

REPORT ON  
PROPOSED SALE OF  
LANDS

LOCATED IN  
THE CITY OF MILLVILLE  
CUMBERLAND COUNTY  
(BLOCK 578, LOT 19)

BY

THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

[ N.J.S.A. 13: 1D-52 ]

PREPARED BY

DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
GREEN ACRES PROGRAM

March 2014

## STATUTORY REFERENCE

Under *L. 1993, c. 38*, codified at *N.J.S.A. 13:1D-51* through *N.J.S.A. 13:1D-58*, no lands acquired or developed by the State with Green Acres funds, or developed by the State in any other manner and administered by the Department of Environmental Protection (“DEP”), may be conveyed unless the DEP first prepares a report on the proposed conveyance in accordance with *N.J.S.A. 13:1D-52a(1)*, transmits the report to the individuals listed at *N.J.S.A. 13:1D-52a(2)*, makes the report available to the public in accordance with the *N.J.S.A. 13:1D-52a(3)* and conducts one or more public hearings as required by *N.J.S.A. 13:1D-52a(4)*. Public notice requirements for the hearings are specified at *N.J.S.A. 13:1D-53* and *-54*. A summary and/or transcript of the public hearing(s) is provided to the DEP Commissioner, the State House Commission and the public under *N.J.S.A. 13:1D-55*. The methodology for valuing lands to be conveyed and the terms of such conveyances are governed by *N.J.S.A. 13:1D-56*.

Once these procedural requirements have been met, the conveyance proposed in this report requires the approval of the DEP Commissioner and the State House Commission. *N.J.S.A. 13:1D-55*, *N.J.S.A. 13:8A-48*; *N.J.S.A. 13:8C-1 et seq.*

## RATIONALE FOR CONVEYANCE

The State of New Jersey, Department of Environmental Protection (“NJDEP”) proposes to convey to either the City of Millville (“City”), the Millville Urban Redevelopment Corporation (“MURC”), the Cumberland County Improvement Authority (“CCIA”) or any other nonprofit or public entity designated by the City, the property designated for tax purposes as Block 578, Lot 19 (comprising approximately 81 acres, hereafter “the Property.”) The Property was purchased by the NJDEP from the prior owner, Durand Glass Manufacturing Company, Inc. (“Durand”), in July 2013 for \$335,000. The proposed sale price for the conveyance by the NJDEP to the City or its designee is \$395,000.

The NJDEP intends to apply a portion of the proceeds of the sale (\$367,000) to the purchase of a minimum of 900 acres of replacement property (in fee), known as the Holly Farm property, for addition to the Menantico Ponds Wildlife Management Area. The Holly Farm property consists of Block 582, Lots 1 and 10 in the City of Millville, Block 120, Lot 4 in Maurice River Township and Block 121, Lots 1, 2 and 3 in Maurice River Township, Cumberland County.

The balance of the sale proceeds (\$28,000) will be deposited into the Garden State Preservation Trust Fund as required by *N.J.S.A. 13:1D-57*. However, if the Holly Farm purchase cannot be concluded within three years of the actual conveyance of the Property, the NJDEP will identify and purchase other suitable replacement land of at least equal acreage, in fee, within Cumberland County using the \$367,000 sale proceeds.

The NJDEP acquired the Property after it was offered by Durand to the State through the State Acquisition Program of the NJDEP's Green Acres Program. Upon review of the offer of sale, the Property was approved for purchase based on its proximity to other preserved lands (State and nonprofit) and its natural resource values. It is currently administered by the NJDEP's Division of Fish and Wildlife as part of the 474-acre Menantico Ponds Wildlife Management Area.

Subsequent to the acquisition of the Property, the City approached the NJDEP to request the conveyance of the Property for commercial development purposes. The City and the MURC assert that the conveyance of the Property for these purposes is critical to ongoing efforts to relieve the City's economic distress.

The MURC was formed in 2011 as a nonprofit corporation. The MURC administers the City's economic development functions, including its participation in the statewide Urban Enterprise Zone program. The MURC has reportedly been approached by a "major international corporation" about developing the Property for industrial purposes, and estimates that the proposed development would provide 350 jobs in its initial phases and up to 1000 jobs at full buildout. At present, the Cumberland County Improvement Authority is assisting the MURC with its operations due to the recent retirement of its Executive Director.

### **Description of the Property**

The Property is located off Gorton Road; the street address of the Property is 1 Gorton Road. The Property does not have direct legal access to Gorton Road due to the presence of a 50-foot wide right of way owned by the Winchester and Western Railroad Company that borders the southern edge of the parcel. The Property is bounded to the west by Route 55, but there is no direct access to either the Property or the South Millville Industrial Park from Route 55. A general location map for the Property is attached as Figure 1.

The Property consists of approximately 81 acres. It is irregularly shaped, with a maximum depth of about 2700 linear feet and a frontage of about 735 feet. An aerial map of the Property is attached as Figure 2.

As depicted in Figure 2, the remainder of the Property boundary adjoins conservation lands, as follows:

- Block 578, Lot 16, a 95-acre parcel owned by The Nature Conservancy. This parcel borders the Property to the north and the east. The Nature Conservancy is in the process of transferring ownership of this parcel, and other adjoining lands, to the NJDEP as an addition to the Menantico Ponds Wildlife Management Area.
- Block 578, Lot 21, a 99-acre parcel owned by the NJDEP. This parcel borders the property to the east and is administered by the NJDEP's Division of Fish and Wildlife as part of the 474-acre Menantico Ponds Wildlife Management Area.

The Property is vacant and primarily wooded, and is not believed to contain any freshwater wetlands. There are no Category 1 streams on the Property.

At the time of its purchase by the NJDEP, the Property was zoned I-1 (General Industry District) and was included in the City's South Millville Industrial Park. A more detailed description of the Property, including soils information and uses permitted by zoning, may be found in the appraisals of the Property posted at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendices 2 and 3 to this report.

### **Proposed Conveyance**

In order to achieve its economic development objectives, the City has requested that the NJDEP enter into a direct sale of the property to the City, the MURC, the CCIA and/or another nonprofit or public entity designated by the City. The conveyance would take place through a direct sale by the NJDEP to the designated entity, for a sale price of \$395,000. The NJDEP will then apply a portion of the proceeds of the sale (\$367,000) to the purchase of a minimum of 900 acres of replacement property within the Holly Farm property. However, if the Holly Farm purchase cannot be concluded within three years of the actual conveyance of the Property, the NJDEP will identify and purchase other suitable replacement land of at least equal acreage, in fee, within Cumberland County using the \$367,000 sale proceeds. The balance of the purchase price (\$28,000) will be deposited into the Garden State Preservation Trust Fund as required by *N.J.S.A. 13:1D-57*.

The purchase of the Property by the City or its designee would be separate from any permitting or approvals of the future development of the Property by the NJDEP, the City or the County. As required by *N.J.S.A. 13:1D-56*, the deed for the conveyance of the Property by the NJDEP will include statutory language requiring compensation to the State if the property is rezoned within 25 years of the purchase in a manner that increases the value of the lands.

Upon successful completion of the public hearing process, the proposed conveyance will require the approval of the NJDEP Commissioner and the State House Commission under *N.J.S.A. 13:8A-48* and *N.J.S.A. 13:8C-31*. The NJDEP believes that the earliest it could obtain these approvals is mid-August 2014.

### **Proposed Compensation and Purchase of Replacement Land**

As compensation for the proposed conveyance, the City proposes to pay the NJDEP a sale price of \$395,000. This amount is intended to cover the fair market value of the property at the time of the NJDEP's purchase (\$367,000), plus an additional \$28,000 for technical costs associated with the original acquisition and proposed conveyance. (See Economic Assessment, below.)

