



State of New Jersey

THE PINELANDS COMMISSION

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January 25, 2008

JON S. CORZINE
Governor

JOHN C. STOKES
Executive Director

David J. McKeon
Ocean County Department of Planning
P.O. Box 2191
Toms River, NJ 08754

Please Always Refer To
This Application Number

Re: Application # 1985-0949.024
Robert J. Miller Airpark
Block 1, Lots p/o 12, 12.01, 18 & 19
Block 15, Lots 1-4, 4.01, 5.02, 6 & 7
Block 16, Lot 1
Block 18, Lot 1.01
Berkeley Township
Block 2825, Lot 3
Lacey Township

Dear Mr. McKeon:

We are writing regarding the information that was submitted on October 11, 2007 in furtherance of a potential Memorandum of Agreement (MOA) with Ocean County regarding the Robert Miller Airpark. The MOA would allow certain development to occur at the Airpark that may not be in strict accord with the provisions of the Pinelands Comprehensive Management Plan (CMP). In particular, it appears that the proposed development may not in strict accord with the permitted use and threatened and endangered species protection requirements in the CMP. Thank you for your patience in awaiting our review.

To facilitate the proposed Airpark development, the County prepared a threatened and endangered species survey. The report entitled, "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan for Proposed Airpark Improvements", prepared by Amy S. Greene Environmental Consultants and dated October 11, 2007 identified proposed future development at the Robert J. Miller Airpark and the impacts of the future development to local populations of threatened and endangered species and habitat critical to their survival. The report also proposes measures to minimize and offset any impacts to threatened or endangered species located at the Airpark.



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The report proposes the following future development at the Robert J. Miller Airpark:

- Crosswind runway and parallel taxiway construction
- Nine airplane "T" hangars and taxi lane construction
- 500-foot shift west of Runway 6-24 (safety improvement that will shift existing runway 500 feet to southwest to provide the required 1,000 feet safety area between the runway end and County Route 530)
- Obstruction removal (tree topping and tree removal)
- Apron expansion to west of existing terminal building
- Pavement maintenance

To address the impacts that these future development projects would have on threatened or endangered species at the Robert J. Miller Airpark, the applicant established an 837.6 acre "Study Area" and a combination of habitat assessments and threatened or endangered species surveys were performed within the Study Area. Upon completion of this work, critical habitat maps were prepared to show the extent of critical habitat for each target species within the Study Area. The results of the habitat assessments and threatened and endangered species surveys and critical habitat maps were included in a report received by the Commission on February 27, 2007 entitled, "Critical Habitat Survey for Endangered and Threatened Species for Proposed Airpark Improvements", prepared by Amy S. Greene Environmental Consultants, Inc. and dated February 22, 2007. Additional supplemental information regarding the Barred owl and Red-headed woodpecker surveys were subsequently received by the Commission on June 4, 2007. The February 22, 2007 report indicated the presence of critical habitat within the Study Area for Northern pine snake, Timber rattlesnake, Corn snake, Grasshopper sparrow, Savannah sparrow, Pine Barrens treefrog and Sickle-leaved golden aster. The February 22, 2007 report also indicated that critical habitat for Barred owl, Cooper's hawk and Red-headed woodpecker and all other CMP and NJDEP threatened or endangered plant species were not present within the Study Area.

The Commission staff is in agreement with the results of all threatened or endangered species surveys for plants and animals that have been performed. Additionally, we agree with the critical habitat maps for Northern pine snake, Timber rattlesnake, Corn snake, Grasshopper sparrow, Savannah sparrow, Pine Barrens treefrog and Sickle-leaved golden aster. Our staff also agrees with the conclusion that no critical habitat is present within the Study Area for Barred owl, Cooper's hawk and Red-headed woodpecker.

The October 11, 2007 report identifies potential impacts from each of the above referenced proposed development projects to existing vegetation communities and threatened or endangered species and their critical habitats. The submitted report indicates that a total of 252.07 acres of vegetation communities that contain critical habitat for threatened or endangered species will be impacted as a result of the all of the identified proposed development projects. Of this 252.07 acres, 192.72 acres will be comprised of tree topping only.

