

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR
THE CENTRAL PINE BARRENS
COMPREHENSIVE LAND USE PLAN**

PROJECT LOCATION: CENTRAL PINE BARRENS AREA - within the
Towns of Brookhaven, Southampton and Riverhead
and the Villages of Quoque and Westhampton Beach

LEAD AGENCY: Central Pine Barrens Joint Planning and Policy
Commission
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DATE OF PREPARATION: June 1995

AVAILABILITY OF DOCUMENT: The Final Generic Environmental Impact Statement
(FGEIS) consists of:

The Draft Central Pine Barrens Comprehensive Land
Use Plan and Draft Generic Environmental Impact
Statement (DGEIS) dated July 14, 1994 (under
separate cover)

The Proposed Final Central Pine Barrens Plan and
Supplemental Draft Generic Environmental Impact
Statement (SDGEIS) dated April 26, 1995 (under
separate cover) with correction sheets and

The Responsiveness Summary for the DGEIS and
SDGEIS dated June 12, 1995 (document attached).

Copies of these documents are available for public
review at the offices of the lead agency.

DATE OF ACCEPTANCE: June 12, 1995

**FINAL GENERIC ENVIRONMENTAL IMPACT STATEMENT
FOR
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COMPREHENSIVE LAND USE PLAN**

The Final Generic Environmental Impact Statement (FGEIS) for the Central Pine Barrens Comprehensive Land Use Plan consists of the following documents:

- The Draft Central Pine Barrens Comprehensive Land Use Plan and Draft Generic Environmental Impact Statement (DGEIS) dated July 14, 1994
- The Proposed Final Central Pine Barrens Plan and the Supplemental Draft Generic Environmental Impact Statement (SDGEIS) dated April 26, 1995 and
- The Responsiveness Summary for the DGEIS and SDGEIS dated June 12, 1995 (document attached).

Copies of the Central Pine Barrens Land Use Plan, DGEIS and SDGEIS have been prepared under separate cover and are available for public review at the office of the Central Pine Barrens Commission located at 3525 Sunrise Highway in Great River, New York.

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1. Summary of Comments on July 1994 Draft Plan and DGEIS

This responsiveness summary was prepared in accordance with the New York Environmental Conservation Law, Article 8-0107(2) that states the environmental impact statement shall include copies or a summary of substantive comments received by the agency and the agency response to such comments.

Public comment on the Draft Central Pine Barrens Comprehensive Land Use Plan (the "Draft Plan") and Draft Generic Environmental Impact Statement (DGEIS) was received as testimony at the September 28, 1994 public hearing and was accepted in written form during the public comment period that closed on October 14, 1994. There were 44 individuals that provided oral comment at the public hearing that was attended by approximately 260 people.

Written comments were submitted to the Commission in the form of letters, news articles, editorials and form letters that varied in length and type of comment. Comments on the Plan and DGEIS ranged from general to very specific. Additional written comments were received after the October 14th comment deadline that resulted in the Commission's decision as lead agency to extend the comment period through October 21st. Further comments were received beyond the October 21st deadline that lead to another decision by the Commission to extend the comment period once more, through November 7th in the interest of securing all substantive commentary on the Plan and DGEIS.

This responsiveness summary provides direct responses to comments received and, where appropriate, refers to information contained in the Proposed Final Plan, dated April 26, 1995 ("the Plan") and/or the Supplemental Draft Generic Environmental impact Statement (SDGEIS), dated April 26, 1995.

This responsiveness summary is divided into the following subsections:

- A. General Comments - this section includes comments received on the Draft Plan that were too general in nature to categorize more specifically and also includes comments made on the first three chapters of the Plan (Introduction, Central Pine Barrens Evolution and Preservation and the Central Pine Barrens Today).
- B. Pine Barrens Credit Program - this section contains comments received specifically on the Pine Barrens Credit Program also known as the Transfer of Development Rights Program, that includes comments on the Draft Plan's receiving areas (RAs), planned development districts (PDDs) and residential overlay districts (RODs), method of allocating pine barren credits (PBCs), "as of right" uses, the use or redemption of PBCs and real property taxation issues. This section also includes comments on the Pine Barren Credit Clearinghouse otherwise referred to as the PBC bank.
- C. Economic Impacts of the Plan - this section contains comments on the potential economic impacts of the Draft Plan and comments on the Economic Impact Analysis section that was presented in the Draft Plan.
- D. Draft Generic Environmental Impact Statement (DGEIS) - this section contains comments on the DGEIS portion of the Draft Plan concerning its scope and content.

- E. **Critical Resource Areas (CRAs) and Developments of Regional Significance (DRS)** - this section contains comments on the critical resource areas designated in the Draft Plan and the jurisdiction of the Commission with regard to these areas. This section includes comments on the Draft Plan's definition for Developments of Regional Significance and the Commission's jurisdiction related to these areas.
- F. **Core Area Land Use Issues** - this section includes comments on land uses in the Core Preservation Area (CPA), and Core Preservation Area boundary comments.
- G. **Central Pine Barrens Land Use Standards** - this section addresses comments received on the standards for land use that were presented in the Draft Plan. This section is further divided into subsections on Water Quality/Hydrology, Agriculture, Recreation, Scenic Resources, New Councils and Boards, Intergovernmental Coordination, Wetlands, Ecological Vision, Nitrate, Development Standards.
- H. **Public Land Management** - this section contains comments received concerning the management of public land such as fire management, public access, etc.
- I. **Acquisition and Funding Issues** - this section contains comments received on the Acquisition Section of the Draft Plan and compensation for property owners in the Core Area.

A. General Comments

Lists of editorial or factual corrections for the Draft Plan were provided.

Response: These lists were reviewed in detail, and any necessary corrections were noted and made.

It was stated that the Draft Plan should not usurp the Towns' home rule powers.

Response: The Draft Plan does not seek to usurp home rule powers. The majority of the Plan's elements are to be implemented through local codes and ordinances.

The Plan should explicitly consider the remaining aspects of Article 57 including the Long Island Pine Barrens Maritime Reserve Council.

Response: The Plan was prepared in the context of Article 57 in its entirety, and considers all pertinent parts to the extent required by the Act.

Opposition was stated to discussions on page 183 of the Draft Plan, which would restrict the stocking of non-native fish species in freshwater ponds. It was pointed out that virtually all game and panfish species valued by Long Island anglers are non-native (e.g., largemouth, bass, bluegill, sunfish). It was further pointed out that contrary to the discussion on page 183 of the Draft Plan, stocking can improve biodiversity of a pond. Finally, it was pointed out that use of sterile grass carp is an effective, non-chemical means of controlling nuisance aquatic plant growth.

Response: The Plan has been revised such that stocking with, and proactive use of, non-native species is no longer discouraged.

A "plain english" information brochure is needed as part of the public outreach program or through the Advisory Committee.

Response: The Plan itself has been carefully prepared and reorganized to promote readability and allow easy cross referencing.

It was argued that the draft document is not a plan; should include map or maps showing publicly owned land and private land needing preservation; locate all pine barrens values requiring protection regardless of location; locate all receiving areas.

Response: All necessary maps are incorporated in the Plan.

The Plan should address the future expansion of the Long Island Expressway (L.I.E.).

Response: Future expansion of the L.I.E. is not a component of the Plan, nor was it considered a related future action, or as an existing condition in developing the Draft Plan.

The Plan should state whether or not development which was exempted during the planning period would remain exempt after Plan adoption.

Response: Exemptions under the Statute are legal determinations and have been addressed on a case by case basis.

It was pointed out that "Vision" and "Goal" statements throughout the Draft Plan failed to accurately and adequately articulate the balanced economic and environmental goals and requirements of Article 57. It was proposed that the economic elements of Article 57 be presented in a clear and accurate way throughout. To some, the goals and objectives presented in the Draft Plan seemed to conflict with those presented in the Act. All items identified as policies in the Draft Plan are objectives under the Act, which the Plan should be designed to accomplish.

Response: These perceived inconsistencies have been removed during the Plan revision.

The identification of certain soils as critical was questioned. It was stated that if these soils need protection, the Plan should explain how this will be accomplished.

Response: Volume 1 of the Plan explicitly states how resources which require protection will be protected under the Plan. It is noted that the term critical as applied to soil types is descriptive, relating to a particular property or use of the soil, as articulated in the Soil Section of Volume 2 of the Plan. Furthermore, the term "critical soil resources" has been removed from Volume 2.

The description of habitat needs for wildlife does not reach a conclusion regarding the adequacy of the Core Area for protecting wildlife populations. If the Core is adequate, additional areas in the Compatible Growth Area are not justified based on wildlife habitat requirements.

Response: This issue is addressed in the SDGEIS, where Core Area preservation is frequently referred to as a mitigating measure for potential ecological and habitat impacts in the Compatible Growth Area and/or in designated receiving areas outside the CPB. Additional areas in the CGA, such as CRAs are not extensions of the Core, but development in them may be subject to Commission review.

The use of the term "special ecological areas," was questioned as well as the authority of the Commission to designate these areas and requested this term to be defined.

Response: This term has no statutory basis, and is now properly qualified wherever it is used in the Plan.

The general conservation reserve design principles that provide for a buffer system around the Core Area under the principle "bigger is better" is an attempt in the Plan to enlarge the Core Area beyond that provided for in the Act and is a confiscation of private property.

Response: The Plan does not seek to enlarge the Core area beyond that which the Act provides.

It was requested that notification of public hearings and legal notices by certified mail (no return receipt) using an updated list of Core and Compatible Growth Area (CGA) property owners.

Response: This is not an issue related to the Plan. The Commission has aggressively pursued public participation throughout the planning process, and has gone beyond the legal requirements for providing public notice of all activities to the maximum extent practicable.

There appears to be discrepancies between data on population, population density, and housing presented in the Economic Impact Analysis section and the physical data on pages 96-110 of the Draft Plan.

Response: Subsequent economic impact analyses have been revised. The data has been checked and corrected as necessary.

The following comments with regard to the Longwood School District data presented in the Draft Plan were made. The figures provided on page 254 of the Draft Plan, Figure 6.30 should be reviewed; Longwood school district alone in 1990 had 8,757 students enrolled. In 1993, 9,146 children were enrolled in Longwood School district. Enrollment growth in Longwood alone based on a long range planning study completed in January, 1994, between 1983-1993 was 12.7%. The figures on page 103 in the Appendix of the Draft Plan, about Longwood school district should be revised. The 94/95 school year, per pupil expenditure amounted to \$10,437 and full value per pupil was \$295,740.

Response: This comment is noted. School district data has been checked and updated in subsequent Commission economic analyses.

It was suggested that the Plan should include a better description of freshwater resources including fish in coastal plain streams, fresh and tidal wetlands, and other surface waters.

Response: The Plan and Volume 2 includes extensive information concerning the aquatic and terrestrial resources associated with the surface waters of the Central Pine Barrens.

Fisheries access and management should be discussed in the Plan as well as access to lakes, ponds, and streams for fresh water anglers.

Response: Volume 1 of the Plan provides for continued and enhanced angler access in the Central Pine Barrens.

The New York Environmental Conservation Law (ECL) clearly directs into which fund fine money for ECL offenses can go, and therefore, the proposal on page 206 of the Draft Plan to redirect these moneys would be inconsistent with state law.

Response: This proposal has been replaced during Plan revision. The Plan now contains a revised proposal which is entirely consistent with the New York ECL.

A thorough evaluation of the history of the Pine Barrens evolution was requested to help to determine areas where Pine Barrens fall within natural succession and where oak forests were in existence prior to European settlement.

Response: Volume 2 of the Plan includes an extensive history of the Pine Barrens.

The scenic resources section (page 98-95 of the Draft Plan) is not based on science, is vague and overly broad.

Response: The Scenic Resources section in Volume 2 of the Plan utilizes an inventory prepared using a carefully selected methodology. The methodology is described in that section, and examples of its prior use are provided. A discussion of scenic resources is necessarily qualitative.

Trails should be designated in consultation with and adopted by private trail associations.

Response: The Plan includes recommendations for coordination with private conservation oriented organizations. In addition, the trails section was developed in consultation with such organizations as part of the trails working group.

Resource stewardship and best management practices (BMPs) issues were raised in the comments. It was suggested that an agency (or agencies) be assigned the responsibility of stewardship and BMP education, particularly in the CGA and developed portion of the Core Preservation Area, and that BMPs for fertilizer, turf management, stormwater, road salting, etc. be mandatory.

Response: The Plan includes a Stewardship Strategies section which assigns responsibilities to various agencies as appropriate. Many BMPs are currently mandatory under current State and local laws.

Page 206 of the Draft Plan, the listing of Federal and State laws that should be retained in their present form should also include County laws, particularly those dealing with water quality issues.

Response: Volume 2 of the Plan includes a Chapter is entitled "Selected Laws Pertinent of the Central Pine Barrens." It surveys existing laws, but does not seek to present an exhaustive list of existing laws for the sole purpose of endorsing them.

It was noted that by law (Article 57), the entire Land Use Plan and GEIS must be enforceable. Therefore, any and all inconsistencies between the Draft Plan's suggestions and elements should be reconciled, and the final Plan should not consist of suggestions.

Response: The Plan has been prepared with great care taken to avoid apparent and/or real inconsistencies. Enforceability of the Plan elements is a matter of law; however, the Plan, in differentiating between guidelines and standards in Volume 1, seeks to clarify the issue of enforceability.

The DEC regulates hunting and fishing the Core, and therefore, the Commission should have no jurisdiction in this area.

Response: The Commission jurisdiction in the Central Pine Barrens is limited, concerning fishing and hunting, by Article 57. The Plan clearly acknowledges this.

It was recommended that open space management plans be prepared that cover problems such as vandalism, dumping, tree-clearing and preservation of ecological processes on vacant lands in private and/or public ownership.

Response: The Plan calls for preparation of Unit Management Plans to meet this objective for public lands. Private lands remain private.

The transfer of data from New Jersey Pinelands to Long Island Pine Barrens ecosystems is of questionable validity. It was noted that the geologic dissimilarities between the New Jersey Pinelands and Long Island Pine Barrens, specifically with respect to soil parent material mineralogy and chemistry, and groundwater chemistry and hydrology.

Response: The Plan does not base its elements on invalid or assumed similarities between ecosystems in the New Jersey Pinelands and the Long Island Pine Barrens. Geologic, hydrologic, and ecosystem dissimilarities are recognized.

B. Pine Barrens Credit Program

The single issue which received the most attention in the comments was the Transfer of Development Rights (TDR) Program, which is referred to in the Draft Plan as Pine Barrens Credit (PBC) Program.

The Pine Barrens Credit Program, it was stated, in its entirety, constituted a "taking" of private land or land rights.

Response: Chapter 6 of the Plan embodies the Pine Barrens Credit Program in its entirety. Section 6.1 of Volume 1 states that the primary purpose of the Program to *maintain value* in lands designated for preservation or protection. The chapter contains *no restrictions on use of*

private land or land rights other than the land rights created by the Program.

It was stated that the Pine Barrens Credit Program was unfair to small property owners particularly because it would result in too low a value for small lots in the Core area. More data on credit values was requested.