If the proposed conveyance of the Property is approved and the Property is sold to the City, the MURC, the CCIA or a designated public or nonprofit entity, the NJDEP intends to apply \$367,000 of the sale proceeds to the purchase of a minimum of 900 acres of land within the 1360-acre Holly Farm property. The Holly Farm property was formerly owned by Atlantic

Electric.<sup>1</sup> In 2010, the Holly Farm property was sold by Atlantic Electric to a development entity (Holly Ridge LLC) for a reported sales price of \$4.0 million. Holly Ridge LLC is in the process of obtaining approvals for a proposed 950-unit senior housing development and nine hole golf course. Although Holly Ridge LLC would likely be required to place a conservation easement on all or a portion of the proposed 900-acre replacement property as a condition of NJDEP and/or local approvals, those approvals would not normally require a developer to convey the restricted land to the State in fee. Since the NJDEP-owned Menantico Ponds Wildlife Management Area borders the Holly Farm property, the replacement of the Property with at least 900 acres of the Holly Farm property would result in a net increase of 820 acres within the Wildlife Management Area.

The Holly Farm property, within which the replacement land would be purchased, is also depicted on Figure 2.

If the Holly Farm purchase cannot be concluded within three years of the actual conveyance of the Property, the NJDEP will identify and purchase other suitable replacement land of at least equal acreage, in fee, within Cumberland County using the \$367,000 sale proceeds.

## **ADVANTAGES AND DISADVANTAGES**

### **Advantages/Disadvantages of the Proposed Conveyance for the City**

As discussed above, the City has requested the opportunity to purchase the Property as part of its ongoing efforts to relieve economic distress in the area. The South Millville Industrial Park and the James Hurley Industrial Park at the Millville Airport are the two areas where most large industrial uses in the City are concentrated (although there are large industrial buildings and facilities located in the central city that stem from Millville's glass and manufacturing heritage.) The Property is zoned industrial (I-1) and is located within the South Millville Industrial Park.

In January 2014, the MURC prepared a report entitled "An Economic Assessment of the City of Millville" (hereafter "the Economic Assessment Report.") Due to the length of the Economic Assessment Report, it has not been physically appended to this report but has been posted on the web site of the Green Acres Program at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 1 to this report.

The Economic Assessment Report documents the unique demographic and economic circumstances faced by the City of Millville, and concludes that re-inclusion of the Property in the South Millville Industrial Park is crucial to future economic recovery in the City and Cumberland County. The MURC characterizes the Property as being in a "prime" location in the South Millville Industrial Park and as a fully developable site having a complete array of water, sewer and City services available. The MURC notes that the South Millville Industrial Park area has been in industrial use for more than 40 years. The MURC further asserts that:

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<sup>1</sup> The Holly Farm property consists of Block 582, Lots 1 and 10 in the City of Millville, Block 120, Lot in Maurice River Township and Block 121, Lots 1, 2 and 3 in Maurice River Township, Cumberland County.

This 80 acre tract is the only similarly sized industrially zoned parcel in Cumberland County and one of the few available in the region that has direct rail access; public sewer and water lines that run through the property; and is part of a developed business park. The property is immediately adjacent to NJ Route 55. All these factors make the property extremely unique, particularly in an area with such a significant need for new jobs and industry. [Economic Assessment Report, pp. 15-16]

Information published by the City online (at <http://www.hollycity.com/millville/opportun.htm>), describes the South Millville Industrial Park as follows:

### **South Millville Industrial Park**

Located on Orange Street and Wade Boulevard, the South Millville Industrial Park encompasses a total of 250 acres. Several sites are still available with the price ranging from \$7,000-\$10,000 per acre. The site is serviced by City water, sewer and storm sewer, and rail service (Winchester and Western) is available. The land is located within an **I-1**, General Industry Zone. All types of manufacturing and warehousing are permitted within the zone. Required minimum lot size is 20,000 sf.

Support services are located within a ten minute drive of the park. Access can be gained from State Route #47 (Delsea Drive or S. Second Street), or State Route #49 (Main Street). An interchange of the Route #55 freeway is located within three miles of the site. All of the above mentioned routes serve as major trucking lines. Interstate Route #40 is within sixteen miles or twenty minutes of the park. The Millville Municipal Airport is approximately six miles, or a brief drive from the Industrial Park.

Approximately twenty businesses of varying sizes and natures are presently located in the South Millville Industrial Park, employing an estimated 1,800 persons. Some of the industries located in the park include:

**J.G. Durand International:** Manufacturers of international lead crystal, employing approximately 200 persons.

**Durand Glass:** Manufacturer of glass tableware, employing approximately 175 persons.

**Raritan Engineering:** Manufacturers of heads of boats and recreational equipment. Newly constructed 35,000 SF building with 70 employees.

**Gorton Corporation:** Food processing plant (fish products), employing 50 people.

The MURC asserts that since “more than one quarter of the City’s land is permanently preserved or significantly restricted by regulation”, “[w]hen these acres are included with the acreage that is already developed for housing, retail, public facilities and other uses, it is easy to see why the South Millville Industrial Park is so important to the City’s economic future.” [Economic Analysis Report, p. 17] The Economic Assessment Report then concludes:

The industrial project recently presented to the City of Millville by an International Corporation for the former Durand property proposed a 400,000 s.f. facility with approximately 350 jobs as phase 1 of its development proposal. There has also been discussion with the City about a significant expansion of any development to encompass upwards of 1,000 jobs.

The 80 acre parcel in question is approximately 3.5 million square feet in size. Given its developable condition, which is relatively free of known natural or environmental impediments, the site could easily accommodate a 400,000 s.f. facility and associated parking and other improvements, while at the same time mitigating any documented environmental concerns. [Economic Analysis Report, p. 17]

### **Advantages/Disadvantages for the NJDEP**

In deciding whether to purchase the property after it was offered for sale by Durand, the NJDEP considered the following factors:

- Proximity to other preserved lands owned by the NJDEP and The Nature Conservancy;
- The fact that acquisition of the property would extend the border of the WMA to Route 55 (thereby reducing the potential for future encroachments by neighboring property owners; and
- The natural resource and habitat values of the Property, particularly as pine snake habitat.

The proposed conveyance would cancel out these anticipated benefits as they pertain to the Property. However, the NJDEP believes that the benefits of full fee ownership of a 900-acre portion of the Holly Farms property, for addition to the same Wildlife Management Area, would exceed the disadvantages of removing the Property from the WMA. In addition, the proposed replacement land is also located in close proximity to other preserved lands owned by the NJDEP and the Nature Conservancy.

The relative environmental attributes of the Property compared to the proposed replacement land are analyzed below.

## **ASSESSMENT OF ENVIRONMENTAL AND RECREATIONAL IMPACTS**

Under *N.J.S.A.13:1D-52a1*, the NJDEP is required to assess (1) the environmental and recreational impact of that proposed conveyance, including, but not limited to, the impact on endangered species and nongame species as defined and regulated pursuant to P.L.1973, c. 309 (C.23:2A-1 et seq.), and endangered plant species as defined and regulated pursuant to P.L.1989, c. 56 (C.13:1B-15.151 et seq.) and (2) the environmental and economic value of the lands proposed to be conveyed under both their current and proposed uses.

### **Relative Ecological Values of Lands to be Exchanged**

#### **The Property**

In the Economic Assessment Report, the MURC describes the environmental attributes of the Property as follows:

##### **Environmental Characteristics**

There are no significant environmental designations or characteristics associated with the property in question. Information obtained from the City's 2005 Master Plan show the subject parcel being well removed from any floodplain or wetland areas. (See maps 2 and 3.)

In addition, the property is outside of the New Jersey Coastal Zone (CAFRA) which encompasses the Maurice River Corridor and does not impact the Durand property, and the New Jersey Pinelands, which is located wholly outside the City of Millville. There are no historic or cultural resources on or adjacent to the property.