The impacted areas consist of five vegetation communities, including 219.92 acres of pine-oak forest, 13.84 acres of Pinelands scrub shrub, 9.51 acres of early successional vegetation (grassland areas), 8.04 acres of freshwater wetlands, and 0.76 acres of barren land. The proposed development projects will also occur in the early successional vegetation and barren land communities, where approximately 315 Sickle-leaved golden aster plants are located; however, of these approximately 315 plants, approximately 100 plants will be directly impacted. The impacts to vegetation communities and threatened or endangered species critical habitat are broken down as follows:

Cross-wind runway and parallel taxiway (Impact of 28.47 acres of critical habitat)

The proposed cross-wind runway and parallel taxiway will result in the removal of 19.91 acres of pine-oak forest. All of this acreage currently provides critical habitat for Northern pine and Corn snakes. The submitted report also indicates that the proposed cross-wind runway construction will permanently impact 8.33 acres of grassland and 0.23 acres of barren land which are critical habitat for Grasshopper sparrow and Savannah sparrow. This development will also disturb approximately 80 Sickle-leaved golden aster plants. Selective tree removal is also proposed in the vicinity of an existing vegetated berm located at the southeast end of the proposed Crosswind runway. This 1.19 acre area, located in a portion of the grassland community is critical habitat for Northern pine snake and Corn snake, as it provides potential snake den or hibernacula for the these two species.

"T" Hangar and Taxi lane Construction (Impact of 8.67 acres of critical habitat)

The proposed construction of nine airplane "T" hangars and associated taxi lanes will result in the loss of 8.67 acres of pine-oak forest and 0.88 acres of grassland. The submitted report indicates that since this area is an isolated forest surrounded by existing facilities, road and clearings, it is not expected to provide habitat for Northern pine or corn snake, but may provide foraging habitat for Timber rattlesnake. However, the previously submitted critical habitat map for the three threatened or endangered snake species identifies this area as critical habitat. Please provide clarification regarding whether the pine-oak vegetation community to be impacted by this construction constitutes critical habitat for any threatened or endangered snake species.

The submitted report also indicates that most of the 0.88 acre grassland community to be impacted by this development is not critical habitat for Grasshopper sparrow or Savannah sparrow, because the majority of this area, with the exception of 570 square feet, is located within 50 meters of the existing forest edge. We agree that any grassland areas which are located within 50 meters of a forest edge are not suitable habitat for Grasshopper sparrow and Savannah sparrow.

Temporary impacts to an unspecified area of critical grassland bird habitat will also occur as a result of minor grading along the runway/taxiway edge, equipment moving during construction, and reseeded of disturbed areas.

500-Foot Shift west of Runway 6-24 (Impact of 5.4 acres of critical habitat)

The proposed construction of the 500-Foot Runway Shift will require paving of 1.18 acres of critical grassland areas and 0.53 acres of barren land and the removal of 3.69 acres of pine-oak forest. Of the 3.69 acres of pine-oak forest proposed to be removed, 1.19 acres is located within the wetlands buffer adjacent to where Pine Barrens treefrogs were found. The report indicates that the 1.71 acres of grassland and barren land communities impacted by this development are critical habitat for Grasshopper sparrow and Savannah sparrow and approximately 235 Sickle-leaved golden aster plants will also be impacted.

Temporary impacts, such as minor grading, to an unspecified area of critical grassland bird habitat are also anticipated, if any development occurs during their breeding season.

Apron expansion to West of Existing Terminal (Impact of 0 acres of critical habitat)

The proposed apron expansion is proposed to disturb 3.2 acres of maintained cool season grass, which does not provide critical habitat for grassland birds. The report indicates that, based upon the location of the surrounding existing development and forest, this area does not provide critical habitat for either grassland bird species.

Pavement Maintenance (Temporary impact to critical habitat only)

The proposed pavement maintenance will result in temporary impacts, such as the placement of topsoil along pavement edges, to an unspecified area of grassland communities containing critical habitat for Grasshopper sparrow and Savannah sparrow.

Obstruction Removal (Impact of 209.53 acres of critical habitat)

Obstruction removal will consist of a combination of tree topping and tree removal. Obstruction removal for the crosswind runway and parallel taxiway project, "T" hangar and taxi lane project, and 500-Foot Shift project will result in the tree topping of 68.90 acres of critical pine-oak forest habitat. An additional 3.78 acres of wetlands will be topped for these projects. The pine-oak forest community impacted by these three projects is critical habitat for Northern pine snake, Timber rattlesnake and Corn snake. Of the 3.78 acres of wetlands proposed to be topped for these projects, 3.52 acres is critical habitat for Pine Barrens treefrog.

The additional Obstruction removal project will require the removal of an additional 1.79 acres of pine-oak forest and the topping of 116.96 acres of pine-oak forest, which is critical

habitat for the three threatened or endangered snake species. The entire Pineland scrub shrub vegetation community, containing 13.84 acres, will be subject of tree removal. The Pineland scrubshrub vegetation community is also critical habitat for the three threatened or endangered snake species. In the two wetland communities subject of the obstruction removal project, 1.18 acres of trees will be removed and 3.08 acres of trees will be topped. Of the 8.04 acres of wetlands proposed for tree removal and treetopping for the Obstruction removal project, 0.72 acres is critical habitat for Pine Barrens treefrog.