Response: Small lots are treated in the same manner as larger lots in the allocation of credits. The value of small lots in the Core area depends upon a variety of factors, including the value of credits. The value of credits primarily depends upon the permitted uses of credits in designated receiving areas or pursuant to some other permitted credit use. The value of credits is also affected by the total number of credits available for allocation under the Plan, and holding all other factors constant, the greater the supply of credits, the lower the value each credit will achieve. Under the current allocation formula, the economic analyses shows a wide range of values for credits, some of them quite substantial, depending of the use of the credit when it is redeemed.

The Plan should put more emphasis on the use of outright acquisition over transferable development rights in achieving its land protection and preservation goals because there is no guarantee that the landowner in the Core area will receive adequate compensation for their property through transferable development rights.

Response: Chapter 3 discusses the land acquisition policy of the Plan. It clearly specifies that acquisition is the "tool of choice" for land protection and preservation and that the Plan has a long-range goal of acquiring 75% of the privately held vacant land in the Core area. Alternatively, the Pine Barrens Credit Program will provide value to landowners with property in the Core area; it is its purpose to provide opportunities for reasonable use of such property.

The Pine Barrens Credit Program will interfere with agricultural and horticultural operations in the Core area because farmers finance these operations with credit secured by the value of the farmed land, a component of which includes the value associated with the land's potential future residential use.

Response: Instead of securing credit for farming operations by utilizing the value of the land associated with the land's potential future residential use, farming operations may be able to utilize the value associated with the Pine Barrens Credits available for allocation to that farmland.

The effects of the Pine Barrens Credit Program on real property taxes in light of the provision deeming Pine Barrens Credits an interest in real property were questioned. A clarification of how sending area properties that have development rights transferred off will be taxed was requested. The Plan should deem Core area land undevelopable with a commensurate reduction in real property taxes on such lands.

Response: The provision in the Draft Plan which stated that a PBC is an interest in real property, as defined by the Real Property Law of the State of New York and shall be subject to taxes under the provisions of the Real Property Tax Law and the Suffolk County Tax Act was removed during Plan revision. Property which has its development rights transferred off

will be assessed based upon prevailing assessment practices in each town. The effect on real property taxes will be determined by the appropriate officials as required by law.

By not permitting Pine Barrens Credits to be issued for a parcel of property unless all real property taxes are paid conflicts with the real property tax law which permits taxes to be paid on certain dates and affects property owners who may be in arrears and seeking to sell Pine Barrens Credits to retain ownership of their property.

Response: This comment apparently refers to section 6.7.7.4 of the Pine Barrens Credit Program. This section is not meant to supersede the provisions of New York Real Property Tax Law. Rather it should be read to mean that property tax due and unpaid when credits are issued, must be paid prior to such issuance unless the credits are issued for sale to pay such taxes. In such cases, a lien may attach to such credits until such taxes are paid.

It was stated that the Draft Plan provision which holds the owner of a Pine Barrens Credit as of the real property tax status date conflicts with the real property tax law which states subsequent owners are responsible for such taxes.

Response: Nothing in the Plan is intended to supersede any provision of the Real Property Tax Law.

It was alleged that the procedure for allocation is overly burdensome in that it considers an entire tract of land, requires a conservation easement to be recorded covering the entire parcel before any Pine Barrens Credit certificate is issued (i.e., no partial issuance of credits for individual parcels), and would apparently prohibit people with large parcels from retaining a smaller parcel which conforms to the allowable residential use zoning in the Core area. It was suggested that conservation easements should be recorded only after the benefactor development project received final approval.

Response: The allocation section of the Draft Plan has been rewritten to clearly distinguish the allocation of credits from the issuance of credits and to provide for an instrument called a "letter of interpretation." The rewritten section would allow for the partial issuance of credits to a parcel of land. The consideration of an entire tract of land in the allocation of credits to a parcel of land does not impose any burden upon an applicant for credits other than the disclosure of information. The provision for residential use in the Core area is limited in the Plan to occur through hardship applications and/or legislative amendment. The recordation of a conservation easement prior to the issuance of a Pine Barrens Credit certificate has no direct relationship with development projects in receiving areas; either event may occur independent of the other.

How will properties with title problems be handled under the Pine Barrens Credit Program.

Response: Section 6.7.4.2 makes it clear that in order to have Pine Barrens Credits issued for a particular parcel of property, the current owner of record who is legally empowered to restrict the use of the property must have *marketable title* to such property.

It was suggested that the Pine Barrens Credit Program allocation formula should be more generous since credits are less desirable than cash. It was stated that lot owners in filed map areas should be

compensated for their share of common land (e.g., undedicated paper streets). It was stated that allocation should be based upon a combination of net development yield and estimated development value. Additionally it was suggested that the total number of Pine Barrens Credits allocated should be reduced so that the fiscal impacts of the program on receiving areas would be minimized.

Response: Landowners who feel that credits are less desirable than cash should seek to sell their property to either another private party or to one of the government entities with active land acquisition programs in the Core area. The Plan indicates that Pine Barrens Credits will be allocated on a parcel basis, considering the entire tract of land. However, as indicated in a prior response, Pine Barrens Credits are intended to provide value to landowners and provide the landowner with reasonable use of their property. Allocation of credits based upon a combination of net development yield and estimated development value would be tenuous, difficult to determine, and extremely difficult to administer. Amendments to the allocation formula were made that may result in fewer total credits available for allocation in each town.

Single and separate sending area lots should get at least one Pine Barrens Credit, including those lots less than one half acre in size.

Response: The plan includes a provision (Section 6.7.7.6) which would allow each town to establish a program which would allocate up to one full credit for any lot 4000 square feet or greater in area which has frontage on an existing, improved road.

The section describing limitations on allocation of Pine Barrens Credits which apparently provides a reduction in allocation by one credit for each existing dwelling and also by one credit for each 300 gallons of rated sewage flow was alleged to be unfair and clarification was requested.

Response: The Draft Plan provided:

"(d) The PBC entitlement for a parcel of land shall be reduced by one PBC for each existing dwelling unit on the property.

(e) The PBC entitlement for a parcel of land shall be reduced by one PBC for each existing use based upon its rated sewage flow in the proportion of one credit for each 300 gallons of rated sewage flow."

This apparently caused some confusion so the language has been clarified in section 6.3.4.4 of the Plan.

It was suggested that a clear cut method of allocating Pine Barrens Credits for commercial property should be delineated in the Plan as opposed to being based upon potential square footage.

Response: The Draft Plan's provision for the allocation of credits to commercial property has been deleted. The Plan includes provisions to allow for the allocation of PBCs to nonresidentially zoned property in the Core Preservation Area.

The allocation of Pine Barrens Credits for parcels on which applications have already been filed under existing town "transferable development rights" programs should be based upon the number of "transferable development rights" allocated under the town program, (i.e., based upon the five acre bonus density provisions of the Brookhaven Town Code).

Response: Section 6.10 has been added and states that the establishment of the Pine Barrens Credit Program does not serve to limit, affect or prohibit the establishment or continuance of any other municipal program for transferring or redirecting development from the Core Preservation Area.

It was suggested that the availability of receiving areas should be expanded. The receiving areas should be expanded to include all land not designated sending area within the three towns, and it was stated the areas should include all of Suffolk County or Long Island. A limit on density increases to 20% in these areas was suggested. According to some, the Plan and FGEIS should contain specific mechanisms and performance standards to accomplish this.

Response: Receiving areas may be established in a variety of ways under the Plan. In addition, each town must identify PBC uses of sufficient quantity and quality within the town to accommodate at least 2.5 times the number of PBCs available for allocation within the town. This can be achieved through PDDs or RODs or a combination of both. The Plan provides that municipalities and municipal agencies outside the Central Pine Barrens may establish a program to receive Pine Barrens Credits. Density increases in Residential Overlay Districts are limited in each town as described in the Plan.

The Pine Barrens Credit Program may cause overdevelopment within the Compatible Growth area and noted that consideration must be given to impacts such as traffic, growth, and groundwater quality at full build out in the Compatible Growth area. It should be mandatory for all receiving areas to conform with the Suffolk County Sanitary Code. The receiving areas should not be within any state designated Critical Environmental Areas.

Response: Full consideration of regional growth and groundwater quality is given in the Plan, SDGEIS, and economic evaluation prepared by the Central Pine Barrens Commission, entitled the Fiscal and Economic Evaluation of the Central Pine Barrens Comprehensive Land Use Plan, attached hereto. Regional traffic impacts when compared to the impacts which would occur under existing zoning are anticipated to be minimal. Any site specific project that may have a significant site specific traffic impact may have to perform further environmental analysis. Mitigation measures may be required as a result of such analysis. All receiving areas must conform to the requirements of the Suffolk County Sanitary Code. It would not be possible to establish a transferable development rights program for the Central Pine Barrens if no receiving areas were established in state designated Critical Environmental Areas because all of the Central Pine Barrens was designated as a Critical Environmental Area under Environmental Conservation Law Article 55.

On-site package sewage treatment plants should be used for cluster growth in receiving areas and particularly in receiving areas where slope, soil permeability or proximity to groundwater or surface water are significant issues.

Response: Such on-site package sewage treatment plants may be used in accordance with the requirements of Article 6 of the Suffolk County Sanitary Code.

It was stated that receiving areas within FEMA flood map zones should be analyzed or eliminated and receiving areas within the State designated coastal areas must include analysis of coastal policies in

the environmental impact statement; receiving area maps should include the coastal area boundary.

Response: Receiving areas designated by the Commission within FEMA flood map zones or in State designated coastal areas have either been eliminated or analyzed pursuant to the SDGEIS. Chapter 22 of the SDGEIS analyzes the consistency of the Plan with state coastal policies.

The establishment of receiving districts should not be limited to incentive zoning pursuant to New York Town Law Section 261-b but should include the ability to establish a receiving site under local law pursuant to the requirements of the municipal home rule law of the state of New York.

Response: Sections within the Pine Barrens Credit Program that refer to incentive zoning pursuant to New York Town Law Section 261-b have been revised to allow incentives under local law pursuant to the requirements of the municipal home rule law of the state of New York.

Planned development districts ("PDDs") as described by the Draft Plan were highly speculative and should not be relied upon in ensuring sufficiency of receiving sites within a town. It was stated that planned development districts and "as of right" receiving areas should have mandatory design and performance standards. It was suggested that the community design standards outlined in the Draft Plan should be mandatory in designated receiving areas and that multifamily developments should be limited to planned development districts since communities need to know what type of development could be expected in PDDs.

Response: PDDs are one of many methods which may be utilized for use of credits in the Pine Barrens Credit Program. No town is relying solely on PDDs to ensure the sufficiency of receiving sites within its boundaries. PDDs must conform to the performance standards identified in the Plan. Design standards within each PDD are a subject of local jurisdiction, as the Pine Barrens Protection Act did not include design standards as a required component of the Plan.

To condition all applications for development in PDDs that do not meet the specifications of a planned development district upon the redemption of additional Pine Barrens Credits ignores the fact that development may take place in PDDs based upon the underlying zoning.

Response: An underlying assumption of the Pine Barrens Credit Program is that development may occur in accordance with existing zoning without the redemption of Pine Barrens Credits. Nothing in the Program affects this right.

Several comments were received regarding residential overlay districts ("RODs"). It was stated that RODs encourage scattered and dispersed development that is contrary to the Pine Barrens Protection Act. Additionally, the South Setauket Pine Barrens should not be excluded as an area for a residential overlay district. According to some, the exclusion of a buffer areas near existing or planned open space from RODs is an unconstitutional ploy to extend buffers around Core area and public lands. Parcels which have areas requiring 100 foot setbacks from sensitive areas should not preclude the rest of the parcel from use as a ROD. It was suggested that RODs be mapped and should be required to meet the criteria listed under Hamlet Center Development Districts B, on page 224 of the Draft Plan.

Response: RODs encourage development in areas that are not located in the Core Area, or in a Critical Resource Area, or in land areas on or directly adjacent to streams, bluffs, surface waters, wetlands, or in land areas on or in 100 year flood plains, or in land identified as a part of public open space systems, or in existing public lands, or in land within the South Setauket Pine Barrens, or in land within the Wild, Scenic and Recreational Rivers corridors. In addition, each ROD must conform with the requirements of the Suffolk County Sanitary Code. All these criteria are clearly in conformance with and carry out the goals of the Pine Barrens Protection Act. Buffer areas near existing or planned open space are not precluded from being RODs. The area of a parcel greater than the 100 foot setbacks from sensitive areas is not precluded from being an ROD. RODs may be either mapped or criteria based depending upon each town's implementation of the Plan. The concept of an ROD is inconsistent with a Hamlet Center Development District so it would not be prudent to force development in RODs to meet such criteria.

A clarification of what "full development yield of existing zoning" means in RODs is needed in the Plan.

Response: This term was deleted from the Plan. The ROD now provides that residential density increases may be allowed in areas zoned for one acre residential development or greater.

The term "discretionary land use approvals" in the section that says, "A town shall be deemed to have identified sufficient PBC uses . . . if it conditions all discretionary land use approvals upon the redemption of Pine Barrens Credits," needs to be further defined.

Response: This term has been deleted during Plan revision.

Bonus densities should only be considered when rights are transferred outside of the Pine Barrens and special groundwater protection areas.

Response: There is no provision for bonus densities under the Pine Barrens Credit Program.

Applications for development that exceed incentive zoning should not be "as of right" with the redemption of additional Pine Barrens Credits since it has not had prior review within the Plan. It was stated that the GEIS must contain development criteria and a list of conditions upon which the long environmental assessment form will be acceptable when reviewing projects using Pine Barrens Credits.

Response: Applications for development that exceed incentive zoning are not "as of right" with the redemption of additional credits; it could only occur upon application. The Plan contains development standards and guidelines and the SDGEIS addresses the impacts due to the use of Pine Barrens Credits for development projects.

It should be mandatory for the towns to establish regulations regarding the timing of development in designated receiving districts and that tax ratable construction should be set at a two for one ratio with residential construction.

Response: While regulations regarding the timing of development in designated receiving

districts may be a good idea, it is a matter which each town must decide when implementing the Plan. As indicated in the economic analyses, the Pine Barrens Credit Program is set up to favor tax ratable construction.

One-hundred foot strip commercial areas should be used as receiving areas, which would allow commercial zoning to cover the entire lot.

Response: While this may be a good idea, it is a matter which each town must decide when implementing the Plan.

A question was raised on whether property owners containing a commercial or industrial zoning category within the Compatible Growth area and outside the Central Pine Barrens area that seek a change in zoning to residential would be required to purchase PBCs.

Response: The purchase of PBCs for such a change of zoning is not mandated under the Plan, and it is unlikely that any town would require such a thing in the implementation of the Plan.

Each town should conduct detailed analysis concerning transferable development rights thresholds in order to determine the number of development rights they can reasonably accommodate. Additionally, the Plan should explain how transferable development rights on residential properties will affect student enrollments.