##### **Endangered Species Habitat**

As part of its 2005 Master Plan, the City prepared an inventory of suitable threatened and endangered species habitat. Various studies have been done on site to determine the extent to which endangered species are present on the property. This work and subsequent analyses indicate that the site is not unique to any particular species and that there is ample comparable habitat in the vicinity. Should any sightings be documented, development plans for the site will have to mitigate any impacts that might occur. [Economic Assessment Report, p. 16]

At the time of purchase, the Property was believed to be almost entirely uplands (based on the NJDEP's New Jersey Freshwater Wetlands Maps.) Information about soils on the Property and flood plain mapping for the Property may be found in the appraisals of the Property posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendices 2 and 3 to this report. Surface waters and freshwater wetlands in the vicinity of the Property are shown in Figure 4.

A Wildlife Habitat Assessment of the Property is prepared by the NJDEP is posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 4 to this report. The Assessment analyzes the suitability of the Property as habitat for three species known to occur in the general vicinity of the Property: Cope's Gray Treefrog (a State endangered species), Northern Pine Snake (a State threatened species) and Barred Owl (a State threatened species.) The Assessment concludes that:

- Based on the distance to the nearest sighting and the absence of any wetland habitat onsite or proximate to the property, it is unlikely that the Property currently provides habitat for the Cope's Gray Treefrog.
- Based on the habitat characteristics observed during a January 2013 site inspection, the Property offers marginal roosting and foraging habitat for Barred Owl due to the density of onsite vegetation and the overall age of the onsite forest. This factor compounded with the characteristics of surrounding offsite forest, proximity to Route 55 and distance from known breeding habitats to the east suggest that the onsite habitat does not play a major role in supporting regional Barred Owl populations.
- From a landscape perspective, the Property is located on the edge of a 5000 + acre forested habitat patch valued on the Department's landscape mapping as potential habitat for the Northern Pine Snake. The Property occurs along the edge of the regional pine snake habitat patch in an area bordered by Route 55 to the west and development to the north and south. In addition, aside from the older sightings associated with the subject site, Northern Pine Snakes and Corn Snakes have been documented more recently and extensively on Nature Conservancy and private holdings (Holly Farm) to the east. Based on this landscape location, the Property, while featuring suitable habitat, is neither located in a "core" habitat location nor proximate to documented pine snake populations occurring to the east.

The nearby Menantico Creek is a tributary to the Maurice River. In 1993, the federal government designated a 35.4-mile segment of the Maurice River, including the Menantico Creek and other tributaries, as a Wild and Scenic River. In January 2001, the National Park Service, in cooperation with other partners, adopted a Comprehensive Management Plan and Environmental Impact Statement for the Maurice National Scenic and Recreational River. A copy of the report may be found at: <http://www.cumauriceriver.org/pages/WildScenicManagPDF/WildandScenicMangPlan.pdf> However, as indicated on p. 127 of the report, the Property is located outside the designated Maurice National Scenic & Recreational River corridor.

A map depicting the NJDEP's Landscape Mapping for the Property is attached as Figure 3.

## **The Proposed Replacement Property**

The NJDEP has long been interested in purchasing the Holly Farm property due to its size, proximity to other preserved lands and its natural resource values. In 2009, the NJDEP's Green Acres Program offered to purchase the entire Holly Farm property from Atlantic Electric for \$3.5 million. This offer was the culmination of several competing rounds of offers by the NJDEP and various development entities dating back to 1999.<sup>2</sup> By order dated June 21, 2010, the Board of Public Utilities ("BPU"), which has jurisdiction over asset sales by public utilities, approved the sale of the Holly Farm property to a developer instead of the NJDEP. The BPU Order was appealed by a coalition of four environmental groups (Citizens United to Protect the Maurice River and its Tributaries, Inc., Association of New Jersey Environmental Commissions, New Jersey Conservation Foundation and New Jersey Audubon Society) and the Rate Counsel for the State of New Jersey. On July 17, 2013, the Appellate Division of the Superior Court of New Jersey reversed the BPU's decision and remanded the Order to BPU for further consideration consistent with the Court's opinion. A copy of the Court's unpublished decision is posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 5 to this report. The BPU is still in the process of re-evaluating the June 21, 2010 Order in light of the court's decision.

The potential development of the Holly Farm property has been a source of longstanding controversy in the Millville area. While the BPU was considering the competing offers to purchase the Holly Farm property, the potential developers (as contract purchasers) received preliminary development approvals from the City (in 2003 and 2004) and the County (in 2004). Generally speaking, the plans advanced by the developers have involved the construction of approximately 950 single family age restricted homes (clustered on 239 acres) and the construction of an 18-hole golf course and club house (on an additional 170 acres), with approximately 930 acres of land to remain undeveloped and permanently deed restricted as open space.<sup>3</sup> A copy of Planning Board resolution No. 42-04 is posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 6 to this report.

The City's 2004 planning board approval for the general development plan was appealed by the same four environmental groups that appealed the BPU Order. On August 6, 2007, the Appellate Division of the Superior Court of New Jersey upheld the planning board's 2004 approval. *Citizens United to Protect the Maurice River and its Tributaries, Inc., Association of New Jersey Environmental Commissions, New Jersey Conservation Foundation and New Jersey Audubon Society v. City of Millville Planning Board and Millville 1350, LLC*, 395 N.J. Super. 434 (App. Div. 2007). A copy of the decision is posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 7 to this report.

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<sup>2</sup> Because the name of the proposed development entity has changed several times over the course of the last 15 years, the generic terms "developer" or "developers" are used in this report.

<sup>3</sup> As noted above, the current developer is considering construction of a nine hole golf course, not the 18-hole golf course originally approved by the City.

In its 2007 opinion upholding the Planning Board approval, the Appellate Division described the Holly Farm property as follows:

The property is in an outlying area, away from the developed portion of the City of Millville. It has frontage on Route 49 and is located near the intersection of Route 49 and Route 55, a major limited access State highway. City water and sewer are available to the property. The property is bordered on one side by the Menantico Creek and on the other by a branch of the Manumuskin River, both of which discharge into the Maurice River.

The property is not a virgin tract. It has been used over the years for mining gravel and sand, leaving behind large craters which have become ponds. A holly orchard has been planted, and, although abandoned, covers a large portion of the property. A conference center, which was unsuccessful in its intended purpose, remains on the property. The property also contains parking lots and other miscellaneous structures, as well as a former railroad bed and power line right-of-way. The property is regularly used, without authorization, by the operators of ATVs and other off-road vehicles. The property is not within the Pinelands and is not regulated by the Coastal Area Facility Review Act (CAFRA).

The zoning classification of the property is Land Conservation (LC). Planned adult community developments are permitted uses in the LC district, and golf courses are permitted accessory uses. Millville Code § 30-227A, C(2). "The purpose of a planned adult community development is to maintain the natural, rural and scenic qualities of the LC Land Conservation District by preserving sensitive environmental features and significant open lands while providing necessary housing opportunities for an aging population." Millville Code § 30-227A. A planned adult community requires a minimum area of 150 acres, must be serviced by city water and sewer, must contain sufficient uplands and developable acres to support at least 150 housing units, and must conform with the City's affordable housing requirements. Millville Code § 30-227B. Open space requirements in such developments must be a minimum of fifty percent of the gross acreage, and at least thirty percent of the total area must be set aside as conservation areas. Millville Code § 30-227D(3)(a).

The ordinance requires that "[l]ots and structures shall be laid out to the greatest extent feasible so they are located on the least environmentally sensitive area of the site and in a manner which maximizes the preservation area for long term conservation." Millville Code § 30-227E(1) (emphasis added). A minimum 150 foot buffer zone is required between residential and environmentally sensitive areas. Millville Code § 30-227E(3). [395 N.J. Super. at 439-40.]

