



NEW JERSEY HIGHLANDS COALITION

508 Main St., Boonton, NJ 07005
973.588.7190 | 973.588.7193 (fax)
www.njhighlandscoalition.org

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An Open Letter to the Senate and Assembly Sponsors of Bills A-4843/S-3549, A-4844/S-3550, A-4845/S-3548 and A-4846/S-3547, the Assembly Appropriations Committee and Senate Environment and Energy Committee concerning Forest Stewardship on New Jersey's public lands.

It has come to our attention that a series of bills are moving forward in both houses of the New Jersey Legislature regarding forest stewardship for public lands that, if enacted as currently written, would have unintended negative impacts on forest ecosystems in New Jersey. They also will create a costly and unnecessary burden to municipalities, counties, the New Jersey Department of Environmental Protection (NJDEP), and non-profit land trusts. Outlined below are more details about how mandating forest stewardship with the "one-size-fits-all" approach put forward in these bills is NOT the way to proceed with protecting New Jersey's forests.

A-4843/S-3549 would require NJDEP-approved forest stewardship plans be prepared for all forests larger than 25 acres on municipal, county, and state lands, and on non-profit-owned lands acquired with Green Acres funding. However, the legislation does not include any provision to pay the substantial costs for compliance. For counties and municipalities, this represents an unfunded mandate, which is prohibited by the New Jersey Constitution. If enacted, the law would be subject to action by the Council on Unfunded Mandates, which has the authority to repeal any Act if it meets the criteria of an unfunded mandate. Further, NJDEP does not have adequate funding or the staffing to provide the additional oversight that would be necessary. Another concern is that non-profit land trusts—which typically struggle to secure adequate funding for land acquisition and stewardship—would be at a loss to pay for the required preparation and implementation of such plans.

A-4843/S-3549 would institutionalize a practice of excluding public participation in the management of public lands. Currently in most places in New Jersey, forestry plans can be drafted and implemented on state, county, and municipal parkland without any requirement for public notice or involvement. Excluding the opportunity for public input regarding plans for forested lands often results in enormous controversy. This lack of public participation is unacceptable. During the development of a forestry plan, a robust stakeholder process must be required to gather public information regarding passive and active public use, trails, scenic views, rare flora and fauna, carbon sequestration, soil integrity, steep slopes, stream quality, and other values the land may have for the local community. Further, any proposal to manage a forest should be required to document and plan for existing threats such as over-abundant deer browse, invasive species, pathogens, and climate change, since all of these factors will impact forest regeneration, future use, and the ongoing condition of the land. Current condition, resource values, public recreational use, and restoration needs vary widely

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among forests, and need to be understood when considering a forest stewardship plan. In all of these instances public participation would appropriately inform and improve the objectives of any stewardship activity.

A-4843/S-3549 would subject public lands to the narrower objectives that apply to private landowners. Currently, assessments for NJDEP-owned state lands consider a multitude of factors beyond the limited scope of private forestry plans. Counties and municipalities should be held to the highest standards, as their lands are held in the Public Trust. Some of the data-intensive issues that must be required to be addressed are:

- On-site surveys for state-designated rare plants and animals, including special concern, threatened, and endangered species.
- Analysis of forest carbon sequestration potential under differing management scenarios, in order to align with the recently passed Global Warming Response Act. This analysis must consider projections for forest growth, carbon storage, and carbon sequestration, and must ensure that forest management plans do not reduce New Jersey's climate resilience.
- Identification and delineation of riparian buffers that protect wetlands and streams. At a minimum these buffers should be in accordance with the Highlands Rules; 300' around open waters and wetlands, and 1000' around vernal pools. Too often these highly regulated zones are overlooked entirely, and Best Management Practices (BMPs) cited as "protection" for critical resources represent merely the minimum required, being designed to simply avoid the worst of possible impacts to these resources and downstream and downslope landowners. They are not necessarily sufficient to protect aquatic resources as a whole from these activities.

The Forest Stewardship plans required under A-4843/S-3549 are not the appropriate approach for protecting New Jersey's forests, nor for enhancing the ecosystem services—clean water, clean air, flood mitigation, and carbon sequestration—they afford us. When written and reviewed by foresters these stewardship plans typically emphasize logging and the extraction of wood products, which is not appropriate management for all public forests. Instead, plans need to provide an option for, if not an emphasis on, management methods that address the genuine threats to our forests—over-abundant deer, invasive species, pathogens, and climate change. Forest stewardship plans prepared under A-4843/S-3549 would not be required to address these threats, and in fact the management practices they promote would exacerbate some of these problems. For example, due to over-browse by deer, the regeneration anticipated to follow a timber harvest often does not occur and invasive species frequently take hold. And since maturing trees effectively sequester more carbon than young trees, harvesting mature trees without a valid justification negatively impacts our sequestration objectives.