Response: The attached economic evaluation, prepared by the Commission, entitled the Fiscal and Economic Evaluation of the Central Pine Barrens Comprehensive Land Use Plan, addresses both of these concerns. When combined with the acquisition program, the Pine Barrens Credit Program should have a positive effect on most school districts because combined they tend to reduce the total number of new school children entering all school districts and encourage tax ratable development over residential development.

It was argued that under-utilized school districts should be targeted for the transfer of residential rights, that school districts that contain both sending and receiving areas should have transfers limited to transfers within that district, and that a school district should receive development rights from another district only if transfers are deemed financially beneficial to all districts involved. Transfers across school district boundaries should be limited or transfers should be kept within the same school district.

Response: The designation of receiving districts is to be performed by the towns under the PBC program and it is true that under-utilized school districts should be targeted for receiving residential rights. The program has been amended to include a provision for limiting transfers to intra-school districts transfers in Riverhead and Southampton, and inter-district transfers may be available upon application to the appropriate town board.

It was suggested that the Pine Barrens Credit program needs a fully funded state sponsored payment in lieu of taxes ("PILOT") program for special districts that experience economic hardships as a result of the Pine Barrens Credit Program. Furthermore, a grievance procedure should be established so that school districts could demonstrate how transferred development rights adversely impacted their

budgets.

Response: This may be a valid comment, but it is a matter that must be addressed by the State Legislature.

It was stated that dedicated funding must be found to capitalize the Pine Barrens Credit Clearinghouse. Procedures for selling Pine Barrens Credits to the Clearinghouse need to be delineated.

Response: Funding has been provided by New York State to capitalize the Pine Barrens Credit Bank and Clearinghouse. Procedures for selling credits to the Bank and Clearinghouse will be established.

C. Economic Impacts of the Plan

Economic impacts of the Plan constituted another area in which a number of comments were received, and often repeated.

It was noted that the economic impact analysis was generally incomplete. It was further suggested that a full economic analysis be prepared as a supplement to the Draft Plan and be subject to a formal comment period.

Response: See the SDGEIS and the economic evaluation attached hereto.

The Plan should detail the economic growth aspects of the Plan.

Response: See the SDGEIS and the economic evaluation attached hereto.

The Plan lacks a financial component as required by the Pine Barrens Act that would analyze the costs of implementing the Plan.

Response: The SDGEIS explains the infrastructure ramifications of the Plan upon implementation and economic concerns. See also the economic evaluation attached hereto.

What is the impact of the Plan on special taxing districts, including school and fire districts. Some impacts cited were lost revenues due to PBC and acquisition, and called for mitigation in the Plan, including payment in lieu of taxes (PILOTs). It was stated that the Economic Analysis was insufficient to evaluate the costs and benefits of the PBC program. Additionally the financial impacts to school districts were not addressed in the Plan.

Response: See the SDGEIS and the economic evaluation attached hereto.

The Draft Plan lacks a phased public improvement element as mandated by the Pine Barrens Act, particularly for the CGA. The Plan should include how these improvements will be financed.

Response: The Plan and the SDGEIS revealed little, if any infrastructure needs resulting solely from Plan implementation. Presumably, public financing of infrastructure will occur

wherever possible; however, when infrastructure costs can not be borne by the public the developer is typically responsible for them.

It was suggested that the Plan should include measures to mitigate financial burdens to Pine-Barrens communities created by the elements of the Plan.

Response: See the SDGEIS and the economic evaluation attached hereto.

It was suggested that for each land protection tool (e.g., PBC, acquisition), the financial and cost/benefit impacts for receiving and sending areas should be described.

Response: See the SDGEIS and the economic evaluation attached hereto.

The Plan should contain a market analysis of current demand for multi-unit housing.

Response: The law does not require such an analysis.

The calculations of school population/density per square mile and long range projections for future school district populations were requested.

Response: See the SDGEIS and the economic evaluation attached hereto.

The school districts should participate in the details of the Plan.

Response: Efforts were made to incorporate the impacted school districts in all aspects of the Plan development. The Commission held two meetings specifically for school districts in the summer and fall of 1994. Attendance at both consisted of one district.

School capacity calculations are not realistic. It was further suggested that each district superintendent be consulted for capacity data.

Response: Each school district in the Central Pine Barrens was contacted by the Commission. The capacity calculations were updated.

The funding sources which will alleviate problems associated with higher density in CGAs such as traffic, recreation, water use, population, sewage, schools, libraries, police, etc, were questioned.

Response: The taxes generated from any increased development can be used to address these concerns. Infrastructure needs and costs are addressed in a prior response.

According to some, the PBC program needs a fully funded state sponsored PILOT program for special districts. Additionally, PILOT programs for fire districts in particular, that may experience economic hardships were supported.

Response: Chapter 9 of the Plan discusses alternatives for future funding in affected fire districts. Legislative remedies may be offered to the New York Legislature to address these concerns.

D. Draft Generic Environmental Impact Statement (DGEIS)

A number of comments were received concerning omissions, format, or incompleteness in the DGEIS.

The DGEIS did not sufficiently look at alternatives to the Plan, and also, the relative impacts, such as traffic, growth, water use and ground water quality associated with each alternative. The relative environmental benefits of alternate uses of acquisition monies (versus core area acquisition) should also be assessed.

Response: The SDGEIS addresses alternatives to the plan and their respective impacts. Acquisition funds are provided for the specific purpose of acquiring Central Pine Barrens land. They can not be used for other purposes without legislative changes.

The DGEIS was inadequate in scope and content as required under SEQR. Furthermore, it was suggested that the DGEIS should examine and identify the economic and environmental impacts of each element of the Draft Plan. Examples of such elements included each CGA development standard, and each proposal, e.g., stormwater mitigation for existing storm drainage to surface waters in the Core proposed on page 169 of the Draft Plan.

Response: The DGEIS is a regional document. Site or project specific impacts should be addressed in a Supplemental Environmental Impact Statement (SEIS) or a Long Environmental Assessment Form (LEAF) prepared for the respective projects. Economic impacts are addressed in separate documents. The SDGEIS expands the list of impacts considered. The elements of the Plan are considered for their associated impacts, as well as for the impacts which they mitigate. The economic impacts are handled in the Fiscal and Economic Evaluation of the Central Pine Barrens Land Use Plan, issued by the Commission.

The GEIS should address the cumulative impacts of all Central Pine Barrens development which would be allowed under the Land Use Plan (including receiving areas). This assessment is required so that future development proposals which conform to the Plan need not assess these same cumulative impacts.

Response: This comment was in fact a central goal of the Commission in its preparation of the revised Plan and the SDGEIS, although site specific analysis may be necessitated in the future.

The DGEIS should be a cumulative impact assessment for habitat and populations, and should evaluate what habitat and populations, if any, would require further protection than that afforded them by Core Area preservation and current law. A similar comment was made concerning important common indigenous species as well as rare species, and pertaining to the entire Central Pine Barrens area.

Response: The SDGEIS expands consideration of habitat and populations to be impacted, particularly in the CGA and designated receiving areas. Core Area preservation is evaluated for the degree to which it mitigates each of the potential impacts identified. The Core Preservation Area and Critical Resources Areas have been delineated to provide adequate

protection for habitat and populations of indigenous species. Implicit with their designations is consideration of cumulative impacts to such species.

It was pointed out that recommendations from BTCAMP were adopted in the Draft Plan by reference. It was proposed that each of these recommendations be individually listed and evaluated for economic and environmental impacts in the DGEIS.

Response: The Plan specifies the particular BTCAMP recommendations which it endorses. These BTCAMP recommendations are consistent with elements of the Plan, and are therefore properly considered in the DGEIS and SDGEIS, though not specifically listed. Any BTCAMP recommendation which is inconsistent with the Revised Plan, or goes beyond the scope of the Plan, would presumably require its own review under SEQRA prior to implementation.

The DGEIS should discuss the applicability of the Plan to federal facilities.

Response: The Plan addresses this issue. The Plan discusses treatment of such facilities and recommendations in the Plan will be implemented to the maximum extent allowable by law.

The section on potential environmental impacts fails to discuss the importance of maintaining connectivity.

Response: The SDGEIS expands the coverage of this issue. Additionally, the Plan addresses this concern in Volume 2.

The hydrology section of the DGEIS should discuss the impacts to the aquifer within and outside the Pine Barrens. The DGEIS's surface water and wetland quality section should discuss potential impacts of draw downs and mitigation proposed by hydrology committee.

Response: The SDGEIS and the Plan expand the coverage of these issues.

The DGEIS alternatives section should discuss a range of standards for wetland setbacks. It was alleged that the Draft Plan requirement regarding wetland setbacks cannot be substantiated since the Draft Plan notes existing knowledge is inadequate, and further studies have not been performed.

Response: The Plan now utilizes one set of wetland setback standards for the CGA. These standards are essentially those in current use under State and local law and regulation. Setbacks in the CPA may, of course, be very large where development is precluded.

The DGEIS fails to identify negative aspects of limited single family residential development in the Core.

Response: This issue is covered in the alternatives section of the SDGEIS. The SDGEIS examines a no-action alternative, where the same CPA infill as contemplated in the revised Plan would occur, though presumably to a greater degree. In addition, the SDGEIS also examines an alternative whereby the revised Plan is implemented and no infill is permitted in the CPA.

The Final Generic Environmental Impact Statement (FGEIS) should stress traffic mitigation measures that rely heavily on mass transportation and opportunities for pedestrian and bicycle traffic.

Response: The DGEIS and SDGEIS address traffic impacts which would result from the elements of the Plan, as opposed to impacts associated with any and all future development in the Central Pine Barrens and surrounding areas. While heavy reliance on mass transportation may be a prudent future traffic management alternative regionally, it was not considered to be appropriate mitigation for the traffic impacts associated with the implementation of the specific elements of the Plan. Facilities for pedestrian and bicycle use, particularly the maintenance and development of trails, is included in the Plan.

A comparison should be made between the Plan and the SGPA Plan. Does it protect groundwater any better than the SGPA Plan in all areas of the pine barrens? How much land would be preserved under the Central Pine Barrens Plan versus the SGPA Plan? What are cost comparisons?

Response: The SDGEIS compares the Plan with the SGPA Comprehensive Management Plan (SGPACMP) in the discussion of alternatives. Specifically, the no-action alternative describes the scenario whereby the SGPACMP, and other existing management plans and planning initiatives remain the factors which affect future development and preservation in the Central Pine Barrens.

It is unclear if the GEIS has met the requirements of Part 617.15 (b) of SEQR.

Response: The Plan and the SDGEIS add clarity to this issue. In addition, the findings statement may include specific conditions or criteria, to be used in addressing future projects, which may augment those contained Chapter 5.

What are the public health, water quality and water and ecosystem management implications of a 6 ppm nitrogen-nitrate standard compared with a 2 or 3 ppm standard? The DGEIS should contain an expanded alternatives section where different land use standards such as these are assessed and compared, along with benefits and drawbacks identified.

Response: The Plan no longer includes a nitrate-nitrogen standard for the CGA. The specific standards and guidelines in the Plan which relate to ground and surface water quality are addressed in the SDGEIS.

Alternatives to the DGEIS are not sufficiently detailed for comparative assessment, notably with regard to economic and environmental impact analysis.

Response: The SDGEIS includes an expanded list of alternatives, and an expanded discussion of each alternative.

The DGEIS lacks the scientific basis for recommendations in the Draft Plan.

Response: The DGEIS is not required to provide the basis for all elements of the Plan. Rather, the DGEIS is to be an assessment, and where appropriate, a scientific assessment, of the potential environmental impacts associated with the Plan. The basis for the elements of

the Plan may be found in the Plan, its references, the DGEIS, the SDGEIS, the economic impact analyses, or other related documents, plans, statutes, or regulations incorporated or referenced therein.

The alternatives section of the DGEIS should be expanded to include potential development in the Core on small lots.

Response: This has been accomplished in the Plan as noted above.

Absent a resolution of the detailed design of receiving area development question, the GEIS cannot evaluate all reasonably expected impacts in receiving areas.

Response: Site specific design elements are not required to be addressed by a GEIS for a regional land use plan. The Plan and the SDGEIS analyze the impacts of development according to the Plan's provisions.

Any change in the 6 ppm nitrate standard needs to be analyzed in the DGEIS as to its impact on land use, demographics, economics.

Response: The Plan does not include a proposed change in the nitrate standard.

E. Critical Resource Areas (CRAs) and Development of Regional Significance (DRS)

Critical Resource Areas (CRAs) and Developments of Regional Significance (DRS) received substantial attention in many comments.

It was suggested that there were too many CRAs, and that the definition of CRAs was too broad. These areas, it was suggested, should be areas where development required the attention of Supervisors from the three different towns, as well as the Governor and County Executive. The future structure, function, and role of the Commission, particularly with respect to the DRS and CRAs should be specified in the Plan. It was suggested that the CRA review process is too confusing. Furthermore, it was suggested that the Commission jurisdiction should be limited in scope to the aspect identified in the Plan for each CRA.

Response: The Plan includes a substantially reduced number of CRAs (as compared to the Draft Plan). The future structure, function, and role of the Commission for CRAs and DRSs is specified in Section 4, Review Procedures and Jurisdiction, in Volume 1 of the Plan. Review procedures are clearly articulated in this same section.

It was suggested that for each CRA in the Plan, the specific CRA feature should be defined based on scientific facts and mapped, along with a specific proposal for the protection or management of the feature. It was stated that the Commission review authority over these areas should cover only those aspects described in the Plan.

Response: The Plan describes the features of concern for each CRA, and the Commission's review jurisdiction is limited as described in Chapter 4.

It was proposed that all CGA land located within the BTCAMP designated groundwater contribution area to the Peconic River should be considered CRAs.

Response: The Commission felt that such designation would be overly and unnecessarily broad. Various specific cultural, terrestrial, aquatic, and groundwater resources situated within this area are identified and provided for in the Plan.

The CRA recommendations do not coincide with Southampton's Western GEIS.

Response: The Plan has been prepared with input from the Town of Southampton, particularly with respect to CRAs.

CRAs, should be limited to where existing regulations are inadequate. Furthermore, it was suggested that CRAs should not be established for areas solely because they sit on Ronkonkoma moraine since the moraine is not a significant factor in groundwater flow.

Response: The Plan contains significantly fewer CRAs, than the Draft Plan and for these CRAs, Commission oversight of development projects which may occur thereon was determined to be appropriate by the Commission.

There is no justification for the treatment of any area in the CGA as buffer area for the Core. Additionally, it was alleged that the CRA buffer areas are unconstitutional. However, some thought that the requirement for linkages between greenbelts and pedestrian trails should be included in the Plan.

Response: The Plan does not designate CRAs based upon suitability as a buffer for the CPA. There are standards and guidelines concerning the linkage between greenbelts and pedestrian trails.

Developments of Regional Significance (DRS) should have minimum thresholds for traffic, hydrologic impacts, intensity of land use, etc., that would automatically require Commission to review.

Response: The Plan includes specific thresholds which establish a project as a DRS requiring Commission review.

The CRAs in Appendix 5.1 of the Draft Plan do not appear to meet the level of statewide significance.