The Court also noted that "[m]uch of the property is environmentally sensitive and is the habitat of six identified endangered or threatened animal species." [395 N.J. Super. at 441.] These species are: the Pine Barrens Treefrog and Corn snake (State endangered) and the Pine Snake, Cooper's Hawk, Barred Owl and Red-headed Woodpecker (State threatened.)

Based on other information on file with NJDEP and in the public domain, the Holly Farm property is also believed to support populations of Banner Clubtail dragonflies, Dotted Skipper butterflies and a variety of rare plant species. The site is a mixture of forest, forested wetlands and disturbed areas.

A map depicting the NJDEP's Landscape Mapping for the Holly Farm property is attached as Figure 3. A map depicting surface waters and wetlands on and near the Holly Farm property is attached as Figure 4.

As part of its review of the proposed development of the Holly Farm property, the NJDEP's Division of Land Use Regulation visited the site in 2012 and reviewed available species information for the site. Based on this review, the NJDEP has concluded that while the Landscape 3.1 mapping suggests that while the site is documented for a variety of species, not all of the site provides suitable habitat for all the documented species. For example, while much of the site is mapped habitat for the pine snake, corn snake and barred owl, lesser areas are identified for the red-headed woodpecker, Banner Clubtail or Pine Barrens Treefrog. Further review of the Department's sightings records shows that many of these species have been found on or in the immediate vicinity of the subject site.

A species by species analysis of the habitat characteristics of the proposed replacement land follows:

### **Barred Owl**

For the Barred Owl, most of the habitat critical to this species is contained within the proposed replacement land. Much of the habitat outside of the onsite freshwater wetlands and proposed 150-300 foot buffers (associated with the proposed development) consists of young-aged hardwood and softwood habitat. While these communities fall within the likely home range of the onsite barred owls, they offer little potential breeding habitat and largely provide marginal foraging and resting habitat. The greater value of these forest communities to the barred owl is their providing a contiguous forest patch that links to better resting and foraging habitat offsite to the east.

### **Northern Pine Snake**

The Department's Landscape maps identify most of the habitat onsite as pine snake habitat. Based on site investigation, it would appear that to a large extent, this mapping is accurate. Pine snakes have historically been associated with open or disturbed vegetated communities, often featuring sandy soils (e.g. Lakewood, Lakehurst) (Burger and Zappalorti 1988, 1989). These studies also suggest that undisturbed Pinelands forest is also an important component of pine snake habitat. More recent studies of pine snake habitat using radio telemetry have shown more extensive use of undisturbed oak/pine-oak forest than previously reported (W. Bien pers. comm). Other studies have shown pine snakes to make use of open, sandy soiled grassy areas (B. DuBois pers. comm). Overall, pine snakes can be said to use various types of habitat for different life-cycle aspects, for example open sandy areas for nesting and basking, forested habitats for foraging and hibernating.

In assessing the Holly Farm site for pine snakes, it is found that the site features many of the habitat types commonly associated with this species. Outside of having only a small percentage of Lakehurst/Lakewood soil, the property does feature the following habitat types typically associated with pine snake occurrences:

- a. extensive areas of pine/oak pine forest (see Figures Eight and Nine);
- b. several open, disturbed, sand pits;
- c. disturbed, open grass habitats (see Figure Ten); and
- d. open, old field/disturbed agricultural habitats.

Given these features, it is not surprising that pine snakes have been documented onsite and in adjacent areas in the southern portions of the property, offsite to the west of the property and radio tracked over large portions of the eastern half of the property. In addition, three hibernacula were discovered on the property.

### **Corn Snake**

Corn snakes have been documented on lands to the south of the Holly Farm property. Habitats suitable for this species share many of the same characteristics favored by the northern pine snake. As a result, based on the habitat conditions discussed above, it can be concluded that suitable habitat for this species is also present on the Holly Farm property. However, due to the smaller home ranges associated with the corn snake, the habitat on the Holly Farm property is not likely to be as extensive as suggested by the current Landscape Maps.

### **Red-headed Woodpecker**

The Landscape Version 3.1 mapping identifies a limited area of habitat on the Holly Farm property as red-headed woodpecker habitat. Basically the on/offsite oak dominated forest community to the east and west of the access road and offsite habitat occurring on the adjacent industrial site (Block 582, Lot 1.01, still owned by Atlantic City Electric) are mapped as woodpecker habitat. A review of Department records reveals two sightings of the red-headed woodpecker from the adjacent industrial site.

In general, southern New Jersey red-headed woodpecker habitat is described as upland oak/oak-pine forest dominated by pitch pine (*Pinus rigida*), white oak (*Quercus alba*) and red oak (*Q. rubra*) with an understory of lowbush blueberry (*Vaccinium vacillans*) or huckleberry (*Gaylussacia* spp.) (S. Liguori 2003). A review of the EIS prepared for the proposed development for this property features a description of the dry oak/oak-pine consistent with these conditions (Maser Consulting 2004). A copy of the EIS is posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendix 8 to this report.

The habitat conditions observed during the March 2012 site inspection provided further confirmation of the suitability of the onsite habitat for the red-headed woodpecker. The onsite community was dominated by oaks and featured the open understory typical of red-head habitat. Portions of the onsite forest were presently subject to logging which is serving to open up the canopy and understory but has also resulted in the removal of

potential nest trees. Unlogged onsite habitat tended to feature larger oaks. Several potential nest trees were observed within the contiguous forest on the offsite industrial property. Overall, the habitat conditions observed within the proposed recreational development area in the eastern portion of the Holly Farm property are suitable for use for resting, feeding and potentially breeding by the red-headed woodpecker. Some of the oak/oak-pine forest in the western portion of the property also featured habitat characteristics consistent with those of suitable red-headed woodpecker habitat but these areas are not mapped on Landscape Version 3.1.

### **Pine Barrens and Cope's Gray Treefrogs**

For the most part, the proposal to protect the onsite wetlands and provide them with 150 to 300 foot buffers protects a majority of the Pine Barrens treefrog habitat occurring onsite and sustains connection with a contiguous forest patch to allow for population dispersal across the landscape. Based on known locations of Cope's Gray Treefrog habitats in the area, the proposed development will maintain dispersal habitat and movement corridors of sufficient size and connectivity to on and offsite wetlands offering seasonal habitat for this species.

### **Banner Clubtail**

Banner clubtails are documented for mixed forest, Manahawkin muck wetlands associated with Menatico Creek northwest of the subject property. No similar habitats were observed within the Holly Farm property during the March 2012 site inspection nor are any such suitable habitats believed to occur on the property.

### **Conclusion**

In conclusion, there is suitable habitat for one or more state listed endangered or threatened species throughout the proposed replacement acreage.

### **Comparison of Property to be Conveyed to Proposed Replacement Land**

The NJDEP does not agree with the MURC's characterization of the Property as having "no significant environmental designations or characteristics." NJDEP pursued Durand's offer to sell the Property based on its location and natural resource values. However, as indicated above the Holly Farm property is more centrally located (with respect to overall conservation efforts in the area) and ecologically diverse. Therefore, the NJDEP believes that, on balance, the substitution of at least 900 acres of the Holly Farm property for approximately 81 acres of the former Durand Glass property will not have a negative environmental impact on the surrounding area.

As noted above, if the Holly Farm purchase cannot be concluded within three years of the actual conveyance of the Property, the NJDEP will identify and purchase other suitable replacement land of at least equal acreage, in fee, within Cumberland County.

