- ~ **Grassroots Support:** PPA builds grassroots support for conservation and works with citizens to help them add their voices to the debates over conservation and preservation.
- ~ **Education:** With the creation of Pinelands Adventures we can now provide new opportunities for people to explore the rivers, trails and historic sites of the Pinelands. We also offer field trips for schools and organized groups and intensive teacher training programs to help educators incorporate the Pinelands into their teaching.

When you can't be there to speak for the Pinelands, we will. Become a member today and you will help us preserve, protect and enhance our state's greatest natural resource. PPA members receive a yearly subscription to our newsletter, discounts on PPA field trips and merchandise, and invitations to members' only events. To join call Tom Dunn at 609-859-8860 ext.14, or visit us on the web at [www.pinelandsalliance.org](http://www.pinelandsalliance.org).