Response: The CRAs listed in the Plan meet all statutory requirements for designation as CRAs.

It was suggested that CRAs need to be clearly related to the land use standards in the CGA.

Response: The Plan indicates that the Commission shall review development in the CGA to ensure conformance with the guidelines and standards in Volume 1 of the Plan.

Critical ecological resource areas identified in the Draft Plan appear not to allow agriculture and horticulture to be carried out which conflicts with the Act that exempts these uses from definition of

development.

Response: No such apparent or real conflict appears in the Plan.

What is the scientific basis for designation of critical ecological resources in the Draft Plan and the DGEIS?

Response: The term critical ecological resources has no statutory significance. It has been removed and replaced in the Plan for clarity.

Development projects in CRAs designated for historic or archaeological resources should receive public hearings in accordance with Article 57.

Response: Article 57 has no such requirement.

Are grandfathered projects subject to review by the Commission if they are deemed DRSs by the Commission pursuant to the definition of a DRS?

Response: The definition of regional significance in and of itself does not open any grandfathered projects for review.

The Land Management Committee recommendations for CRAs should all be included as CRAs.

Response: The Commission considered all CRAs nominated by the Land Management Committee in establishing the list of CRAs in the Plan.

The Peconic Estuary Program (PEP) area should be considered an area of statewide or regional significance (and therefore a CRA).

Response: The Commission felt that such designation would be overly and unnecessarily broad.

F. Core Area Land Use Issues

The strengthening the plan's Core Area land use restrictions by allowing absolutely no new building in the Core and no land clearing for any purpose (including recreation) was proposed.

Response: Volume 1 explicitly states the Commission's intentions with respect to future activities in the Core Preservation Area. However, the Plan cannot preclude activities which are beyond the Commission's jurisdiction as provided by the statute.

It was recommended that Core Area development be allowed on single and separate lots which have frontage on existing, improved roads. To allow development only on such lots which exceed 10 acres in size was not just compensation (was confiscation). The right to build or be compensated for any single and separate lot in the Core, regardless of size or proximity to utilities and existing roads was requested.

Response: Comments concerning compensation for land are addressed elsewhere in this Responsiveness Summary. Please see sections entitled Pine Barrens Credit Program, and Economic. The Commission has recommended, in section 9.1.1 of the Plan, that Article 57 be amended to allow construction of single family homes on a specific set of single and separate lots located directly on existing improved roads in the Core Preservation Area. These specific lots are in developed areas, and are commonly referred to as infill. Such revision is considered consistent with the spirit and intent of Article 57, and moreover, necessary to more fully implement the provisions of the Act.

Core boundaries along existing improved roads should be moved back 300 feet to reduce land acquisition costs.

Response: The Core Preservation Area boundaries are designated in Article 57. The Commission is not authorized to adjust these boundaries or reduce the size of the Core for any reason, except as may occur upon petition of an affected property owner, pursuant to Article 57-0109(2). It is further noted that even in such cases, boundaries defined by state or county roads may not be changed.

The Draft Plan goal of prohibiting any new development in the Core is contradictory to the law and other sections of the Draft Plan which allow for residual residential uses in the Core. The reasons for prohibiting all new development are not adequately substantiated.

Response: Consistent with Article 57-0121(3)(a), one of the goals of the Plan is the redirection or prohibition of new construction or development in the CPA. This provision of the Draft Plan has been corrected in the Plan to reflect the goal of the Act.

Home owners in the Core should be able to plant any type of vegetation they desire and own any type of animals they desire.

Response: The Plan recommends the use of native, drought tolerant species for landscape plantings, and specifically discourages the use of invasive species (it includes lists of each type of species). Adopting such recommendations would be prudent on the part of the home landscaper. The Plan imposes no restrictions, beyond those contained in local and state ordinances, concerning household pets and livestock.

Permitted uses on trails in the Core Preservation Area, as described in the Draft Plan, are overly restrictive. People who live in the Core should be given privileges for trail use such as horse back riding, trail biking, and mountain biking.

Response: The Plan provides for accommodating and coordinating all trail uses in the CPB. In fact, the Plan calls for establishing a Trails Subcommittee of the Protected Lands Council to coordinate interagency efforts in such matters as trail building and maintenance. The Plan does not recommend any special privileges be extended to Core residents for use of public lands.

Permitted uses in the Core should be expanded to include model aeronautics.

Response: The Plan does not specifically address model aeronautics in the Core Preservation Area. Such activity should be evaluated for compatibility based upon the criteria set forth in Section 7.5.1, Recreation, in the Plan. However, any new land clearing for such use would not be permitted in the Core.

North Shore Properties should be embraced by the Plan as an example of a planned development district (PDD).

Response: The Plan contains a carefully considered policy concerning the North Shore Properties.

The allowable uses for existing, developed lots in the Core should be clearly specified in the Plan.

Response: Such uses are specified in Article 57, under the definition of development.

There needs to be mechanisms to provide tax relief for Core property owners due to restrictions placed on their land.

Response: Tax relief may be sought through the mechanism provided to grieve the assessment of real property under the Real Property Tax Law.

What, if any Core Preservation Area development would be exempted in the Plan?

Response: The Plan does not exempt any development, as that term is defined in Article 57, in the Core Preservation Area. The Plan does propose an amendment to Article 57 concerning in-fill lots.

The construction of a golf course on the ridge-line near East Quogue south of Sunrise Highway (Henry's Hollow) was proposed.

Response: Such a proposal would be appropriately brought before the local government agency(s) with jurisdiction.

The Core Preservation Area lines should follow natural features such as prime farm soil boundaries and topographic contours versus manmade boundaries.

Response: The Core Preservation Area boundaries were established by the State Legislature in Article 57.

Residual uses in the sending areas need to be clearly defined in the Plan. It was alleged that there is no residual use for commercially zoned property in the Core Area.

Response: Permitted uses of land within Core Preservation Area are defined in Chapter 5 of Volume 1 and apply to property presently zoned commercial.

A conflict was noted in the Draft Plan because it states "no development in the core" on one hand and then discusses allowing development along improved roads on the other hand.

Response: This conflict has been rectified during revision of the Plan.

Restricting Core Area recreational uses to passive activities, while adopting a very restrictive definition of active recreational activities in the Draft Plan will not meet the growing recreational needs of the CGA communities or fulfill the goal of the Act to promote both passive and active recreation.

Response: This issue has been clarified during Plan revision. The Plan does not restrict Core Preservation Area recreational uses to passive activities. Chapter 7 of the Plan (Volume 1) promotes a system whereby recreational opportunities are maximized in the Central Pine Barrens while avoiding adverse impacts on ecologically sensitive areas.

Ballfields should be added to active recreational activities and deleted from incompatible Core Preservation Area recreational activities.

Response: The Plan discourages new ball fields in the Core Preservation Area, where new land clearing would be required.

The standards for land use for the Core Area on page 150 of the Draft Plan are unclear as to whether new development will be allowed if it meets these standards.

Response: The Plan does not provide for development in the Core Preservation Area.

G. Central Pine Barrens Land Use Standards

Water Quality/Hydrology

Maintaining natural recharge and drainage versus constructed recharge basins should be a mandatory standard for development.

Response: The Plan adopts the use of natural recharge areas in lieu of constructed recharge basins as a guideline for development in the CGA.

The discussion of the impact of draw down of water in wetlands, on page 178 of the Draft Plan, arrives at conclusions that are not supported in the Draft Plan or DGEIS.

Response: The fact that a permanent, significant draw down of water levels in a coastal plain pond will result in changes in pond shore vegetation is well established in the literature cited in the Plan and SDGEIS.

Best management practices should be included in the Plan for the control of nonpoint source pollutants (i.e., road salts, fertilizers) that impact surface waters.

Response: These BMPs are included by reference in Chapter 5, Standards and Guidelines in the Plan.

All sources of our drinking water supply should be specifically identified within the CGA where increased densities are proposed by the Plan. This would act to prevent the degradation of drinking water quality.

Response: The Plan and SDGEIS specifically address the potential impacts of the Plan on existing water supply wells.

The Plan should require, as recommended by the SGPA Plan, that an area of 3 acres surrounding a wellfield should be under direct control of the water utility.

Response: The Plan, consistent with NYSDOH requirements, requires water purveyor control of an area which extends 200 feet radially from a supply well (approximately 3 acres).

Consistent with the law, compact and orderly development should be encouraged in the CGA to reduce infrastructure needs and nonpoint sources of pollution from impervious surfaces such as new roadways and parking lots.

Response: Compact, efficient and orderly development in the CGA is encouraged in the Plan.

Watershed rules and regulations from the SGPA Plan should be included in the Central Pine Barrens final plan.

Response: The SGPA Plan (LIRPB, 1992), on page 5-13, concludes, "Existing regulations by DEC and SCDHS are adequate for both wellhead protection and watershed rules and regulations." Naturally, the Plan actually builds upon the efficacy of these existing regulations by establishing additional land use restrictions, particularly in the Core Preservation Area.

Proposed CGA and receiving area development densities should conform to the BTCAMP recommended maximum density of 1 dwelling units (DU) per 2 acres, where such areas are within the BTCAMP designated ground water contributory area to the Peconic River.

Response: In formulating the Plan and preparing the SDGEIS, the Commission determined that its Plan for the entire Peconic River ground water contributory area is consistent with the spirit, intent, and substance of the BTCAMP, including overall future development densities. This determination was based in part upon the work of a hydrology committee established during Plan preparation. Chapter 8 of the Plan contains additional information on this issue, as well as Plan conformance with numerous other hydrogeologically based recommendations from prior land use studies and plans for this region.

The Draft Plan proposed to keep major public water supply and private wells shallow. Well head protection area plans for each well in the Central Pine Barrens should be created.

Response: The Plan continues to propose shallow public supply wells wherever practical. With respect to well head protection area planning, the Commission determined that the need for such planning was not unique to the Central Pine Barrens, and thus felt this issue was more appropriately left to existing authority and guidance, including NYSDOH and the New York State Wellhead Protection Program. (NYSDEC, September 1990).

Concerns were raised that by allowing PBCs used within the same groundwater management zone to be increased to 600 gallons per acre will degrade the drinking water quality in the Compatible Growth Area, and that the averaging out of degradation over a whole hydrogeologic zone is contrary to prior studies (SGPA Plan and 208 Study) that would need to be justified in the Plan and FGEIS. -

Response: The potential impacts of the PBC program on groundwater quality are examined in the SDGEIS. The concept of locally increasing development densities in order to preserve adjacent natural areas is entirely consistent with the 208 Study, the Long Island Groundwater Management Plan (NYSDEC, 1986), and the SGPA Plan, (eg. clustering, land swaps, and PDDs). Consistent with Article 57, the Plan protects the quality of groundwater in the CPB, while establishing a vast, contiguous preservation area. This is in contrast to the SGPA Plan, where similar land preservation mechanisms were suggested, but no authority or mechanism for connecting or managing resulting open spaces was provided.

Agriculture

The policies, minimum standards and land management recommendations for agricultural and horticultural uses will interfere with these uses and exceeds the jurisdiction of the Commission since the Act exempts agriculture and horticultural uses.

Response: The Plan does not advocate Commission authority over existing agricultural and horticultural uses beyond that which is provided under Article 57.

The requirement of a Farm Management Plan (page 204 of the Draft Plan) is inconsistent with the Act and beyond the jurisdiction of the Commission, is a confiscation of property rights and will interfere with agricultural and horticultural practices.

Response: The Plan has been revised and contains no such requirement.

The standards for land use and agriculture that require clustering on poorer soils, etc., will interfere with existing agricultural and horticultural uses. This amounts to a taking claim, and exceeds the jurisdiction of the Commission and is not based on any scientific data presented in the Draft Plan or DGEIS. It was also stated that the requirement for certification of nondevelopment for new or expanded agricultural or horticultural practices makes the land use standards unnecessary since the certification would exempt these practices.

Response: These issues have been clarified during Plan revision, consistent with the Commission's authority as provided under Article 57, and are covered in Section 5, Standards and Guidelines for Land Use.

Recreation

Recreational uses are not subject to the jurisdiction of the Commission and this section in the Draft Plan should be deleted.

Response: Article 57 states that "existing or expanded recreational use consistent with the purposes of this article....."do not constitute development (57-0107(13)(vii)). The statute, at

57-0121(2)(d), states that promoting passive and active recreational uses consistent with the land use plan is a goal for the CPB area. Additionally ECL 57-0131 prohibits any entity created pursuant to Article 57 from regulating hunting or fishing.

No motorized vehicles other than official vehicles should be permitted off road in the Core.

Response: The Plan states that off road use of unofficial motorized vehicles in the CPB should be avoided, except on trails or roadways designated for their use.

The definitions of "passive" and "active" recreational uses in the Draft Plan are too restrictive and do not necessarily identify activities or compatibility with other uses correctly.

Response: The Recreation section in Volume 1 of the Plan has been clarified during revision with respect to these issues. In particular, the issue of compatibility has been more rigorously addressed.

An inventory of current recreational lands and recreational pursuits needs to be identified in the Plan.

Response: The Appendix of Volume 2, includes the results of the Public Agency Management Survey which contains an inventory of current recreational lands and pursuits which occur thereon.

If a phase out of incompatible recreational uses in the Core and CGA is to be included in the Plan, it should be accompanied by a plan to relocate these uses in alternative areas with local user groups and residents' input.

Response: The Plan does not call for such a phase out. However, it does provide for a future plan, to be prepared by the Protected Lands Council, for such a phase out if deemed appropriate. Preparation of a plan by the Protected Lands Council would require a public process.

The Plan should recommend the ECL minimum distance of 500 feet near residences for discharging firearms and bows should be increased.

Response: This matter is outside of the purview of the Commission.

Historic Resources

The Draft Plan criteria, standards and procedures for designating historic sites seems overly restrictive on developers and re-development.

Response: This issue has been clarified during Plan revision. The Plan includes guidelines concerning identification and protection of historic resources.

Individuals requesting permission to demolish historic structures should be required instead to donate the structures to local preservation groups and the fee for moving these structures to an alternative location be paid by the applicant.

Response: The Commission does not have the authority to require a permit for such activity, nor collect the referenced fee.

Scenic Resources

Scenic values should stress views from existing roadways, and felt this is important especially along the Long Island Expressway and the William Floyd Expressway.

Response: The Plan reflects the importance of views from existing roadways in the Guidelines section of Volume 1 and in the Scenic Resources section of Volume 2.

Development abutting the Core Area should provide a 100 foot nondisturbance buffer area.

Response: As a practical matter, this is likely to occur where possible as a result of the guidelines and standards in Volume 1 regarding clustering, scenic resources, and coordinated design of open spaces. However, such a buffer is not a requirement of the Plan.

If scenic resources are to be protected in the Plan, each area should be specifically identified so the GEIS can evaluate the economic impacts of this designation.

Response: The means by which scenic resources are protected for any particular project, and the guidelines for doing so implemented, will be a project specific determination, and thus, the specific economic impact of such protection could be assessed during planning for each project, if required by a lead agency.