## **Recreational Impacts of Proposed Conveyance**

As discussed above, substitution of at least 900 acres of the Holly Farm property (Block 582, Lot 1) for approximately 80 acres of the former Durand Glass property (Block 582, Lot 9) will increase the acreage of the Menantico Ponds Wildlife Management Area by approximately 820 acres. The Property proposed for conveyance does not have direct road frontage, but is accessible from the interior of the WMA. The proposed replacement property may have some frontage along Route 49, but the exact configuration of the replacement property and the official public access points for the replacement property are to be determined.

The NJDEP has only owned the Property since July 2013. Therefore, removing the former Durand Glass property from the WMA and shifting recreational uses of the WMA toward the former Holly Farm property is not expected to have a significant adverse recreational impact on the public. Given that the Property and the proposed replacement property are located approximately 1/2 mile apart, the NJDEP does not anticipate that public use of the proposed replacement property would be substantially different than the current public use of the Property

If the NJDEP is unable to purchase replacement land within the Holly Farm tract within the specified three-year time frame, it is unlikely that any alternative replacement land will be located in close proximity to the Wildlife Management Area. Therefore, while overall NJDEP holdings would stay the same (or possibly increase in acreage), the overall acreage of the Menantico Ponds Wildlife Management Area would decrease under such a scenario.

## **ECONOMIC ASSESSMENT**

The Property was originally offered for sale to the NJDEP by Durand Glass for \$450,000. Appraisals of the Property commissioned by the Green Acres Program established values of \$364,000 (by R.W. Frankenfield Associates) and \$380,000 (by Curini Appraisal Co, Inc.) (as of mid-January 2013.) The appraisals are posted online at <http://www.state.nj.us/dep/greenacres/notices.html> as Appendices 2 and 3 to this report.

Both appraisals were based on the Property's I-1 (General Industry District) zoning. Although the Curini appraisal assumed a highest and best use of "future industrial development" and the Frankenfield appraisal assumed a highest and best use of "open space and recreational use," both appraisers reached a similar conclusion about the market value of the Property.

The appraisals were reviewed by the Green Acres Program's review appraiser, who averaged the two values and established a certified fair market value of \$372,000. The Green Acres Program project manager then negotiated a contract price of \$340,000, which was later adjusted downward to \$335,300 when the surveyed acreage was determined to be 1.122 acres less than the acreage cited in the contract (80.2 acres.)

The technical costs associated with the NJDEP's purchase of the Property were as follows:

Appraisals: \$4413

Survey: \$5929

Title Report and Insurance: \$1899

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Total: \$12,241

The above costs do not include Green Acres Program staff time, DAG costs (legal review) or recording fees for the deed.

Based on this information, the NJDEP proposes to sell the property for \$395,000. This amount represents the following:

\$367,000 fair market value (\$372,000, adjusted for 79.078 surveyed acres)

\$12,241 technical costs

\$15,000 anticipated conveyance costs (*N.J.S.A. 13:1D-57*)

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Total: \$394,241

As discussed above, it is anticipated that the proposed replacement land would have been required to be restricted by the NJDEP, the City and/or the County as a condition of development approvals and/or permits required for the development of the Holly Farm property. However, such approvals and permits would not usually require the transfer of the restricted property in fee to the NJDEP. Paragraphs 2, 10 and 14 of the City Planning Board's 2004 resolution (Appendix 6) appear to contemplate that the proposed replacement land would be deed restricted, that the developer would enlist a nonprofit conservation group to help manage the property and that the City would ensure that there would be some degree of public access to the restricted area. However, Paragraph 10 of the resolution specifically states that the City did not want to own the restricted area, and nothing in the resolution would require the developer to transfer the restricted area into public (or nonprofit) ownership.

The \$4.0 million 2010 sale price to be paid by Holly Ridge LLC to Atlantic Electric equates to a land value of \$2941 per acre. At the time of the sale, the NJDEP had offered to pay \$3.5 million (or \$2612 per acre) for the same property.

Even assuming a reduction in fair market value of 75 percent due to the imposition of a conservation restriction, and using the lower NJDEP value figure, the restricted lands would still have a market value of approximately \$650 per acre. Therefore, the estimated market value of the 900 acres to be purchased by the NJDEP as replacement land is \$585,000. In addition, as a condition of this conveyance, NJDEP, City and/or County will require Holly Ridge LLC to bear

the technical costs (survey, title and hazard review) for the purchase of the proposed replacement land. Those costs can easily exceed \$25,000 (given the size and configuration of the proposed replacement land.)

If the proposed conveyance is approved by the Commissioner and the State House Commission, the NJDEP anticipates that it will negotiate a contract with the owner of the Holly Farm site under which the transfer of the proposed replacement land would occur within two years of the sale of the Property. In addition, in order to avoid the perception that purchase of the proposed replacement land will confer a windfall on the developer of the Holly Farm site and/or facilitate the proposed development, the agreement between the NJDEP and the developer will specify that the developer will apply the \$367,000 to be received from the NJDEP toward the purchase of additional replacement land (in a location and quantity acceptable to the NJDEP.) The timing of acquisition and location of the additional replacement land cannot be determined at this time.

In the event the NJDEP determines it is necessary to identify alternative replacement land because it is unable to purchase the Holly Farm replacement land within three years of the actual conveyance of the Property, the overall economic effect of the proposed conveyance will still be neutral. Under *N.J.S.A. 13:1D-57*, the NJDEP is required to apply the sale proceeds to other State land acquisitions, and it would purchase at least equal acreage with the remaining \$367,000 sale proceeds.

Based upon the above, the Department of Environmental Protection believes that the proposed sale price for the Property and the proposed purchase of replacement land make this an equitable economic transaction for the State.

The final acreage involved in the proposed conveyance is subject to change due to site conditions and/or survey adjustments, but (1) such changes will not exceed ten percent of the proposed acreage (on either side of the transaction) and (2) the final replacement land will be of at least equal acreage to the final acreage conveyed. The block and lot designations involved in this transaction are subject to change if the City decides to redesignate any of the properties as part of the development approval process.

## **PUBLIC HEARINGS**

In accordance with N.J.S.A. 13:1D-52a(4), two public hearings have been scheduled on the proposed conveyance:

The **first public hearing** will be held on:

Wednesday, May 7, 2014 at 6:30 PM at the  
City of Millville City Hall  
Commission Chambers—4<sup>th</sup> floor  
12 S. High Street  
Millville, New Jersey 08332  
856-825-7000

The **second public hearing** will be held on:

Wednesday, May 21, 2014 at 2:30 PM at the  
Department of Environmental Protection  
Public Hearing Room  
401 E. State Street—1<sup>st</sup> floor  
Trenton, New Jersey 08625

Additional information about the public hearings and the opportunity to submit public comments on the proposed conveyance is contained in the attached public hearing notice (Figure 5.)

## CONTACT INFORMATION

For further information, please contact:

### Department of Environmental Protection

Judeth Piccinini Yeany, Chief  
Bureau of Legal Services and Stewardship  
New Jersey Department of Environmental Protection  
Green Acres Program  
Mail Code 501-01  
P.O. Box 420  
Trenton, New Jersey 08625-0420  
(609) 984-0500  
[Judeth.Yeany@dep.state.nj.us](mailto:Judeth.Yeany@dep.state.nj.us)

### City of Millville

John H. Knoop III, City Engineer  
City of Millville  
City Hall  
12 S. High St.  
P.O. Box 609  
Millville, New Jersey 08332  
856-825-7000, ext. 7301  
[JKnoop@millvillenj.gov](mailto:JKnoop@millvillenj.gov)

## FIGURES AND APPENDICES

Figure 1	General Location Map
Figure 2	Aerial Map of Proposed Conveyance and Replacement Land
Figure 3	Landscape Mapping for Proposed Conveyance and Replacement Land
Figure 4	Map of Wetlands & Surface Waters for Proposed Conveyance and Replacement Land
Figure 5	Public Hearing Notice