For many of New Jersey's forests, *Ecosystem Restoration Plans* written by Restoration Practitioners certified by, for example, the Society for Ecological Restoration, would be far more suitable and beneficial than Forest Stewardship Plans. The legislation should allow for such plans to be accepted as an alternative if plans for all qualifying lands are to be required.

For forests of high ecological integrity, with historically intact forest soils that have never been disturbed by agriculture (which appear as forested in the statewide 1930 aerial photographic survey), restoration rather than timber management should be the objective, and the removal of timber should be prohibited. These are the most ecologically intact forests in New Jersey and should be allowed to mature without intervention—a management strategy called *proforestation*¹.

NJDEP should be required to make carbon defense and sequestration a priority management objective for state-owned forests. This type of management should include identification of areas of mature, intact forest that are then designated as carbon reserves where proforestation is the primary management strategy.

In contrast, the state should be directing active management initiatives to the state's "post-agricultural forests"—those growing on former plowed agricultural fields identified on the statewide 1930 aerial photos. Many of these lands are in urgent need of restoration and some level of human intervention to promote native species, improve soil quality, and ensure the development of healthy sustainable forests.

It is critical for the Legislature to recognize that incentives are needed to enhance our forests' carbon sequestration potential. Allowing relatively healthy, maturing forests to continue to absorb and store carbon would strengthen New Jersey's climate resilience. Additionally, incentives are needed to promote ecological restoration of carbon-emitting, degraded post-agricultural forests, for deer control initiatives, and for control of emerging invasive species and pathogens.

The other bills in this series, although not as far reaching in impacts, are objectionable for several reasons:

A-4844/S-3550 unfairly restricts municipalities from approving the forest stewardship plans implemented within lands otherwise under their jurisdiction. Though under A-4843/S-3547 they will still be paying for the plans.

A-4845/S-3548 sets an arbitrary, unscientifically derived annual acreage goal for prescribed forest burns. In the Pinelands, forest fires are an integral part of forest regeneration. In other parts of the state, in certain forest types and under certain conditions, prescribed burns may be effective for control of invasive plant species. However, this activity should be driven by an inventoried need, not by an arbitrary minimum number of acres, which this bill requires.

Per NJDEP's recently issued draft Forest Action Plan, one million acres of forest in New Jersey are under public ownership—whether state, municipal, or county—or by non-profit land trusts, and as such, would be subject to the forest stewardship practices required by A-4843/S-3549. This could have devastating impacts for the spectrum of our public forests' natural-resource values, and force an unnecessary, costly burden on municipalities, counties, NJDEP, and non-profit land trusts.

We the undersigned ask that these bills—A-4843/ S-3549, A-4844/ S-3550, A-4845/ S-3548—be withdrawn from any further consideration by Legislative Committees until these important issues have been adequately addressed.

Respectfully,

Julia Somers, Executive Director, NJ Highlands Coalition

Jaclyn Rhoades, Assistant Executive Director, Pinelands Preservation Alliance

Bill Kibler, Policy Director, Raritan Headwaters Association

David Epstein, President, The Lands Conservancy of New Jersey

Laurie Howard, Executive Director, Passaic River Coalition

Sally Rubin, Executive Director, Great Swamp Watershed

Peter Dolan, Trail Program Manager, New York-New Jersey Trail Conference

Susi Tilley, Executive Director, Ridge and Valley Conservancy

Laurie Cleveland, Executive Director, Sourland Conservancy

Suzanne Wilder, President, Musconetcong Mountain Conservancy

Silvia Solaun, Executive Director, NJ Forest Watch

Emile DeVito, PhD, Manager of Science & Stewardship, NJ Conservation Foundation

Jay F. Kelly, Ph.D., Co-Director, Center for Environmental Studies, Professor of Biology and Environmental Science, Raritan Valley Community College

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Sharon Wander Ph.D. and Wade Wander, M.Sc., Wander Ecological Consultants

Susan Dorward, Beaver Lake Realty Company

Joseph Zurovchak, PhD, Professor of Ecology, Orange County Community College

Leslie Sauer, Founder Emeritus of Andropogon Associates, Author of *The Once and Future Forest*

Tom Koven and Barbara Cochrane, Citizens for Sustainable Development

Thomas Conway, Ringwood Township Environmental Commission, Chair, Ringwood Township

Eric Sween, Bethlehem Township Environmental Commission Chair, Bethlehem Township