The standards for roadways should reflect the design preference of the communities to preserve scenic resources as reflected in their mini-master plans.

Response: The Plan makes the protection of scenic resources the subject of a Guideline. Therefore, the decision concerning how these resources are protected will be made at the town level.

The historic preservation board described in the Draft Plan should be required to begin functioning within one year of the adoption of the Plan.

Response: The Plan no longer calls for the creation of such a board.

Scenic resources need to be ensured protection both in the Core and the CGA communities which will accommodate future development.

Response: Such protection is provided for in the Standards and Guidelines section of Volume 1.

The addition of specific scenic resources to the list on page 90 of the Draft Plan was suggested.

Response: These additional, specific sites were evaluated. Several were included with individual listings already contained in the Plan. Others were inconsistent with the selection criteria established in the Plan.

New Councils and Boards

The Draft Plan's alleged creation of new jurisdictions, agencies, or quasi-agencies, such as a dedicated Pine Barrens police, or a special court to settle Pine Barrens violations was questioned. Opposition was raised to the proposed Land Management Council concerning the Council's membership. It was suggested that the need for the creation of a fire council, a land management council, a preservation board and said costs and benefits of each be analyzed.

Response: These comments were all considered during the Plan's revision. The Plan now establishes only two new working associations related to public lands management, a Protected Lands Council and a Law Enforcement Council. Their responsibilities essentially encompass the coordination of interagency efforts, and their work was already ongoing. Entities may petition for membership on the Protected Lands Council. Additionally, interested individuals are encouraged to participate and assist these associations by offering technical and other advice. All prior recommendations regarding fire councils, preservation boards or other entities have been dropped. Additionally, the Plan does not have the authority to create any new jurisdictions, agencies or quasi-agencies and, therefore, does not attempt to do so.

There should be a public lands council formed with members from each public lands management agency and the Nature Conservancy with broad powers delegated by the Commission.

Response: The Commission established such a council as one of its two working associations described in a prior response.

The Draft Plan's creation of a Land Management Council was opposed on the grounds that it would add a level of regulatory review, lack statutory authority and usurp authority of Towns. They felt that the amendments to Town codes would address the functional aspects of land management without the need for a Land Management Council.

Response: The working associations described in prior responses will not act in a regulatory review capacity for development projects.

Intergovernmental Coordination

Intergovernmental and consistency components are missing from the Draft Plan.

Response: Intergovernmental and consistency components of the Plan are contained throughout Volume 1, e.g., the Protected Lands Management Council, the Law Enforcement Council, and Chapter 4 of Volume 1, Review Procedures and Jurisdiction.

The Central Pine Barrens Commission should get involved in the development project review process early on.

Response: Chapter 4 of Volume 1 sets forth Commission application and review procedures which allow concurrent application to the Commission and local agency with jurisdiction.

The Plan should describe and discuss the future of the Suffolk County Pine Barrens Review Commission.

Response: The Suffolk County Pine Barrens Review Commission is created and empowered under County law, and its future structure and function is outside of the purview of the Commission established under Article 57.

The Plan should require and define explicit experience and education requirements for future Commission staff.

Response: The Plan describes the kind of expertise that the Commission will need to have available at the staff level in the future.

It was argued that implementation of the Draft Plan would create extra layers of bureaucracy.

Response: The Commission has consciously sought to avoid the creation of layers of bureaucracy by limiting the number and type of projects which it would have to review, and by creating a set of standards and guidelines which are as specific and straight forward as possible. The Commission has also set forth review procedures which allow for concurrent review by the Commission and local agencies. These initiatives are fully described in Chapters 4 and 5 of Volume 1.

Wetlands

Additional setback requirements for ponds and wetlands should be based on scientific data that is presented in the Draft Plan and analyzed in the DGEIS. According to some, the wetland setback of 100 feet is inadequate and thus should be 250 feet. It was further suggested that the Draft Plan should have stronger elements protecting fresh water wetlands, specifically noting potential hydrologic impacts of development on all wetlands. However, it was suggested that is no data to support protection of wetlands beyond the protection provided under current law and by the Core Preservation Area.

Response: The Commission recognizes that creation of the Core Preservation Area affords

Core Preservation Area wetlands and surface waters far more protection than would a standardized setback distance. Therefore, consideration of standards concerning wetland setbacks focusses on development in the CGA. In resolving this issue, the Commission has set a standard whereby the most protective of existing standards shall apply in determining the required wetland setback distance for development projects in the CGA. In addition, the Commission has set a guideline which allows the local agency with site plan review jurisdiction to set alternative setbacks where and as deemed appropriate. The potential environmental impacts of these guidelines and standards are discussed in the SDGEIS.

The restrictions on public water supply well draw down at wetlands (0.25 feet) were too strict, not supported by science, and ill-conceived given natural water table fluctuations in excess of several feet occur on Long Island.

Response: This issue was considered during the revision. The Plan no longer includes the 0.25 foot sustained draw down threshold. Instead, the Plan provides that wells shall be at sufficient depth and distance from wetlands so as to avoid sustained, permanent draw downs which would significantly alter the character of these wetlands.

The cost of implementing mitigation for all existing stormwater discharges to wetlands (as proposed in the plan on page 169 of the Draft Plan) should be presented and evaluated.

Response: The referenced mitigation is a recommendation in the Plan, to be applied where practical and feasible. An inventory of all such existing discharges, preliminary design of improvements, feasibility studies, and estimates of cost are beyond the scope of the Plan.

The suggestion on page 179 of the Draft Plan, concerning limiting the trampling of coastal plain pond shores by limiting public access is misguided given that a number of valuable freshwater fishery resources lie in the Central Pine Barrens. It was suggested that angler access must be provided.

Response: This issue has been clarified during Plan revision. The Plan provides that recreational uses in the Core are to be encouraged. In particular, angler access is to be preserved and facilitated for all surface water environs, including coastal plain pond shores.

It was stated that pond construction has wetland and water quality benefits and should be allowed to take place.

Response: The guidelines for stormwater runoff in Chapter 5 of Volume 1 of the Plan allow pond or wetland construction to be considered as a stormwater management alternative.

Ecological Vision

The Draft Plan's characterization of the CGA as heavily urbanized (page 147) in the Ecological Vision section is inaccurate since the CGA contains 15,029 acres of vacant land.

Response: This characterization has been removed during Plan revision.

The ecological goals for the CGA listed on pages 149-150 of the Draft Plan should include the

nondegradation of water quality within SGPAs.

Response: The discussion of ecological goals has been reworked during Plan revision to more fully comport with the goals set forth in Article 57. The term nondegradation is not a term of art, and has no universally accepted definition. Thus, its use would be confusing.

Nitrate

The nitrate standard in the interim standard for the CGA should not be changed unless the scientific basis is analyzed.

Response: The Plan does not adopt any nitrate standard. Instead, it incorporates a number of land use restrictions and recommendations, along with specific standards and guidelines for development which, taken together, achieve the ground water quality goals set forth in Article 57 for the CPB.

According to some, unsewered residential subdivisions on lots averaging 20,000 square feet in receiving areas does not take into consideration, as required by the Act, previous study recommendations (SGPA, 208 Study) with regard to nitrate loadings that should be allowed in order to protect groundwater quality.

Response: The data, scientific analyses, and recommendations of the 208 study, and the follow up project, the Long Island Ground Water Management Program (NYSDEC, 1986) were heavily considered in the preparation of the Plan. Likewise, and in accordance with Article 57, the Recommendations of the SGPA Plan were considered. It is noted that the SGPA Plan, in particular, proposes acquisition, transfer of development rights, and clustering as preservation techniques to be used to maximize the quality and quantity of future recharge.

It was stated that the Pine Barrens standards should be brought into compliance with Suffolk County Health Services Article 6, which provides for a 4 ppm versus 6 ppm nitrate standard, and exempt only single and separate lots which predate 1981. Comments were received stating that a 6 ppm nitrogen standard was too high, or that there should be a varying standard based upon the site location. A limit on residential development based upon nitrogen loading is difficult to justify when such development has not caused significant water quality degradation and that both nitrogen and phosphorus must be present to impact ponds and wetlands. It was further suggested that the 6 ppm standard should be calculated over the entire site including acreage being sterilized and that there is no justification for a lower standard in specific CRAs. Additionally it was alleged that proposed land use standard of 6 ppm nitrate nitrogen fails to meet intent of the law. The use of a CGA nitrate standard (for groundwater recharge) lower than the 6 ppm standard in use during the interim period (Interim Goals and Standards) was advocated. Additionally, it was stated that the nitrate standard should be 2 ppm, however, for groundwaters with nitrate less than 1 ppm, the development standard should be 1 ppm.

Response: Much of this commentary stems from a misunderstanding of the nitrate standards being proffered. The 6 ppm nitrate standard in use during the interim period (Interim Goals and Standards) was a standard for the average design nitrate loading for recharge occurring across a development site. This standard was not the design standard for ground water quality in the aquifer system beneath the project site or any given community. Aquifer quality would

be a reflection of average conditions throughout an area, including other land uses, such as agriculture, and public and private open spaces or vacant lands. The foregoing notwithstanding, the Commission has not adopted a nitrate standard in the Plan. Instead, they incorporated a number of land use restrictions and recommendations, along with a specific set of standards and guidelines for development, which, taken together achieve the ground water quality goals set forth in Article 57 for the Central Pine Barrens.

It was stated that the Peconic Estuary Program (PEP) recommendations, based upon nitrate loadings, (i.e., 1 unit per 2 acres) should be consistent with the Plan and incorporated.

Response: The issue is discussed in the Water Quality/Hydrology section of this Responsiveness Summary.

A general nitrogen standard of 6 ppm in the CGA is inadequate since BTCAMP research illustrated that 6 ppm could not assure protection of Peconic River surface waters.

Response: This issue is discussed in the Water Quality/Hydrology section of this Responsiveness Summary.

The quality of potable water in CGA will be degraded if Article 6 (S.C. Sanitary Code) is relaxed.

Response: The Plan does not propose relaxing the spirit, intent, or substance of Article 6.

It was stated that the Draft Plan should have required Sewage Treatment Plants (STPs) for areas with increased density, and that these STPs should discharge outside the Central Pine Barrens/SGPA.

Response: The Plan calls for STPs where recommended densities are exceeded, and proposes that discharges be outside of the CPB wherever technically and economically feasible.

Development Standards

It was stated that clearing for new development should be a fixed limit (12,000 - 20,000 square feet) versus a percentage. It was also suggested that site clearance standards be met through scenic and conservation easements.

Response: Chapter 5 of Volume 1, Guidelines and Standards include clearing standards which aggressively protect native vegetation on future development sites.

The dedication of open space set aside during the site plan approval process to a public entity rather than mere protection as private land was advocated.

Response: The Plan contains guidelines which provide for receiving entities for dedicated open space (Chapter 5.3.3.9.1) and/or legal and enforceable protection of dedicated open space (Chapter 5.3.3.9.3).

Guidelines and performance standards for new development must be specifically enumerated so that all reasonably expected impacts can be evaluated.

Response: This has been accomplished in Chapter 5 of Volume 1 of the Plan.

Specific setbacks and building coverages should be established for development and variance standards should be established for instances where such standards create a hardship.

Response: The Plan and the statute include provisions for hardship exemptions for a CGA application.

The recommendation in the Draft Plan on page 190 to adopt the provisions of BTCAMP should be qualified so that only the provisions of BTCAMP are included to the extent that they are consistent with the Plan.

Response: In effect, this has been accomplished in Chapter 8 of Volume 1 of the Plan, which addresses implementation of BTCAMP recommendations and explains the consistency issue.

It was suggested that subdivisions near the Core must be designed to accommodate fire management.

Response: This is not an explicit recommendation in the Plan, however, the clustering to link open spaces, a guideline in the Plan, will help provide such accommodation.

It was suggested that mandatory clustering should apply to all development in the CGA. It was proposed that the minimum standards for clustering should be based upon Town of Southampton Aquifer Protection Overlay District. however, it was also stated that mandated clustering on all subdivisions may not be appropriate and should be decided on a site by site basis. Additionally, it was requested that the explicit recommendations of the Ecology Committee should be incorporated on page 158 of the Draft Plan.

Response: Chapter 5 of Volume 1 in the Plan contains several guidelines which strongly urge the appropriate use of clustering, and give local municipalities the authority to require clustering on all subdivisions in the CGA.

No new structures over 30 feet in height should be permitted in the Central Pine Barrens.

Response: The Commission left this issue to be resolved at the local level.

The criteria for hardship should include that there be no detrimental impact to the ecology of an area, and no degradation to the quality of ground or surface water as a result of the granting of a hardship exemption.

Response: The criteria for hardship are established by the New York State Legislature in Article 57.

Clearing standards should apply to all types of vegetation, including herbaceous old fields.

Response: The clearing standards apply to all native vegetation.

The Draft Plan's restrictions on the use of non-native plant species for landscaping were opposed.

Others, however, felt the restrictions should be stronger, stating that turf grasses should be more heavily restricted, and only native plant species from Long Island stock should be utilized for any landscaping. Additionally, it was suggested that natural vegetation and natural habitat preservation should be maximized.

Response: The Plan seeks to maximize the protection of natural vegetation and habitat by providing for coordinated design (in order to link open spaces) and incorporating strict land clearing standards. Landscaping with non-native species, including turf, is discouraged by limiting such plantings to a maximum of 15% of the site.

It was suggested that the Draft Plan's across the board ban on use of non-native vegetation for planting in the Central Pine Barrens was too restrictive. For example, native and non-native species are used to establish wildlife food plots on some state lands, and some non-native species are more efficient in the re-vegetating of cleared areas subject to erosion.

Response: These factors have been noted, and such bans on the use of non-native species no longer appear in the Plan.

Standards which provide habitat protection should be established for a list of habitat types only after these habitat types are prioritized in terms of importance; (e.g., does one protect a wetland at the expense of an oak forest?)

Response: The Plan has sought to provide protection to all habitat types to the degree practicable and within the limits of the Commission's powers as set forth in Article 57.

It was suggested that the Interim Standards should be incorporated into the final Plan.

Response: The interim standards were simply that, INTERIM. They have been substantially changed, clarified, and expanded through a tremendous amount of effort during the planning process.

H. Public Lands Management

The Draft Plan proposal that all public land in the Central Pine Barrens be posted (page 206 of the Draft Plan) is inconsistent with the desired use of public lands. For example, the NYSDEC actively promotes and encourages the use of state held land.

Response: The comment is accurate and noted. The Plan now encourages the recreational use of public lands in the CPB, including the pursuit of hunting, trapping, and fishing.

Management techniques in addition to fire should be discussed in more detail. The use of fire as a major management tool for the Core Area was opposed. Extensive additional study and research was suggested as a prerequisite for employing fire management. The "historic role" of natural fires in shaping the current Pine Barrens was questioned, and a suggestion favoring natural succession to occur in parts of the Pine Barrens was put forth. It was further requested that the dependency of the Pine Barrens species on fire should be scientifically justified.