The following appendices are referenced in this report, but not attached to the paper copies of the report distributed to the list below. They may be accessed at: <http://www.state.nj.us/dep/greenacres/notices.html>

Appendix 1	An Economic Assessment of the City of Millville, January 2014, prepared by the Millville Urban Redevelopment Corporation
Appendix 2	January 2013 Curini Appraisal
Appendix 3	January 2013 Frankenfield Appraisal
Appendix 4	Habitat Assessment Report for Block 578, Lot 19
Appendix 5	Unpublished Appellate Division Decision, <i>In the Matter of the Petition of Atlantic City Electric Company for Approval of the Sale of Certain Land and Premises Situate in the Township of Maurice River, in part, and the City of Millville, in part, County of Cumberland and State of New Jersey to R.W.V. Land and C.M. Livestock, L.L.C., pursuant to N.J.S.A. 48:3-7</i> , decided July 17, 2013, Docket Nos. A-5117-09T3 and A-5890-09T3.
Appendix 6	City of Millville Planning Board Resolution No. 42-04
Appendix 7	Appellate Division Decision, <i>Citizens United to Protect the Maurice River and its Tributaries, Inc., Association of New Jersey Environmental Commissions, New Jersey Conservation Foundation and New Jersey Audubon Society v. City of Millville Planning Board and Millville 1350, LLC</i> , 395 N.J. Super. 434 (App. Div. 2007)
Appendix 8	Environmental Impact Statement for The Preserve at Holly Ridge, Block 582, Lots 1, 10 & P/O 1.01, City of Millville, Cumberland County, prepared by Maser Consulting for Millville 1350, LLC, dated June 2003, revised July 8, 2004.

## **DISTRIBUTION LIST**

Honorable Paul A. Sarlo, Chair, Senate Budget and Appropriations Committee  
Honorable Bob Smith, Chair, Senate Environment and Energy Committee  
Honorable Jim Whelan, Chair, Senate State Government, Wagering, Tourism and  
Historic Preservation Committee

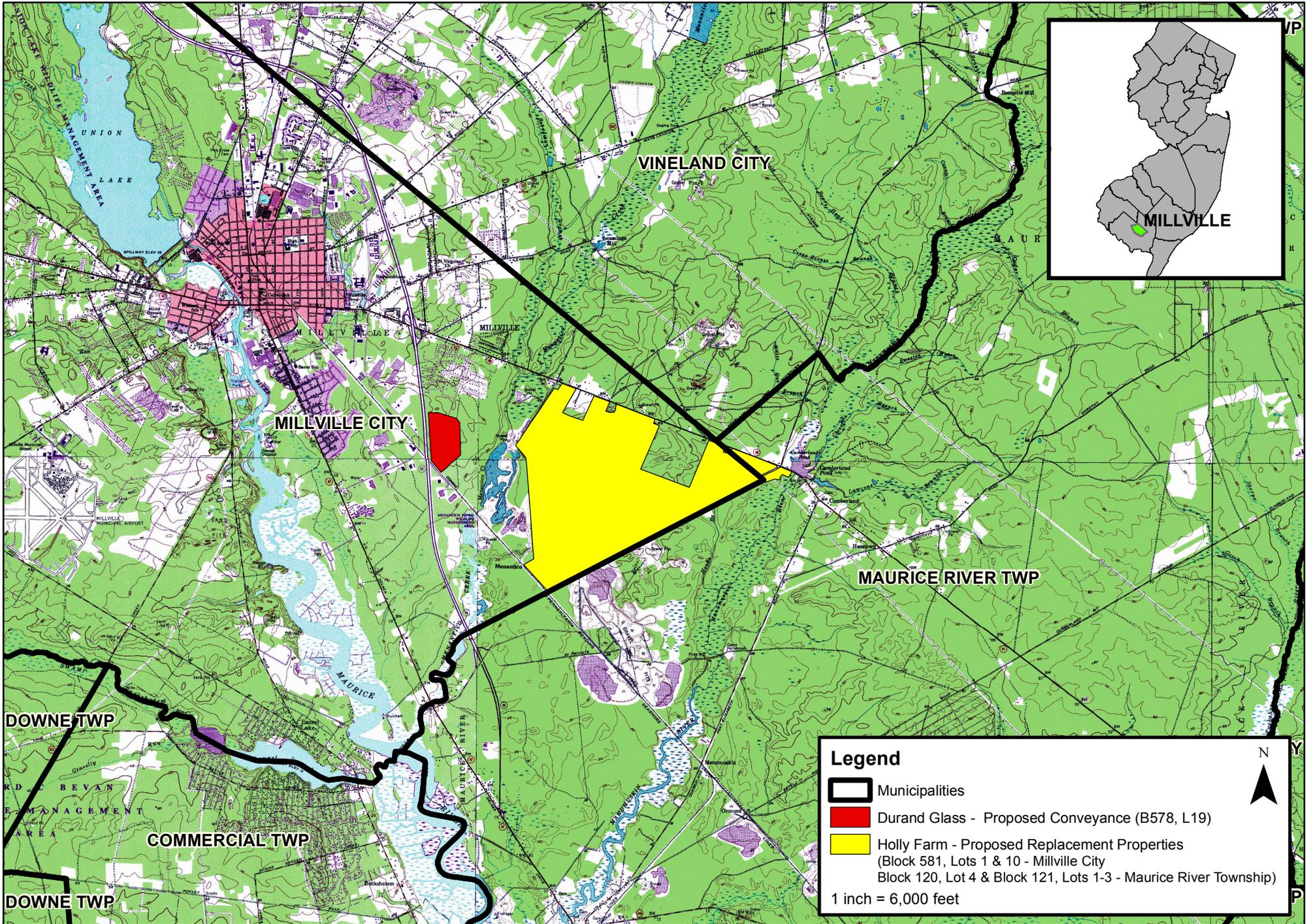
Honorable John J. Burzichelli, Chair, Assembly Appropriations Committee  
Honorable L. Grace Spencer, Chair, Assembly Environment and Solid Waste Committee  
Honorable Linda Stender, Chair, Assembly State and Local Government Committee