Although four of the proposed development activities (cross-wind runway, "T" hangar and taxi lane construction, 500-foot Shift, and Obstruction removal) will result in a decrease of 34.06 acres of pine-oak forest that contains critical habitat and 13.84 acres of Pinelands scrub shrub that contains critical habitat, there will be an increase in the amount of grassland habitat. This will be an increase of 22.46 acres, and will be created through the conversion of Pineland scrub shrub and pine-oak forest to grassland as part of the cross-wind runway and 500-Shift projects. The proposed grassland areas will be planted with an appropriate seed mix that will create additional critical habitat for Grasshopper sparrow and Savannah sparrow.

The submitted report also indicates that in addition to impacts to critical habitat for the specified threatened or endangered species, the proposed development projects will also impact non-critical foraging habitat for Red-headed woodpecker and Barred owl. Since it has been demonstrated that the proposed development projects will not impact critical habitat for either of these species, Red-headed woodpecker and Barred owl do not need to be addressed in the habitat management plan for the Robert J. Miller Airpark.

Appendix D of The "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan" identifies the following measures proposed to be employed to minimize impacts to threatened or endangered species and their habitats during the construction activities, maintenance and management practices to be performed on a continual basis as part of the overall management of the Airpark and a proposed offset to the impacts to threatened and endangered species and their critical habitats located at the Robert J. Miller Airpark:

Construction Efforts

- A. Qualified environmental monitoring personnel will be present during tree removal and tree topping activities, vegetation removal from the berm that parallels the Cross-wind runway, construction activities that will occur in the vicinity of Sickle-leaved golden aster population, installation of exclusion fencing and all phases of construction of the Reptile Habitat Management Area.
- B. Tree removal and tree topping activities will be performed in accordance with the Specification for Tree removal and tree topping within wetlands and wetlands buffers at the Robert J. Miller Airpark" located in Appendix B of the "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan".

- C. Instituting timing restrictions on the months when construction activities would occur within critical habitat for Pine Barrens treefrog, Northern pine snake, Timber rattlesnake, Corn snake, Grasshopper sparrow and Savannah sparrow during the breeding season for each respective species. If exclusion fencing is used, timing restrictions for the three snake species would not be implemented. Additionally, if areas proposed for construction that are located in critical habitat for the grassland bird species are stripped of vegetation prior to the beginning of the breeding season, timing restrictions for these species would not be implemented.
- D. Use of fencing to encircle clusters of Sickle-leaved golden aster to preclude accidental impacts to "other" Sickle-leaved golden aster plants not proposed for relocation during construction activities.
- E. Transplantation of approximately 100 sickle-leaved golden aster plants that would otherwise be disturbed by a development project. These plants will be transplanted to the southeastern portion of the Robert J. Miller airpark using the methods identified in the "Sickle-leaved Golden Aster Habitat Management Plan", prepared by Amy S. Greene Environmental Consultants, Inc. and dated March 17, 2006.
- F. Berm paralleling southeast end of the Crosswind runway identified as critical habitat for Northern pine snake and Corn snake is to remain undisturbed during tree removal activities.
- G. Contractor to attend an educational workshop prior to construction activities to become familiar with aspects of the projects that may impact threatened or endangered species and their habitats.

Habitat Management Efforts:

- H. Implementation of the "Robert J. Miller Airpark Mowing Plan", contained in Appendix A of the "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan", to manage and maintain critical grassland bird habitat.
- I. Construct and implement a 25 acre reptile habitat management area.
- J. Specific vegetation management of the 13.84 acre Pinelands scrub shrub area.
- K. Create 22.46 acres of additional grassland planted with an approved seed mix to provide additional critical habitat for Grasshopper sparrow and Savannah sparrow.

Measures to Minimize and Offset Impacts:

- L. Purchase 400 acre "Haines Property" located on Block 1, Lots 15 &16, Block 3, Lots 5-7 and Block 12, Lot 1 in Berkeley Township.

Please address and incorporate the following questions and comments into the "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan for Proposed Airpark Improvements":