Response: The discussion on management techniques in addition to fire management were substantially expanded in Chapter 7 of Volume 1 of the Plan during the Plan's revision. The Plan now calls for further study and planning before the use of fire management may be employed.

The issues of safety and air quality with regard to prescribed burns needs to be addressed in the Plan and the FGEIS along with mitigating measures to protect the safety of nearby residents and air quality.

Response: These and numerous other issues will have to be resolved in the additional studies and planning described in the prior response.

Public access points to water areas and related recreational resources should be maximized.

Response: The Plan provides for this, and moreover encourages that recreational opportunities in the CPB be expanded.

I. Acquisition/Funding Issues

It was suggested that half of all acquisition money should be spent on parcels smaller than five acres.

Response: The Commission did not attempt to dictate the means by which public funds would be expended by the individual agencies seeking to acquire lands in the CPA. Each agency has its own priorities, e.g., contiguity with other agency holdings to facilitate land management, and monies available to individual agencies may have limitations on how they may be spent, depending on the source, e.g., open space funds, EQBA funds, farmland preservation etc. Thus, the Commission sought to ensure the protection of all land values in the Core Preservation Area by creating a viable, funded TDR program.

The Plan should discuss additional funding sources or additional compensation programs in more detail. It was alleged that the financial component of the Plan is in large part missing and otherwise inadequate.

Response: These matters are all addressed in Chapter 3, Volume 1 of the Plan.

The Plan should contain a comprehensive acquisition plan that identifies what lands should be protected, the costs, and specifically how it will be financed. It was suggested that the alternatives from the DGEIS should be used for this.

Response: Such an acquisition plan could not be included in the Plan. The preparation of such a plan would be impractical, given that the Commission would have to presuppose that all private land in the CPA was available for sale at fair market value. Potential and known sources of financing are included in the Plan and alternative acquisition strategies were addressed in the alternative section of the SDGEIS.

It was suggested that there should be a greater reliance on cash purchases over PBC programs.

Response: The Plan contains a long range goal whereby 75% of the privately held, undeveloped and currently unprotected lands within the CPA would be protected through acquisition.

The Plan needs a specific and overriding land management plan that identifies objectives, costs, and committed funding sources which should be evaluated in the GEIS.

Response: The Plan creates a Public Lands Management Council to address these issues in the future, and proposes the development of unit management plans for individual public land holdings in the CPA, as appropriate.

There should be a registration book for property owners who wish to have their land publicly acquired.

Response: There is no provision for this in the Plan, however, property owners have in the past contacted the various agencies actively acquiring land in the CPA. These agencies, and their ongoing acquisition programs, are described in Chapter 3 of the Plan. Property owners should continue to contact these agencies directly as appropriate.

The acquisition or purchase of Grumman (Calverton) property by the Department of Interior Fish and Wildlife or National Park Service was proposed.

Response: Calling for such Federal acquisition is beyond the scope of the powers given the Commission under Article 57.

The following suggestions for mechanisms to provide just compensation to core property owners were provided:

- increase the sales tax
- divert utility taxes to an acquisition fund
- swap land in the core for comparable parcels in the CGA or in any one of the seven other towns
- The Central Pine Barrens Commission should aggressively use the Land Exchange Law (Chapter 102, Suffolk County Code), including land in the name of Suffolk County Treasurer to acquire land in the Core
- small tracts in single and separate ownership should be able to be built
- core properties on roads with utilities within 500 feet should not be in the core

Response: Each of these suggestions was carefully considered. It is noted that some relate to possible funding sources, while others relate to future land use in the CPB. The Commission has sought to preserve property values in the Core Preservation Area through continued acquisition and creation of a viable, funded PBC program. Consistent with several of these suggestions, the Commission has proposed a legislative change which would allow construction of single family residences on a set of specific infill lots in the CPA. The history of land swaps has not been encouraging, and therefore the Commission chose not to rely on this tool. With respect to funding mechanisms, the means of raising such funds must be left to the individual levels of government with taxing jurisdiction.

It was suggested that the Pine Barrens should be divided into fire management districts which could be allowed to burn naturally instead of relying on controlled burning.

Response: As described earlier in this Responsiveness Summary, the Plan calls for additional planning and study before fire management is employed.

2. Summary of Comments on April 26, 1995 Plan and SDGEIS

The following comments on the April 26, 1995 Plan and SDGEIS, were received pursuant to SEQRA. The comments were received during a comment period that ran from April 27, 1995 to May 30, 1995, which was extended and closed on June 7, 1995. Public hearings were held on the Plan and SDGEIS at the Brookhaven Town Hall, the Riverhead County Center and at the Southampton Community Center on May 15th, 16th, and 18th, 1995 respectively.

As with the comments received on the July, 1994 Draft Plan and DGEIS, only substantive comments have been addressed. The Commission received roughly 300 pages of oral testimony concerning the Plan and SDGEIS. In addition over 300 pages of written comments were submitted to the Commission. The written comments again took the form of letters, news articles, and editorials, varying in length, scope and level of detail.

This responsiveness summary provides direct responses to comments and where appropriate refers to information contained in the Proposed Final Plan, dated April 26, 1995 and in the SDGEIS of the same date.

Many comments received in response to the April 26, 1995 Plan and SDGEIS expressed concerns which were raised during the public review of the July, 1994 Draft Plan and DGEIS. In order to avoid being overly repetitive such comments were only addressed once.

This responsiveness document is divided into the following subsections:

- A. **General Comments** - This section responds to a host of general comments concerning topics ranging from the future of the Suffolk County Pine Barrens Review Commission to the use of gasoline powered boats on the waters of the Central Pine Barrens.
- B. **Pine Barrens Credit Program** - This section addresses comments specifically on the PBC program. Many comments received on this subject expressed concerns already addressed in the responses to comments received on the July 1994 DGEIS and Draft Plan. However, as new information has been developed since the July Draft Plan and the program has been refined, some novel comments were given.
- C. **Economic Impacts of the Plan** - This section summarizes the comments on the economic impacts of the Plan. Included within this section is a discussion of the impacts on school districts and other special districts in the Central Pine Barrens. Many of the comments are responded to with the same reference to the Fiscal and Economic Evaluation of the Central Pine Barrens Plan, attached hereto. However, all the comments in this section should be read in conjunction with the Fiscal and Economic Evaluation of the Central Pine Barrens Plan.
- D. **Notification Issues** - This section responds to the oft cited comment that landowners were not notified of the Plan.
- E. **Water Quality Concerns** - This section addresses comments concerning the hydrogeological aspects of the Plan and SDGEIS.

- F. **Comments on the Plan's Treatment of the North Shore Properties** - This section addresses comments received concerning Chapter 9 of the Plan. These comments focused primarily on the treatment of the North Shore Properties.
- G. **Taking Allegations** - This section addresses the claim that the PBC program and the Plan constitute a taking in violation of the United States and New York State Constitutions.
- H. **Critiques of the SDGEIS** - This section addresses those comments which were critiques of specific sections of the SDGEIS.
- I. **Acquisition Policy Issues** - This section responds to the issues raised by the Commission's 75% acquisition policy.

A. General Comments

Lists of editorial or factual corrections to the Plan and SDGEIS were provided.

Response: These lists were reviewed in detail, and any necessary corrections noted and made.

It was recommended that the Commission adopt the specific language "within 500 feet of a freshwater or tidal wetland" or within the identified zone of influence to public water supply wells, a lower nitrate-nitrogen standard be adopted.

Response: During the course of Plan development, the Commission considered these and other setbacks for the protection of specific resources. The Standards adopted in the Plan are scientifically based, implementable, clear, and accomplish the goals of Article 57.

The use of conservation easements as the tool of choice in preserving open space areas of clustered developments rather than covenants was recommended. Additionally, a Commentator proposed clustering be made mandatory in receiving area projects, rather than as a discretionary tool to be used by the Towns.

Response: The Commission strongly urges the Towns to use clustering techniques to enhance existing open spaces or in areas to provide contiguous open space connections. Clustering is an effective preservation tool, however, it is not advantageous in all instances. Like the remaining array of planning tools, it must be employed with some planning discretion. Thus, it is appropriately placed in the Plan as a Guideline.

A prohibition against the use of gasoline powered motors on boats on the Pine Barrens ponds and streams was sought.

Response: The Commission found no justification for such new prohibition on the few water bodies where this is currently allowed.

It was suggested that there should be no introduction of non-native species to the Pine Barrens nor should the practice of maintaining fertilized food plots be continued.

Response: Such a total prohibition would be ill conceived. In fact, many of our prized fresh water fish are non-native. Food plot maintenance is an ongoing practice in the CPB which has many environmental advantages, and appropriately carried out, poses no threat to CPB resources.

When there is no risk to personal property, local fire districts should pursue passive fire management strategies rather than active control tactics.

Response: Local fire departments are the best equipped and most experienced in determining what method of fire suppression to utilize in any given situation. Fire suppression is and will remain within their jurisdiction.

While support for the redevelopment of the Calverton facility as a Planned Development District was

expressed, the preservation of the 300 acres of Core Preservation Area within the fence was sought. It was also recommended that the 3,500 acres outside the fence associated with the facility be transferred to the U.S. Fish and Wildlife Service with day to day management responsibility to the NYSDEC.

Response: This is consistent with the Plan.

A Commentator remarked the Calverton policy must be addressed in the SDGEIS.

Response: Chapter 9.2 of the Plan is a statement concerning the applicability of Article 57 to future activities at the Calverton facility. Essentially, it is a legal interpretation, and does not require or lend itself to an environmental review. It is noted, however, that a Master Plan and GEIS will be prepared concerning redevelopment of the site. In addition, the environmental setting section of the SDGEIS does examine the existing conditions of the Calverton facility.

A moratorium was sought on the Pine Barrens planning process until the Federal Government addresses the pending taking legislation.

Response: The Commission has strict statutory timetables which must be adhered to. By June 30, 1995 the Plan, must be adopted by the Commission or the entire planning effort fails and pre-Commission conditions return to the Central Pine Barrens.

Any upzoning or downzoning by a future Town Board would compromise the effectiveness of the PBC program and should therefore place a town's indemnification by the State in jeopardy.

Response: Under the Plan, the Towns are not expected to alter zoning so as to adversely impact the PBC program. Any effect of rezoning on indemnification will be subject to relevant legal requirements.

Lands currently managed by the DEC should remain within the purview of NYSDEC control.

Response: No transfers of present land management responsibilities are contemplated by the Commission. Thus, lands currently managed by the NYSDEC should stay within NYSDEC purview.

It was requested that regulation of sporting and hunting activities remain with the State and should not be delegated to the localities.

Response: There has been no discussion concerning delegation of sporting and hunting regulation duties to the localities. Furthermore, Article 57 precludes any such delegation.

It was suggested that instead of canceling the State electricity tax those funds be used to purchase Pine Barrens Lands.

Response: This suggestion is outside the scope of the Commission's jurisdiction. This suggestion would be better addressed to the New York State Legislature.

It was proposed that the CPA taxes be canceled on the date of adoption of the Plan.

Response: This suggestion is beyond the scope of the Commission's authority. It would require special enabling legislation from the New York State Legislature.

Concern was raised on whether environmentally sensitive areas within the receiving areas will be preserved.

Response: The Standards and Guidelines provide for the preservation of such areas. The SDGEIS identifies any potential impacts to such areas, and as appropriate, provides for mitigation.

Development within the receiving areas will not be compact, efficient or orderly since it is infill, and because the design practices hold "absolutely no weight."

Response: Future development in the CGA will not be infill. It will be compatible development subject to the Standards and Guidelines of the Plan. The Statute contemplates compact, efficient and orderly development in the Compatible Growth Area. This will be achieved in at least two ways. First, by transferring development from the Core Preservation Area, this area marked by large lot zoning will not be developed in a sprawl manner as the current zoning would dictate. Second, the development of Planned Development Districts will be compact, orderly and efficient.

The air impacts associated with prescribed burns was not addressed.

Response: The Plan contemplates the preparation of a comprehensive fire management plan prior to any prescribed burns. It is in the preparation of that document that the air impacts associated with the burn can be addressed.

There was no discussion of the impacts on the herptofauna. In addition, it was alleged to be impossible to develop a Plan without more information on the non-mammalian animal communities and less obvious plant communities.

Response: Extensive research has been done of the existing conditions of the Central Pine Barrens. However, continuing work may be undertaken by the Protected Lands Council, which is receptive to receiving scientific and technical data on any related subject.

If air quality within the Core Preservation Area improves, then the air quality in the receiving area must decline.

Response: According to analysis undertaken by the Suffolk County Department of Public Works the air impacts on the receiving areas is not significant. Development will occur in the receiving areas with or without the Plan. However, the incremental increase in development attributable to the Plan will not significantly alter the air quality. Additionally, this slight impact can be mitigated by the roadway infrastructure improvements which would be required to service the demands created by the existing (pre-Plan) zoning.

The development pressures on existing farmland will increase after ratification of the Plan.

Response: This possibility, and the limited degree to which it might occur, are discussed in Chapter 20 of the SDGEIS, along with appropriate mitigation.

It was alleged that full implementation of the SGPA Plan would have resulted in preserving 80% of the pine barrens which can be preserved.

Response: This issue is fully described and evaluated in the Alternatives Chapter 25.1 of the SDGEIS. The SDGEIS explains that a legislative mechanism for SGPA Plan implementation does not exist, funding for SGPA Plan implementation has not been committed, the elements of the SGPA Plan are not enforceable, and the SGPA Plan was never subjected to review pursuant to SEQRA or with regard to economic impacts. Thus, full SGPA Plan implementation is unlikely. It is noted, however, that many of the tools and initiatives included in the SGPA Plan have been incorporated in the Commission's Plan, ensuring implementation of these elements.

There is inadequate representation on the Advisory Committee of landowners and civic organizations.

Response: The initial Advisory Committee member list was established by the New York State Legislature. However, parties interested in being represented on the Committee were able to attend the Committee meetings and offer suggestions and comments. Additionally, several organizations petitioned and two received membership on the Committee from it.

More emphasis should be placed on PDD projects. In addition, the Design Guidelines in Volume 2 should be mandatory.

Response: The Commission has made the Suggested Design Guidelines for Pine Barrens Credit Use Areas discretionary by placing them in Volume 2. The towns are responsible for preparing PDD ordinances that may contain guidelines based on the specific locations, land uses, and community concerns.

The Suffolk County Pine Barrens Review Commission may become obsolete upon ratification of the plan and thus expendable.

Response: The role of the Suffolk County Pine Barrens Review Commission remains within the purview of the Suffolk County Legislature.

The concern was raised that tax assessors will not reassess lands from which the PBCs have been severed.

Response: The local tax assessor has the responsibility to assess lands. In addition, the Real Property Tax Law provides a mechanism by which owners can grieve their taxes.

It was alleged that the public was excluded by a "carefully orchestrated" movement.

Response: The Commission has no control over the amount of media coverage its activities attract. It has consistently provided schedules to interested parties. Public participation has been solicited, encouraged, and accommodated throughout the Plan development process.

The Plan is silent with respect to funding for fire and ambulance districts.

