A Bad Habit Getting Worse:
Pinelands Commission Uses Memoranda of Agreement to Circumvent Pinelands Rules

The Pinelands Preservation Alliance is deeply worried about the Pinelands Commission’s growing use of “intergovernmental memorandums of agreement” or “MOAs” as a means of waiving environmental protections for favored development projects and to reduce its own workload. The Commission is currently considering several new MOAs that would result in a net harm to the Pinelands, while undermining the credibility of Pinelands environmental regulations.

The Pinelands Comprehensive Management Plan (CMP) allows the Pinelands Commission to modify its normal requirements for public development carried out by public agencies (federal, state and local) by entering into intergovernmental MOAs. The MOA regulations state they may only be used for public development by public agencies, and they set forth measures to ensure that the level of protection of the Pinelands resources is equivalent to that which would be provided through the strict application of the normal standards of the CMP. Unfortunately, the Pinelands Commission has strayed from these requirements.
by using MOAs to promote private development for private
profit and, in other cases, revising existing MOAs to allow
development of land that was supposed to be protected by
the original MOA in order to meet the equivalent protection
rule.

The Pinelands Commission has stated that it has an
“obligation to exercise this discretionary authority very care-
fully, and under no circumstance can consider such an
agreement unless the relief sought from CMP standards is
offset by other measures that will provide at least an equiva-
 lent level of protection of the Pinelands.” PPA believes the
Commission has not met this obligation.

Currently, the Pinelands Commission has 79 MOAs with
local, state and federal government agencies. (Local agen-
cies include counties, municipalities, and utility authorities.)
Some MOAs were written to promote specific major devel-
opments that violate one or more CMP requirements. Examples include MOAs for the Stafford Business Park
development, the Atlantic City Airport expansion, Richard
Stockton College, and the Cape May Utilities Authority land-
fill.

Many MOAs are with municipalities and allow them to
conduct road improvements and developments the
Commission deems “minor” without having to complete a
full application with the Commission. These MOAs state
that the municipalities must comply with the provisions of
the CMP and give advance notice to the Commission, but
the Commission leaves it to the local governments to decide
whether they are complying with the CMP.

Several state agencies have also entered into MOA’s with
the Pinelands Commission. The New Jersey Department of
Environmental Protection (DEP) has MOAs for issues like
pesticide applications, forestry projects, and wetlands pro-
tection. The New Jersey Highway Authority has an MOA to
apply herbicides under certain conditions within the right-
of-way of the Garden State Parkway.

Each of these types of MOAs can be abused, resulting in
the loss of important natural resources of the Pinelands.
Here are some specific examples.

**Stafford Business Park – Waiving Rules for Private
Development**

In July 2006, the Pinelands Commission approved a
MOA that waived key environmental protections for a mas-
sive private, for-profit development project on what had
been public land. The MOA allowed the developer to build
628,000 square feet of retail, 25,000 square feet of office
space, 315 townhouses, and 205 single family homes in
exchange for the developer closing and capping the old
municipal landfill on the site. The development violated the
CMP’s protection of critical habitats of threatened and
endangered species, so the MOA, effectively authorized the
destruction of three protected plant populations and habi-
tat that was critical to the survival of a population of threat-
ened Northern Pine Snakes.

The MOA is written as a contract between the Pinelands
Commission and Stafford Township to make it appear as if
the Pinelands Commission was still following the provisions
of the CMP, but the real party to the MOA was the private
developer which ended up owning the land and the devel-
opment. The town just used the private development as a
financing tool for capping the landfill (an obligation it
should have fulfilled decades earlier). There was no sense in
which the development was “public” or was “carried out by
a public agency” as required by the CMP.

**Stockton College of New Jersey – Ignoring Past
Commitments**

Richard Stockton College in Galloway Township,
Atlantic County, is currently negotiating with the Pinelands
Commission to revise the prior MOA between the college
and the Pinelands Commission so it can expand its campus
into environmentally sensitive areas that were protected
under the prior agreement. When PPA quotes the provision
of the prior MOA requiring the college and Commission to
protect this land, the Commission staff, and even the
Commissioners, simply remain stony silent. Apparently, this
outright violation of their own commitments is too awkward
for them to explain away.

In 1990, 500 acres of the Stockton College campus were
changed from a Pinelands Rural Development Area (RDA),
which permitted residential development on five acres as
well as institutional uses, to a Regional Growth Area through
an MOA. The Regional Growth designation allowed for
greater sewer extension, a reduction in wetland buffers and
a higher density of development.

In exchange for the additional allowances, Richard
Stockton College agreed to deed restrict the remainder of
the campus property. The Pinelands Commission’s Executive
Director report dated March 23, 1990 states “It should be
noted that the re-designation is part of an overall master
plan for the entire 1,500 acre property which should afford
a greater level of protection for the balance of the property
than if the general land use standards of Rural Development
Areas were followed.”

Under the MOA, Richard Stockton College agreed to
pursue options to “permanently protect the 1,060 acres out-
side the Regional Growth area” by restricting its use to those
specified in the Master Plan – uses that included teaching
and excluded development. Now in 2010 they have come
back to the Pinelands Commission for an expansion of the
GI-Regional Growth area and permitted uses in the zone
which would violate the terms of the existing MOA.
Municipal MOAs – Forsaking Oversight Responsibilities

In an effort to reduce its workload, the Pinelands Commission is currently entering into new MOAs with municipalities allowing them to carry out a broad range of developments without Pinelands Commission review. These MOAs will allow a range of developments to proceed with no review even though recent experience shows they can cause important environmental harms. For example, PPA and residents have discovered a number of cases in which road work has destroyed or damaged rare plant populations, yet the new MOA will make it extremely difficult to prevent future breaches by eliminating Pinelands Commission review of such projects. Indeed, the MOA effectively gives blanket authorization to numerous development activities which, if conducted in the wrong places or without appropriate design measures, can harm or destroy rare plants, wildlife habitats, and water quality.

What you can do:

• Come join PPA for a presentation on MOAs and other current issues in the Pinelands on Tuesday, July 13, 2010 at 7PM at PPA’s Bishop Farmstead, 17 Pemberton Road, Southampton, NJ.

• Look for PPA announcements on MOA public hearings and attend these hearings, or send in written comments, to voice your concerns on these agreements.

• Send the enclosed letter to the editor to your local paper.

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Distributed to members of the Pinelands Watch Network and other members of the public. If you would like to receive these alerts, please contact Theresa Lettman at (609) 859-8860 Ext 22 or theresa@pinelandsalliance.org.

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