1. Table 2 indicates that the proposed development projects will result in impacts to a total of 256.14 acres of critical habitat at the Robert J. Miller Airpark. So that we may evaluate the impact of disturbing this acreage, please provide the following:
 - A. Please provide the overall acreage of the County's land holdings, including the Robert Miller Airpark acreage, and all other County lands in the vicinity of the Airpark. Please submit an aerial map depicting the location of all County-owned lands on and in the vicinity of the Airpark.
 - B. Please provide the acreage of the Robert Miller Airpark.
 - C. The Study Area is comprised of 837.6 acres. Of that acreage, please provide the total acreage of critical habitat.
 - D. Of the acreage of critical habitat, it is our understanding that 256.14 acres of critical habitat will be disturbed. Please confirm this understanding.
 - E. Of the 256.14 acres of critical habitat to be disturbed by the proposed development, it is our understanding that 185.86 acres is comprised of tree topping. Please provide a table that summarizes and quantifies the different extent of tree topping that is proposed.
2. Please provide clarification whether the pine-oak vegetation community to be impacted by the nine airplane T-hangars and taxiway development constitutes critical habitat for any threatened or endangered snake species.
3. To avoid timing restrictions for the three threatened or endangered snake species, the report indicates that exclusion fencing should be installed between November 1 and April 1. Please indicate where the exclusion fencing will be installed.
4. It appears that necessary vegetation removal in the grassland areas proposed for development should occur prior to the breeding season for Grasshopper sparrow and Savannah sparrow. The report should be revised to reflect this.

5. A timing restriction for tree topping and tree removal activities within the wetland area that contains critical habitat for Pine Barrens treefrog and the wetlands buffer that is adjacent to any wetland area containing critical habitat for Pine Barrens treefrog must be instituted. The report should be revised to reflect this.
6. The "Proposed Survey Protocol for Endangered and Threatened Species", prepared by Amy S. Greene Environmental Consultants, Inc. and dated February 14, 2006 identify Safety Area Improvements, Snow Removal Equipment Building, and Civil Air Patrol development in addition to those developments currently identified. Please indicate whether these activities are still proposed; if so they should be addressed as part of the "Endangered and Threatened Species Impact Assessment and Species Habitat Management Plan".
7. The report dated October 11, 2007 does not contain critical habitat maps for the concerned threatened or endangered species. Since the purpose of the report is to identify measures to minimize impacts to critical habitat, please include these maps in the report.
8. A "Sickle-leaved Golden Aster Habitat Management Plan", prepared by Amy S. Green Environmental Consultants, Inc. and dated March 17, 2006 was previously implemented at the Robert Miller Airpark. Please indicate whether the habitat management plan for Sickle-leaved golden aster is compatible with the proposed mowing plan.
9. The proposed "Robert J. Miller Airpark Mowing Plan" included in Appendix A of the October 11, 2007 report describes the mowing practices proposed to be implemented. Please identify the acreage that will be subject of the proposed mowing plan and provide an aerial map delineating the area to be mowed.
10. Please provide a map showing the area proposed for the Reptile Habitat Management Area.
11. The submitted report indicates that Ocean County has purchased and preserved a 400 acre parcel referred as "Haines Property" in the report and proposes to use this parcel as an offset to performing development that will impact threatened or endangered species at the Robert J. Miller Airpark. This parcel is within the Crossly Macrosite, a NJDEP Heritage Program Priority Site, which has been identified as an important site in the State for endangered and threatened plants, animals and ecosystems. Please provide details concerning when this parcel was purchased and how this parcel was preserved and its relationship to critical habitat at the Robert Miller Airpark. If the parcel has already been deed restricted, it would not appear to be an appropriate offset to the development proposed at the Airpark. Please note, as a guide, that in prior MOA applications, the Commission recommended that land be preserved at a ratio of three acres to be preserved to one acre of critical habitat to be impacted.

12. If there is not a direct relationship of the 400 acre "Haines Property" to critical habitat at the Robert Miller Airpark, please indicate whether additional land adjacent to or in the vicinity of the Airpark is available for preservation. Please identify any additional parcels by block and lot and describe the relationship of habitat on such parcel(s) to the habitat that will be impacted by development at the Robert Miller Airpark.
13. The information submitted to date appears to pertain to impacts to and offsets for development proposed at the Airpark that will impact threatened or endangered species and their critical habitat. Any future development identified in the report will exceed a 50% expansion of the use that existed in the Preservation Area District in 1981. Please identify any proposed offsets for any proposed development in the Preservation Area District.

The Commission previously approved improvements to the stormwater management system at the Robert J. Miller Airpark for certain future development. The stormwater management system was subsequently developed. Please note that amendments to the Commission's stormwater regulations became effective May 1, 2006. The proposed stormwater management plan for future proposed development at the Airpark must be consistent with amended stormwater regulations that are currently in effect. It is unclear whether the existing stormwater management facilities are adequate to meet the current stormwater regulations, or whether improvements to the existing facilities or additional facilities will be required. If additional facilities are required, they must be considered as part of the "Endangered and Threatened Species Impact Assessment and Species Management Plan". Please address whether additional stormwater facilities will be required to be constructed.

If you have any questions, please contact the Regulatory Programs staff.

Sincerely,



Rhonda L. Ward
Environmental Specialist

RLW/KY/CH

c: Birdsall Engineering
Curtis Helm