Response: The Plan addresses this issue in Section 9.1.4.

The Plan has no sunset provision but rather must be reviewed every five years and the regulations can be changed at any moment.

Response: The Statute provides for this review to ensure that the Plan is meeting the goals of the Act.

It was argued that the Town of Southampton Western Generic Environmental Impact Statement automatically becomes part of the Plan for the Central Pine Barrens.

Response: The Western Generic Environmental Impact Statement may have served as a valuable source of information concerning planning initiatives, but it is not part of the Central Pine Barrens Plan. It is solely a Town initiative.

Remarks were directed to the absence of the official Commission members from the public hearings.

Response: The purpose of the SEQRA public hearing is to offer the public an opportunity to express their concerns on a SEQRA related item. It is not, nor is it designed to be, a public debate concerning the merits of any one item. As such, the Commissioners, who often have obligations which require their direct attention, may elect to send an alternate to the SEQRA hearings. However, these alternates do attend and relay the substance of the meetings to the Commissioners, so as to enable the Commissioner to be informed of public reaction and concern regarding the Plan and SDGEIS. A complete stenographic record of each hearing was compiled and made available to each Commissioner and any other interested individuals who may have been unable to attend all of the hearings.

Concern was raised that the Plan is still being written.

Response: The Plan was completed and released on January 13, 1995 pursuant to the Statute. Pursuant to an extension received in March 1995, the Plan was revised and released on April 26, 1995. Since April 26, 1995, there have been no changes to the Plan. This Plan was subjected to this environmental analysis pursuant to SEQRA and must be adopted by June 30, 1995.

Concern was expressed that the Commission may require that homeowners within the Core must replace their cesspools.

Response: This is not a component of the Plan. Moreover, Article 57 does not provide the Commission with jurisdiction over the continuation of an existing residential land use. Finally, the Plan and SDGEIS provide no basis for instituting any such requirement.

May a CPA home destroyed or partially destroyed by fire be rebuilt?

Response: Absolutely. Article 57 clearly provides for this.

It was argued that the goal of the Commission is to depopulate the Pine Barrens area and return it to wilderness. Furthermore, it was alleged that the true goals of the Commission are to "gain complete control of all land on Eastern Long Island" and "ultimately destroy any rights private property owners now have."

Response: This is simply false. The goal of the Commission, as stated in the law, is to create a Plan which will "provide for the preservation of core preservation area, protection of the Central Pine Barrens Area and for designation of compatible growth areas to accommodate appropriate patterns of development and regional growth with recognition of the rights of private land owners and the purpose of the preservation of the core area." (ECL 57-0105).

No analysis of the effect of existing buildings on the aquifer was undertaken.

Response: The effects of existing development on the aquifers is described in the existing conditions discussions in Volume 2 of the Plan, Chapter 4.3 to 4.5, and further evaluated in the SDGEIS at Chapter 3.1.3.1 and Chapters 7 and 8.

It was alleged that the Plan devalues CPB land. Additionally complaints were raised concerning the high taxes and uncertainty surrounding the future use of property in the Central Pine Barrens.

Response: Land values have decreased in recent years due to factors wholly unrelated to the creation of the Commission (created in 1993). During the 1980s litigation concerning potential development proposals in this area, coupled with the area's inherent environmental sensitivity and the effects of a recession economy, brought about the decline of real estate values in this area. By carefully creating a consensus on what must be preserved and what can be developed without jeopardizing vital natural resources, uncertainty in the real estate market in the Pine Barrens may be removed. The land acquisition program and a viable PBC program may enhance land values in the Central Pine Barrens.

A question was raised concerning the appropriateness of placing River Road within the Core Preservation Area.

Response: The CPA and CGA boundaries were established by the New York State Legislature. Boundary changes must be accomplished by the legislature or upon petition of property owners to the Commission.

It was suggested that people who do not live in the Pine Barrens should not be allowed to vote on the Plan.

Response: The Pine Barrens region is a region of state-wide importance. The effects of a Plan concerning this area reach far beyond the geographic area known as the Pine Barrens given the importance of the groundwater in the area. In addition, the region harbors the greatest concentrations of statewide and globally rare endangered species in New York. According to the New York State Legislature their protection is the "best interests of the people of New York." (ECL 57-0105). Given the statewide importance of the area, limiting participation to those who live in the area is not in the best interests of the citizens of New York.

Will the Commission review such things as additions to, replacement of, or the raising of livestock around existing single family residences in the CPA?

Response: No, as long as these activities do not constitute development as defined in the Act.

The Standard for native vegetation is confusing, does not seem to account for partially cleared lots, and contains onerous restrictions concerning revegetation with non native species given that turf is non native.

Response: The referenced section has been edited for clarity, and while it actually did account for partially cleared lots, this point has also been clarified. Limitations on the use of nonnative vegetation for landscaping, however are not considered onerous or unreasonable by the Commission, nor has the SDGEIS indicated any need to relax this standard.

Does Standard 5.3.3.7.1 require that it be determined beyond a reasonable doubt that there will be no adverse impacts to special species or ecological communities associated with a given development project?

Response: No. It requires that any potential significant impacts which are identified be mitigated.

There is concern that the committees and councils created in Chapter 7 of the Plan would be autonomous, delegated Commission authority, or fail to work for or report to the Commission.

Response: No such delegation of Commission authority is contained in the Plan.

The Plan proposes that agencies be encouraged to provide water sources and troughs for trail users (Chapter 7.5.2.12). However it was alleged that this is unfeasible, and such facilities would be subject to "terrorist" activities.

Response: The Commission's intent was for such facilities to be encouraged where feasible.

Several sections of Volume II, such as "Future Research Needs" and "Status of Ecosystem Research in the Central Pine Barrens" are not actually existing conditions, and therefore do not belong in Volume II.

Response: The Commission has extensively deliberated this issue. It was the conclusion of the Commission that by placing them within Volume 2, they could serve as guides and tools which can later be used by any interested party. However, if they were to be included in Volume 1, their scope and range would have had to be curtailed given the legal significance of inclusion within the Plan.

Many reports prepared by subcommittees of the Advisory Committee are not included in the Plan.

Response: All of these works were carefully considered by the Commission during Plan development, and portions of these works were incorporated where and as appropriate.

The receiving area map in Figure 6-3 of the Plan is in error.

Response: The subject map has been checked by the Commission and corrections have been made. While it may be difficult to read, it is accurate and should remain in the Plan.

The title of Chapter 14 of Volume II includes the word Guidelines, which could lead to confusion given the significance of the term Guidelines in Volume I.

Response: The Preamble to Volume I, on page 23, addresses this issue. Volume I constitutes the Land Use Plan stipulated by the Pine Barrens Protection Act. Volume I is the Plan which is to be implemented. Use of the word guidelines in Volume II, to the degree that it may cause confusion, is unfortunate. The contents of Chapter 14 are essentially an example, for informational and illustrative purposes, and are not binding upon any town.

The Commission's road infill properties policy is "arbitrary and capricious."

Response: The subject policy is based on proposed legislation. The policy is carefully crafted so as to apply to parcels meeting a specific set of criteria, and the environmental impacts of the policy are addressed in the SDGEIS at numerous locations, including the discussion of alternatives. The policy is consistent with the goals of Article 57.

The SDGEIS contained no scientific data on the impacts of the Plan on habitat communities.

Response: Impacts are discussed in Chapter 9 of the SDGEIS, and additional data is included in Volume 2 of the Plan.

It is premature to develop a fire management plan without more scientific evidence to support the need for, and impacts of, a fire management plan.

Response: The Plan requires that a comprehensive fire management plan be developed. Such a plan would address the scientific evidence concerning the necessity for prescribed burns, as well as impacts. Input may be offered to the members of the Protected Lands Council on the necessity or efficacy of fire management for the Central Pine Barrens.

Recommendations of the Ecology Committee were improperly relegated to Volume 2.

Response: The recommendations were placed in Chapter 6 of Volume 2, Status of Ecosystem Research in the Central Pine Barrens. The recommendations concerned areas where future research is needed, which is a theme of that Chapter. Therefore, they were properly placed in Chapter 6.

Farming is non-development according to the law and thus not subject to the Commission's jurisdiction.

Response: The Commission has not exceeded its Article 57 jurisdiction with respect to its pronouncements on agriculture and horticulture.

B. Pine Barrens Credit Program

The Town of Brookhaven should have the capacity to absorb 2,000 PBCs generated from the Core Preservation Area.

Response: The goal of the Commission, working closely with the Town of Brookhaven, was to ensure that sufficient receiving areas are identified by the Town. As Chapter 6.5.2 states the Towns should have the absorption capacity to handle 2.5 times the number of allocated credits. To achieve this, the use of RODs and PDDs is encouraged.

The 1:1 ratio for sending to receiving areas in the as-of-right areas is not sufficient.

Response: The Commission has required that a 2.5:1 absorption capacity ratio be established by the towns. This means that for each credit allocation there must be 2.5 credit redemption sites available. While it is true that only a 1:1 absorption capacity is mandated for the "as-of-right" uses this is sufficient to handle the number of credits generated under the PBC program. Additionally, as innovative planning tools are utilized the dependence on these "as-of-right" uses may actually decrease.

It was alleged that the Plan reduces the total buildable lots by 1,229 units violates the no wipeouts or windfall intent of the drafters of the sponsors of the legislation. It was also alleged that PBC program does not fully account for the 3,917 lots which could be built within the Core Preservation Area.

Response: The 3,917 lots listed in Appendix 1 of the SDGEIS is an approximation of the number of units which could be built under existing conditions in the Core Preservation Area. This assumes that every lot with a 6,000 square feet or more could be built. In addition to this assumption, another assumption was made that all the lots could be developed, which ignores the reality that many of these lots are landlocked with no infrastructure improvements, which places severe economic constraints on the ability to develop them. Under the PBC program many of these lots, which were assumed to be developable, were allocated a fractional credit, which recognizes their size in relation to current zoning. Thus if 10 lots could be built, and each were to receive .1 PBC there would be a regional reduction of 9 units that could be developed. The reduction of 1,229 units results is the difference between the 3,917 units which could be built under existing conditions and the sum of the number of PBCs allocated and the number of units converted to non-residential use in Riverhead. This regional reduction is consistent with the goals of the Act in protecting the contiguous non-fragmented Core Preservation Area.

An inquiry was raised concerning the capacity of the receiving areas to handle PBC generated development from the Core.

Response: The SDGEIS carefully analyzed whether the receiving areas can handle the PBC generated development transferred from the Core. It comprehensively documented the impacts which can be expected to occur and ways in which these impacts can be mitigated.

It was suggested that PBC generated development be limited to non-residential uses for the first 2 or 3 years of the program. It was also suggested that perceived economic hardships related to the PBC

program could be alleviated through the proper sequencing of transfers. Thus they recommended studying this prioritizing issue.

Response: It has been demonstrated that the converse is usually true, in that residential development is established before commercial development occurs within an area. Unless a residential base is first developed, commercial development will not occur. Additionally, the Commission has established a program which is controlled by free market forces, and to restrict the use of PBCs would be in opposition to this goal.

Small tracts of land should be targeted for acquisition. It was stated that PBCs are not sufficient compensation for the owner of small lots.

Response: By properly designing the PBC program, the Commission is confident that all landowners will receive reasonable use of their property. Lands are judged suitable for acquisition on a host of criteria listed in the Plan.

PBC allocation formulae should be based on 1 acre since the intent under the upzonings is achieved under the Plan.

Response: The Commission has no power over the upzonings which may have occurred in the area. However, for allocation purposes, the present zoning was determined to be the correct basis for allocating PBCs. A grievance procedure has been created by which a landowner can grieve their PBC allocation.

It was noted under the PBC program the value of land is not based on the PBC generating parcels but rather on the value of the identified receiving areas.

Response: This is correct.

~~What is a PBC holder's recourse in the event that PBCs are unattractive on the open market?~~

Response: The PBC holder can retain the PBC in hopes that the market will rebound. They could sell them, or use them to develop property in a receiving area more intensely or densely. They may also sell the PBCs to the PBC Bank and Clearinghouse.

Objections were raised concerning the inclusion of a parcel known as the Southaven Properties as a potential receiving area.

Response: Further review has indicated that this parcel does not meet the Town of Brookhaven's receiving area criteria, hence it has been removed from the list of eligible parcels.

The Commission should review the as-of-right redemption programs of the Towns.

Response: Chapter 6.5 of the Plan provides for this review. The towns must submit to the Commission a plan demonstrating how the town will identify PBC uses of sufficient quality and quantity to absorb 2.5 times the number of PBCs allocated. Included in such a plan shall

be at least a 1:1 as-of-right redemption program pursuant to the Plan provisions.

Upgradient water quality needs to be analyzed prior to designating any area as a receiving district.

Response: Chapter 4.5 in Volume 2 of the Plan evaluated background groundwater quality in the CPB. The SDGEIS examined the impacts of areas designated as receiving areas on these existing background conditions.

The Plan does not state the criteria the Town of Brookhaven will use to insure there are no "significant negative environmental or economic impacts."

Response: This reflects a Town of Brookhaven policy, which is beyond the purview of the Commission's jurisdiction. Additionally, the term "significant impacts" has meaning and thresholds under SEQRA.

The Town of Brookhaven should eliminate its TDR bonus in its present zoning ordinance.

Response: The Commission has no jurisdiction to effect this change. Furthermore, Chapter 6.10 of the Plan specifically states that nothing within the Plan "shall serve to limit, affect, or prohibit the establishment or continuance of any other municipal program for transferring or redirecting development rights."

Receiving areas are not final and open to change on the "whim of the planners."

Response: The Plan provides specificity concerning the establishing of receiving areas. In addition, local town codes must be amended to conform with the Plan's provisions.

Potential receiving areas identified in Figure 6-3 for the Town of Brookhaven appear to be in the South Setauket Special Groundwater Protection Area despite the prohibition against placing receiving areas in this SGPA.

Response: This comment is noted and the corrections have been made.

The reference in 6.5.3.2.6 to unreasonable burdens to school districts is problematic given the lack of clarity of the term "unreasonable."

Response: This policy is sufficiently explicit.

The rules governing development in the receiving areas are just as severe as the ones governing development in the Core Preservation Area. It was further noted that owners in the receiving areas are unaware of the rules or that development is to be redirected to their areas.

Response: Development is precluded in the CPA, and allowed in the CGA. The Interim Rules and Regulations are a matter of public record, as will be the local ordinances through which the Plan is implemented.

C. Economic Impacts of the Plan

Several comments received questioned the economic impact analysis performed by and for the commission. These comments included:

- The Commission should analyze to what degree PBC generated commercial development would offset fiscal impacts associated with PBC generated residential development.
- The Plan fails to insure that the fiscal burden on a community is not increased nor is the tax base eroded.
- It is unfounded to assume that PBCs will be used in proportion to the amount of receiving areas within a school district.
- The loss of tax revenue from the Core was not adequately addressed.
- The absence of any economic analysis was noted.
- Without the economic analysis it is impossible to determine the effect of the implementation of the Plan on the building industry.
- Chapter 23 of the SDGEIS is purely qualitative without any analysis.
- How does one determine pre-Plan value of property within the Core?
- What is the development potential of Core Preservation Area given present market forces.
- Inter-school district transfers must be allowed in order to preserve value in PBCs.