Robert J. Shaughnessy, Esq., Secretary, State House Commission

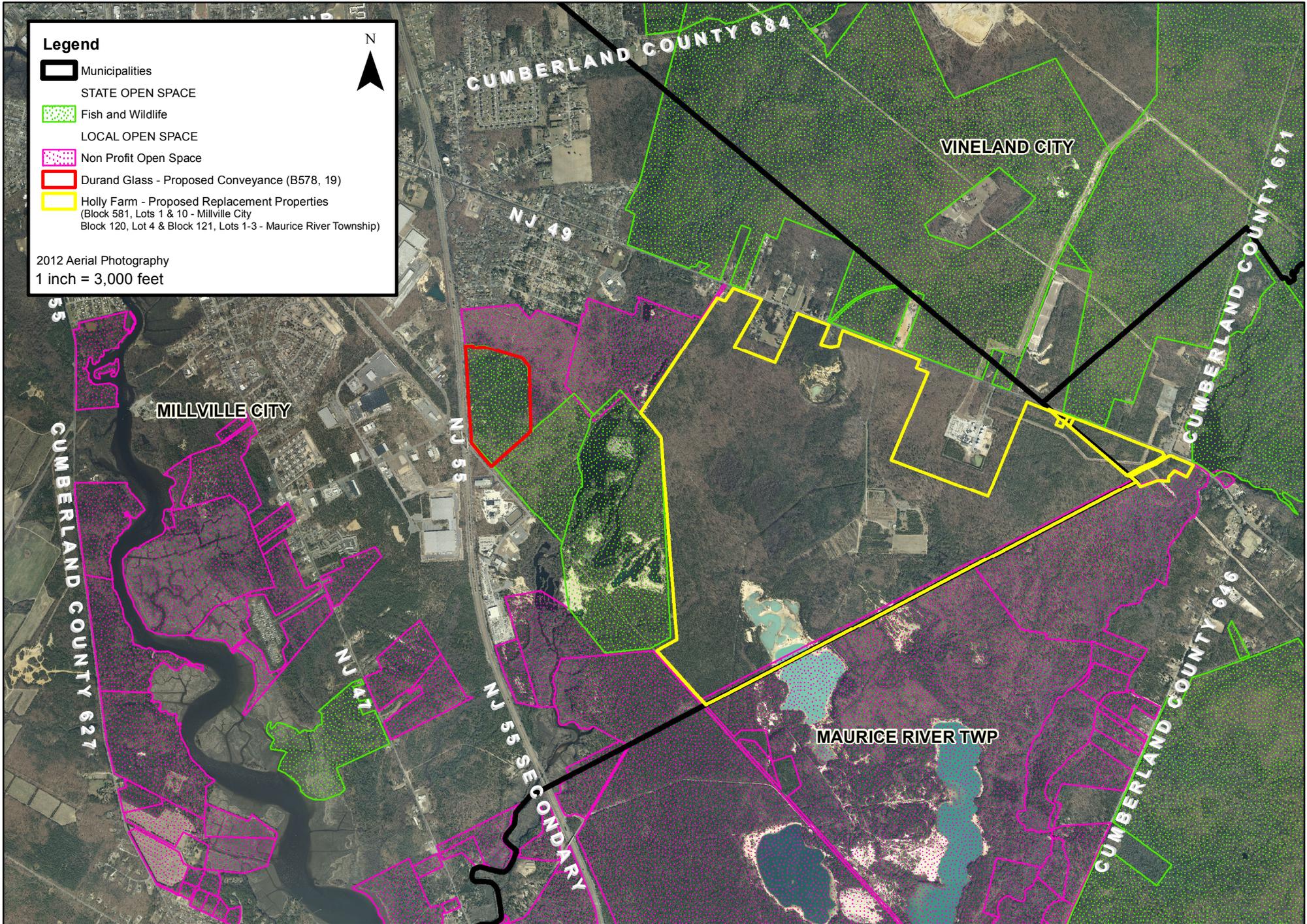
Richard Boornazian, Assistant Commissioner, NJDEP  
David Chanda, Director, Division of Fish and Wildlife, NJDEP  
Anthony Petrongolo, Division of Fish and Wildlife, NJDEP  
Martha Sapp, Acting Administrator, Green Acres Program, NJDEP

Gloria Noto, Clerk, County of Cumberland  
Honorable Michael Santiago, Mayor, City of Millville  
James F. Quinn, Vice Mayor, City of Millville  
Lynne Porreca Compari, Commissioner, City of Millville  
David W. Ennis, Commissioner, City of Millville  
Joseph Sooy, Commissioner, City of Millville  
Susan G. Robostello, Clerk/Administrator, City of Millville

