

January 7, 2013

State Ethics Commission
PO Box 082
Trenton, N.J. 08625-0082

Re: Ethics and recusal review request: NJ Pinelands Commission members financial disclosure forms

Dear Ethics Commission:

The purpose of this letter is to request that the Commission conduct an expedited review to determine if a potential conflict of interest exists by two individual members of the NJ Pinelands Commission. The potential conflict originates with respect to the Commission's ongoing regulatory review and decision on a proposed natural gas pipeline by South Jersey Gas Co. (SJG).

Should such a potential conflict exist, we request that the Commission immediately issue a mandatory recusal Order to those members, prohibiting any further deliberation or voting on the matter in question.

The matter in question is the pending decision regarding a draft "Memorandum of Agreement" (MOA) to approve the SJG project. A Commission vote on the SJG project is scheduled for Friday, January 10, 2014, so time is of the essence.

I) Legal Basis

NJ's "Conflict of Interest Law" (NJSA 52:13D-12 et seq., hereafter "Act") restricts certain activities by public officials to avoid conflicts of interest or the appearance of a conflict of interest.

<http://www.state.nj.us/ethics/statutes/conflicts/index.html>

The Act provides: ((emphasis mine))

"The Legislature finds and declares:

*(a) In our representative form of government, it is essential that the conduct of public officials and employees shall hold the respect and confidence of the people. Public officials must, therefore, **avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.***

*(b) **To ensure propriety and preserve public confidence, persons serving in government should have the benefit of specific standards to guide their conduct and of some disciplinary mechanism to ensure the uniform***

maintenance of those standards amongst them. Some standards of this type may be enacted as general statutory prohibitions or requirements; others, because of complexity and variety of circumstances, are best left to the governance of codes of ethics formulated to meet the specific needs and conditions of the several agencies of government."

Members of the Pinelands Commission are "persons" regulated by and subject to the financial disclosure and related ethical requirements of the Act.

To avoid conflicts of interest, the Act requires that Commission members file financial disclosure forms and adhere to certain ethical standards of conduct

Financial disclosure forms are a means to implement the Act and avoid conflicts, including but not limited to these ethical standards:

"(1) No State officer or employee or special State officer or employee should have any interest, financial or other-wise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.

[2-3]

(4) No State officer or employee or special State officer or employee should act in his official capacity in any mat-ter wherein he has a direct or indirect personal financial interest that might reasonably be expected to impair his objec-tivity or independence of judgment."

[5-6]

(7) No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee."

II) Facts that suggest potential conflicts that warrant recusal

We have reviewed the most recent (2013) financial disclosure forms of Pinelands Commission members William J. Brown (see Attachment 1) and D'Arcy Rohan Green (see Attachment 2).

We are concerned that Mr. Brown's and Ms. Rohan Green's disclosed investments and direct and indirect economic interests in various energy industry corporations have the potential to create a conflict of interest with respect to their

regulatory role in the South Jersey Gas Co. pipeline matter now pending before the Pinelands Commission.

Pinelands Commissioners Brown and Rohan Green's investments in energy corporations may be related to South Jersey Gas Co. in such a way as to create a "**substantial conflict with the proper discharge of his duties in the public interest**", or "**a justifiable impression among the public that such trust is being violated.**"

As Pinelands Commissioners, Brown and Rohan Green must appear neutral and objective in discharging their official duties. Financial investments and economic interests in energy industries may raise legitimate public concerns regarding their independence and objectivity with respect to regulatory oversight of the South Jersey Gas Co. pipeline project, which serves similar energy industry interests.

We request that the Ethics Commission review those disclosure statements and determine if an actual or potential conflict of interest exists with respect to their participation of the review and voting on the South Jersey Gas Co. pipeline project now pending Pinelands Commission review.

If a conflict or potential conflict or a reasonable appearance of a conflict is determined, we ask that the Commission act swiftly and issue an Order of mandatory recusal from any further involvement in Pinelands Commission's deliberations on the SJG project.

I appreciate your prompt and favorable consideration of this request.

Sincerely,

Bill Wolfe, Director
NJ PEER
(Public Employees for Environmental Responsibility)
359 Oliver Street
Bordentown, NJ 08505
609-397-4861