Response: See the Fiscal and Economic Evaluation of the Central Pine Barrens Comprehensive Land Use Plan attached hereto.

The Plan needs to address available remedies for mitigating the economic impacts of large scale land acquisitions and land development transfers on local fire and emergency medical districts.

Response: This issue is addressed in Chapter 9.1.4 of the Plan, and evaluated in the economic evaluation attached hereto.

The Plan is silent as to impacts on school districts.

Response: School district impact concerns appear in several places in Section 6 of the Plan, and school district impacts are addressed in Chapter 23 of the SDGEIS, and see the economic evaluation attached hereto.

Intra-school district transfers of PBCs should only be allowed if the receiving school district contains adequate PBC receiving capacity, and inter-school district transfers should only be approved if it is demonstrated that such a transfer will not have any adverse impact.

Response: The Plan essentially provides for this.

Negative impacts to school districts should be mitigated for the full term of the impacts.

Response: The Plan provides for such mitigation to the maximum extent practicable.

A transfer between school districts of PBC generated development should not be approved absent a showing that the tax revenue generated exceeds the cost of providing services for the new

development.

Response: Chapter 6.5.3.2.6 of the Plan provides that there shall be no unreasonable burdens placed upon school districts as a result of the redemption of PBCs.

PBC generated development should be directed away from school districts at or near capacity.

Response: Chapter 3.2 includes a partial listing of factors that might be included for prioritizing acquisition. The Commission has recognized and supports the need for Suffolk County and New York State to target acquisition within school districts that may be adversely impacted.

Concern was expressed over the lack of safeguards to minimize impacts to school districts.

Response: Chapter 6.5.3.2.6 expressly provides such safeguards as do other Plan provisions such as limiting the conditions under which inter-district transfers may occur, and by targeting acquisition efforts to school districts with insufficient PBC receiving capacity.

Chapter 3.1 of the Plan should state that the Commission will prioritize Brookhaven acquisitions in economically impacted school districts.

Response: This is expressed in Section 6.4.2.4.2 of the Plan.

D. Notification Issues

Complaints were raised that the Core Area property owners were ignored.

Response: The Commission has not intentionally ignored any party. All of the Commission meetings were open to the public. In March of 1994, the Commission held a public information meeting for core land owners. In hopes of informing the land owners of this meeting, the Commission mailed to each owner of record a letter informing them of the meeting. In August of 1994, another mailing and meeting was held specifically for private landowners of Core Preservation Area property. On both occasions over 300 people attended. Furthermore, the Central Pine Barrens planning process has had wide media exposure, from which the public could learn of the Plan or learn of the schedule of Commission meetings or learn how to contact the Commission. Chapter 13 of Volume 2 details the Commission's extensive public outreach efforts. Lastly, the State Environmental Quality Review Act has very specific requirements concerning public notification and review periods which the Commission closely adhered to and often exceeded.

Although the public meeting for landowners at the Shoreham-Wading River School was very well attended, it was alleged that landowners were not sufficiently notified of Commission activities.

Response: As noted, the Commission made all reasonable efforts to inform the public of its activities. It was cost prohibitive to send repeated mailings to each landowners given the sheer number of parties, over 3,500. Thus, after the two mailings in March and August,

landowners and other interested parties were able to remain abreast of Commission activities through the public process described in a prior response. However, this should have been relatively easy given the wide media coverage of the Commission, the openness and frequency of its meetings, and the willingness and accessibility of the Commission's staff for answering individual inquiries and requests for information at the Commission's offices.

E. Water Quality Concerns

It was suggested that the Plan does not protect drinking water quality in the Compatible Growth Area or in receiving areas outside the CGA due to increased density and transfer from the Core. To support this, the SDGEIS concerning potential increased sewage flow due to transfers from the Core was quoted.

Response: Chapter 7.2 of the SDGEIS specifically addresses the ground water quality impacts of the Plan. Drinking water quality is absolutely protected, and the analysis of receiving areas revealed that even under maximum allowable density build-out (worst case under the Plan, assuming no acquisition occurs), existing and future sources of drinking water are adequately protected. Moreover recommendations of prior studies, such as the 208 Plan, are adhered to.

The proposed changes in Article 6 of the Suffolk County Sanitary Code to decrease acceptable lot size from 40,000 to 20,000 square feet in Hydrogeologic Zones III, V, VI will result in localized pollution problems, "plumes."

Response: Single family residential development densities utilizing 1/2 acre minimum lot sizes (20,000 square feet) have not been found to cause localized plumes of contamination. Prior studies, such as the 208 Study and the SGPA Plan, do not note the potential for any such plumes, and in fact note that drinking water quality is adequately protected at such densities.

It was argued that the potential for organic contamination to the ground water will increase due to higher density on smaller lots in the receiving areas.

Response: Footnote 43 in Chapter 7.2 of the SDGEIS describes statistical analyses which refute this conclusion. It further states that the overall decrease in the total number of households, which will result from implementation of the Plan, should reduce the potential for organic contamination.

The Plan only solves the perceived threat to groundwater and animal habitat. The scientific evidence that the Plan is necessary to preserve water quality was requested.

Response: The Plan does not conclude that continued development under existing conditions, laws, and regulations would fail to protect groundwater and habitat. Instead, the Plan provides for enhanced protection and preservation of these and other CPB resources. This enhanced protection is described throughout the SDGEIS.

The need for the amendment to Suffolk County Health Code Article 6 was questioned because if the majority of PBCs are transferred to PDDs which presumably will be sewered then only the small

remainder used elsewhere would need to obtain a variances from Article 6 requirements.

Response: The Article 6 amendment simply streamlines the variance process which this comment advocates. PDDs may still require Article 6 variances.

The placement of a small portion of East Quoque within the Core Preservation Area and a large portion including significant features, such as Henry's hollow, in the Compatible Growth Area was questioned. It was suggested that the Villages of Quoogue and Westhampton Beach be deleted from the purview of Article 57 through a legislative change.

Response: The CPA and CGA boundaries were established by the Legislature which retains the authority to amend the boundaries.

A concern was raised that portions of East Quoogue in the Compatible Growth Area have no groundwater protection.

Response: Protection of groundwater is addressed in Chapter 7 of the SDGEIS, and protection particular to the CGA is addressed in a prior comment.

F. Comments on the Plan's Treatment of the North Shore Properties

All references to North Shore Properties should be deleted from the Plan.

Response: This project is significant as an existing condition in the planning process, and to simply ignore it would be irresponsible.

The North Shore Properties project should not be "fast-tracked".

Response: The Plan and SDGEIS do not propose any such fast tracking.

The Commission should not give up its jurisdiction over the North Shore Properties, Phase I. Additionally it was suggested that the Commission make a special provision to allow it to reassess the North Shore Properties if a court of competent jurisdiction overturns the findings statement or any other SEQRA document the project presently has.

Response: The Commission has not forfeited any jurisdiction provided under Article 57. The Commission does not feel a special provision is necessary given that it has not forfeited any of its Article 57 jurisdiction.

The North Shore Property project will impact scenic resources and will fragment the Core.

Response: The subject project will conform to Article 57 and the Plan. Potential impacts, such as those noted, are assessed in the SDGEIS, or, if project specific in nature, would be addressed in a project specific EIS.

The use of the word "will" was objected to when dealing with the North Shore Properties

conformance with the Plan. It was suggested that the word "must" or "shall" be substituted in its place.

Response: The Commission carefully deliberated the wording of this section , as in every section of the Plan. It is confident that the correct verbiage was used.

Calverton and North Shore Properties are developments of regional significance and leaving them outside the Commission jurisdiction leaves the Commission little jurisdiction on the Compatible Growth Area.

Response: The Commission has not relinquished any jurisdiction provided under Article 57.

Construction or reestablishment of the colonial roadway known as Longwood Road (private), running from the North Service Road of the Long Island Expressway to Longwood Road (public), should be deemed non-development .

Response: If the subject construction or reestablishment is deemed necessary by the Town of Brookhaven, the activity would be non-development pursuant to ECL 57-0107(13)(i).

G. Takings Allegations

The PBC program carefully avoids a taking as prohibited by both the US and New York State Constitutions by leaving property with residual title, thus avoiding the just compensation mandate of the Constitution. Participation in the PBC program was made voluntarily to avoid taking claims.

Response: The PBC Program provides a real and viable opportunity for property owners to receive reasonable use of their land under the Plan. The PBC program was not constructed with motives beyond providing reasonable use to the CPA property owners and to provide the mechanism by which development may be redirected from the CPA as required by the Act.

The Central Pine Barrens Plan does not respect private property rights.

Response: The Plan was crafted with a full respect for, and cognizance of, the rights of private property owners. It contains the PBC program and an acquisition program which are crafted to assist property owners in achieving reasonable use of their property.

A taking through upzonings has occurred.

Response: The Commission is not responsible for zoning changes which may have occurred in the Pine Barrens region.

H. Critiques of the SDGEIS

The SDGEIS is biased and justifies all impacts to the receiving areas.

Response: The SDGEIS is not biased, nor does it justify all the impacts on the receiving areas. Rather it carefully analyzed the impacts of incrementally increasing development in areas which will be developed with or without the Plan's ratification.

A "More Protective Standard Alternative" should be analyzed by the Commission. This alternative would be composed of a stricter nitrate-nitrogen standard, water quality standard and wetland setback standard.

Response: In establishing each of these individual standards, the Commission first evaluated the ramifications of stricter and more permissive standards, consulting with professionals and the Advisory Committee. The SDGEIS then assessed the impacts of the Plan and the standards contained therein. The SDGEIS also discussed the efficacy of the standards in protecting resources and providing mitigation. These efforts were more comprehensive than would have been the simple consideration of one hypothetical set of alternative standards.

The public hearings were too hastily scheduled.

Response: The public hearings were scheduled pursuant to SEQRA requirements, and in keeping with the ambitious schedule dictated by the requirements of Article 57.

There are many differences between the January 13, 1995 Plan and the April 26, 1995 Plan. There were also many differences between the July 1994 Draft Generic Environmental Impact Statement and the April 26, 1995 SDGEIS.

Response: There were many changes in the Plan. They were made in light of comments and concerns raised by various parties during the planning process. In addition, there are major differences between the July 1994 DGEIS and the April, 1995 SDGEIS given the evolution of the Plan, which the SDGEIS analyzes.

There are apparent discrepancies between the maps in the Plan and the tables in the SDGEIS concerning potential receiving areas.

Response: These are noted and corrected.

Some comments made during the public hearing in September of 1994 were ignored.

Response: Part of this responsiveness document is devoted to addressing those comments received in response to the July 1994 DGEIS.

The Plan was not available for public review.

Response: The Commission fulfilled the public availability requirements of SEQRA. Given the sheer size of the documents copies were placed in public libraries and offices across Long

Island, metropolitan New York and a central location in New Jersey. In addition, copies were available for review or purchase at the Commission office. Although the Commission ran out of copies for a few days, the libraries had already received their copies. SEQRA regulations approve the placing of copies of a document for public comment in public libraries and offices.

The notice given on the SDGEIS was not sufficient. Furthermore, the comment period was too short.

Response: SEQRA regulations are explicit concerning the notice and comment period provisions. The Commission completely satisfied these obligations.

Regarding Chapter 16.2.1 in the SDGEIS, it is presumptuous to determine that a traffic impact study should be prepared for certain parcels without the benefit of an actual development proposal.

Response: The recommendation was based upon the presumption that the project (proposal) would be for additional density beyond existing zoning, using PBCs. Further, the subject language is a recommendation, based upon the best information available at the time of preparation of the SDGEIS.

In Chapter 13.6 of the SDGEIS, no irretrievable commitment of open spaces were identified. However, such an irretrievable loss was recognized in Chapters 12.6 and 13.5.

Response: This inconsistency has been rectified.

I. Acquisition Policy Issues

The Plan's 75% acquisition policy should be mandated rather than just being a goal.

Response: As explained in Chapter 3.1 of the Plan, the Commission recognized that achieving this goal is dependent upon the availability of public funds, and thus, it could not mandate that the goal be reached.

If the 75% acquisition policy of the Commission is only a goal, why is it repeatedly presented as a mitigation measure in the SDGEIS?

Response: Where acquisition serves to mitigate a particular impact of the Plan identified in the SDGEIS, it is appropriate to list it among the mitigating measures for the particular impact.

It was stated that the 75% acquisition of the vacant private developable lots is the bare minimum necessary to make the Plan work.

Response: While 75% acquisition is the goal of the Commission, the SDGEIS and economic analyses prepared for and released by the Commission indicate that the Plan would work, and would achieve the goals of Article 57, with lesser degrees of acquisition.

There should be no requirement that a land owner apply for a permit prior to having his land or PBCs acquired.

Response: The Plan contains no such requirement.

All that potential sellers of private land in the Core should be required to furnish is good title.

Response: This determination is left to the individual agencies or entities actually acquiring property. The Commission does not have the jurisdiction to make pronouncements as to what assurances are to be provided by a private seller solely on the basis of the location of the property for sale.

Acquisition of 75% of vacant CPA land is less expensive than the PBC program due to hidden costs, such as loss of real estate tax revenues and the cost of infrastructure for new development.

Response: The Plan, SDGEIS and the economic evaluation attached hereto, do not indicate this. Moreover, Article 57 contemplates a PBC program, and the Commission has determined that the PBC Program is essential to achieving the goals of Article 57.

The 75% acquisition policy should be replaced with a 90% acquisition policy.

Response: The SDGEIS and economic evaluation attached hereto did not indicate that such a change is warranted or would be beneficial.

The \$6,000 to \$8,000 per acre acquisition figures for pre-Plan values of property within the Core are not sufficient.

Response: Estimates of land acquisition costs in Chapter 3.9 of the Plan were included for illustrative purposes, but were nevertheless based upon best available current information. They were derived from analyzing the fair market value of the land.

Sensitive parcels in the CGA will not be purchased given that funds will be used to purchase less sensitive lands in the Core.

Response: Sensitive land and resources in the CGA will be protected by other components of the Plan, including the Standards and Guidelines for Development in Chapter 5.

The Plan contains no provision for compensating owners of industrially or commercially zoned land in the CPA.

Response: The Plan provides that the PBC Bank and Clearinghouse may allocate PBCs to such properties, and further, encourages targeting acquisition efforts to such properties where PBC allocation is inappropriate.

Chapter 3.10 of the Plan states that \$117 million will be required to acquire all vacant, privately owned land in the CPA, while other Commission documents indicate different sums would be required. Which is correct?

Response: The Chapter 3.10 figure is an estimate, based upon an assumed per acre price, as indicated in the text. It is presented as an example of full acquisition. While the assumed per acre price is based upon good and current information, it is but an estimate, as are the other figures noted. To acquire 75% of vacant privately owned land in the Core Preservation Area, based on same assumed per acre price, would cost \$84 million.