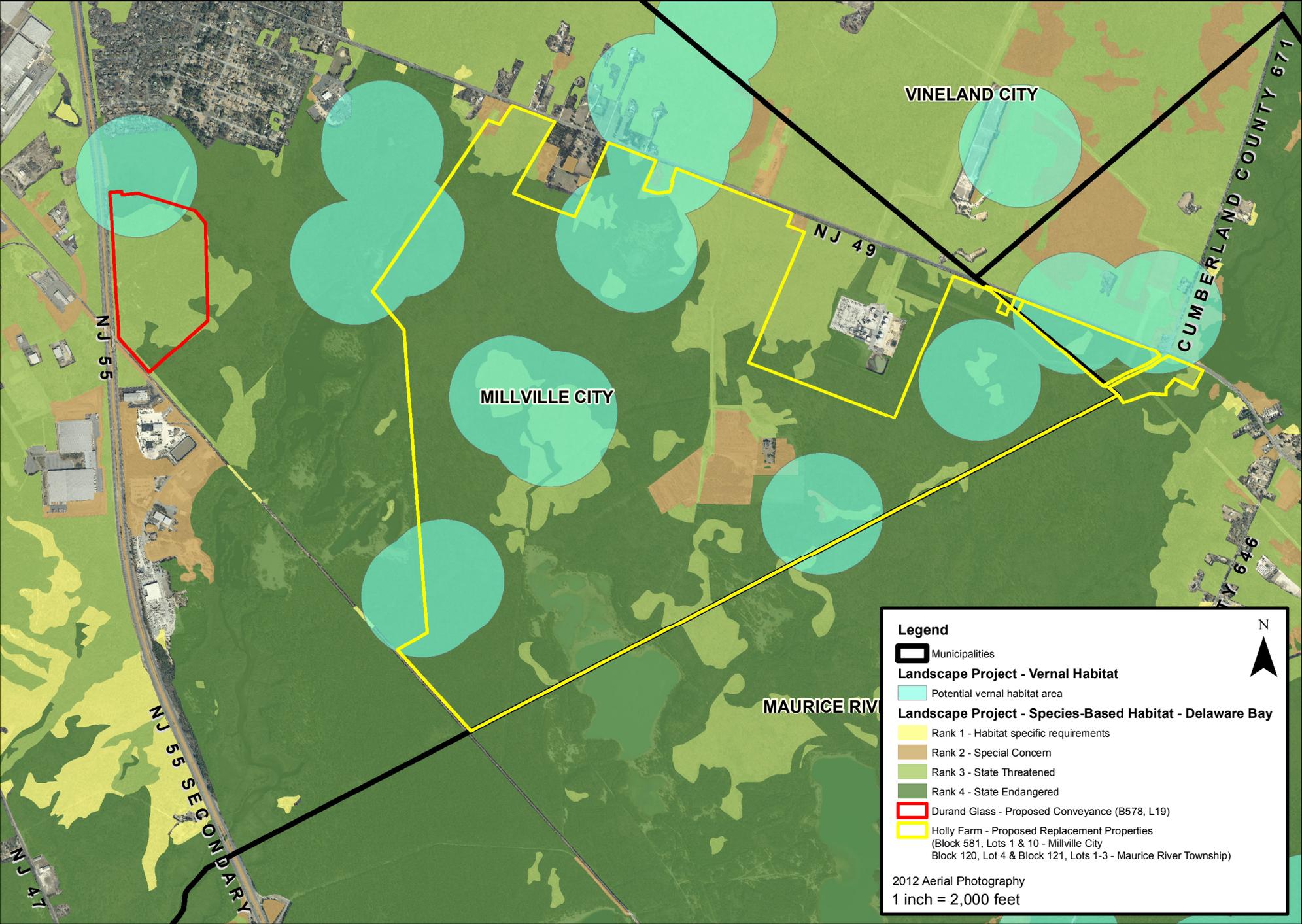
# FIGURE 1: GENERAL LOCATION MAP



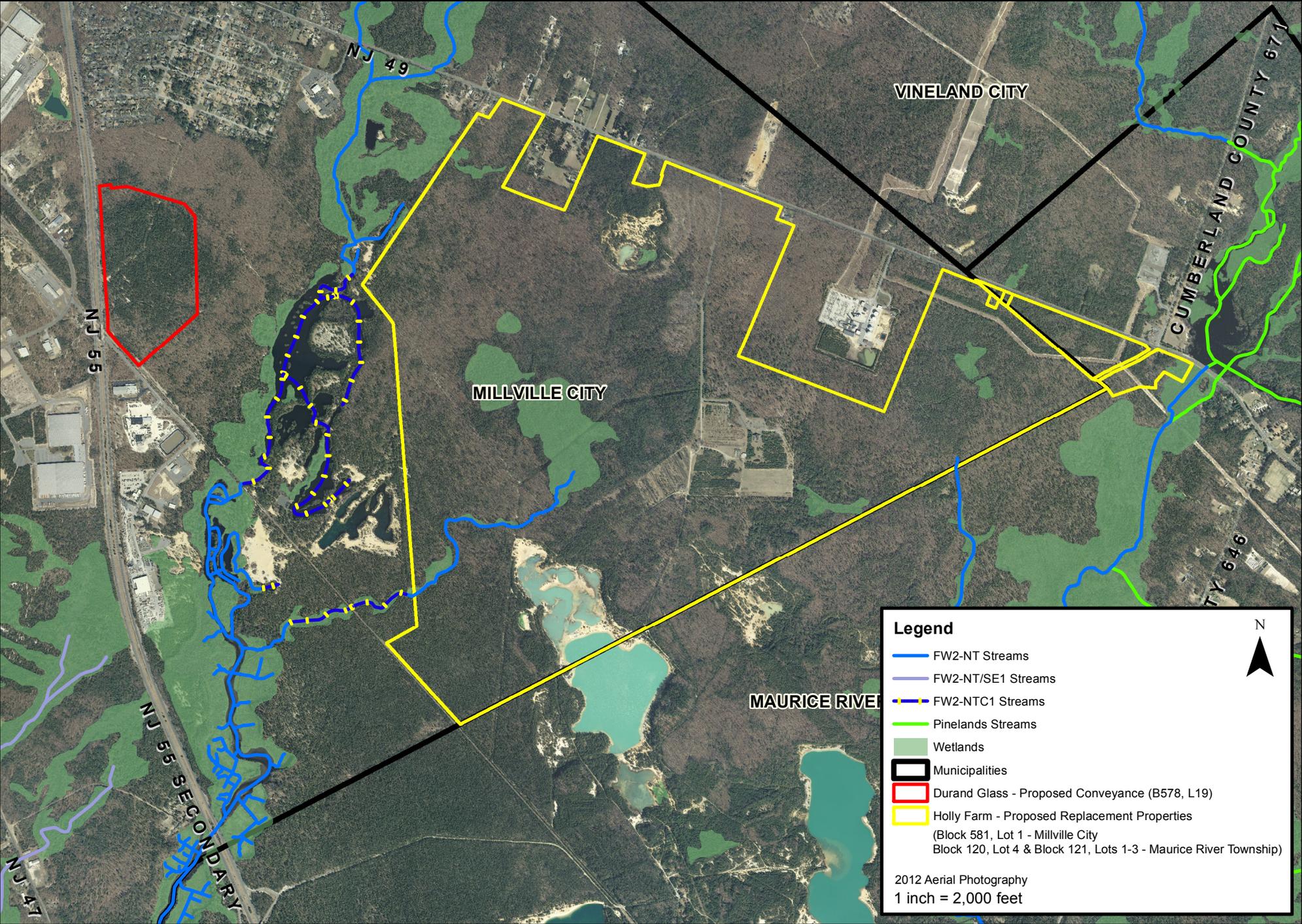
# FIGURE 2: AERIAL MAP OF PROPOSED CONVEYANCE & REPLACEMENT PROPERTIES



**FIGURE 3: LANDSCAPE PROJECT MAPPING, VERSION 3.1**



**FIGURE 4: WETLANDS & SURFACE WATERS MAP**



## PUBLIC HEARING NOTICE

**Department of Environmental Protection  
Green Acres Program  
Notice of Public Hearings on Proposed Conveyance of Property in the  
City of Millville, Cumberland County**

**Take Notice** that in accordance with *N.J.S.A.* 13:1D-51 through -58, the State of New Jersey, Department of Environmental Protection (“NJDEP”) will hold two **public hearings** to seek comments on the proposed conveyance of property in the City of Millville, Cumberland County.

The property proposed for conveyance is designated for tax purposes as Block 578, Lot 19 (comprising approximately 81 acres, hereafter “the Property.”) The NJDEP proposes to convey the Property through a direct sale to either the City of Millville (“City”), the Millville Urban Redevelopment Corporation (“MURC”), the Cumberland County Improvement Authority or any other nonprofit or public entity designated by the City. The Property was purchased by the NJDEP from the prior owner, Durand Glass Manufacturing Company, Inc. (“Durand”), in July 2013 for \$335,000. The proposed sale price for the conveyance by the NJDEP to the City or its designee is \$395,000. If the property is conveyed by the NJDEP to the City or its designee, it will be used for commercial/industrial purposes consistent with current zoning.

The Property is located off Gorton Road; the street address of the Property is 1 Gorton Road. It is irregularly shaped, with a maximum depth of about 2700 linear feet and a frontage of about 735 feet. The property is currently administered by the NJDEP’s Division of Fish and Wildlife as part of the 474-acre Menantico Ponds Wildlife Management Area.

A copy of a report analyzing the proposed conveyance is available online at [www.nj.gov/dep/greenacres/notices.html](http://www.nj.gov/dep/greenacres/notices.html). A general location map for the Property is included as Figure 1 of the report. An aerial map of the Property is included as Figure 2 of the report.

The proposed sale price is based on three components: the \$367,000 full fair market value of the Property as of January 2013 (as established by appraisals commissioned by the NJDEP as part of the purchase); approximately \$13,000 in technical costs incurred by the NJDEP as part of the purchase of the Property and \$15,000 for administrative costs associated with the proposed conveyance.

If the proposed conveyance of the Property is approved and the Property is sold to the City or its designee, the NJDEP intends to apply \$367,000 of the sale proceeds to the purchase of a minimum of 900 acres of land within Block 582, Lot 1 in the City of

Millville for addition to the Menantico Ponds Wildlife Management Area. The proposed replacement property is known locally as the Holly Farm property and is located at 3001 Main Street E in the City of Millville. The remainder of the proceeds of the sale (\$28,000) will be returned to the Garden State Preservation Trust Fund (or other appropriate Green Acres bond fund) for use in future open space acquisitions. However, if the Holly Farm purchase cannot be concluded within three years of the actual conveyance of the Property, the NJDEP will identify and purchase other suitable replacement land of at least equal acreage, in fee, within Cumberland County using the \$367,000 sale proceeds.

State House Commission approval is required for this proposal. If approved, the Department anticipates that the earliest the proposed conveyance could occur is mid-August 2014.

The **first public hearing** on the proposed conveyance of the Property will be held on:

Wednesday, May 7, 2014 at 6:30 PM at the  
City of Millville City Hall  
Commission Chambers—4<sup>th</sup> floor  
12 S. High Street  
Millville, New Jersey 08332  
856-825-7000

The hearing record for the first public hearing will close on Wednesday, May 21, 2014. Interested persons may obtain information from Judeth Yeany in the Green Acres Program or John Knoop at the City of Millville at the addresses below and may submit written comments to Ms. Yeany until the close of business on Wednesday, May 21, 2014.

The **second public hearing** will be held on:

Wednesday, May 21, 2014 at 2:30 PM at the  
Department of Environmental Protection  
Public Hearing Room  
401 E. State Street—1<sup>st</sup> floor  
Trenton, New Jersey 08625

The hearing record for the second public hearing will close on Wednesday, June 4, 2014. Interested persons may obtain information from Judeth Yeany in the Green Acres Program or John Knoop at the City of Millville at the addresses below and may submit written comments to Ms. Yeany until the close of business on Friday, June 4, 2014.

Persons wishing to make oral presentations at either of the public hearings are asked to bring a written copy of their comments to the hearing for use by the Department. For further information on the proposed conveyance, please contact:

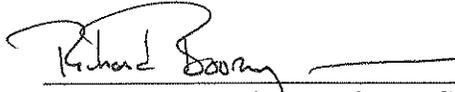
Department of Environmental Protection

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DATE: 3/13/14

  
Richard Boornazian, Assistant Commissioner  
Natural and Historic Resources  
Department of Environmental Protection