

Appendix J.

SEQR Documentation

- ✓ Findings from the 1993 Preserve Management Plan/FEIS
- ✓ Findings from the 1996 Implementation Guidelines/FEIS
- ✓ Negative Declaration for 2001 Rules and Regulations
- ✓ Findings from the 2002 Preserve Management Plan/FEIS
- ✓ Findings from the 2010 Preserve Management Plan/FEIS



Albany Pine Bush

Preserve Commission

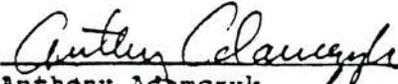
COMMISSION DECISION
and
STATEMENT OF FINDINGS

ACTION: Adoption of a Management Plan for The Albany Pine Bush Preserve

The Albany Pine Bush Preserve Commission completed a Final Master Plan/FEIS, in January, 1993 for the Albany Pine Bush Preserve. The Preserve is located in the City of Albany, the Towns of Colonie and Guilderland, the Village of Colonie, and the County of Albany.

In accordance with the provisions of Article 46 of Environmental Conservation Law and as Chairman of the Albany Pine Bush Commission, I do hereby adopt the Final Management Plan/FEIS for the Albany Pine Bush Preserve.

The Commission's decision is based on the attached Statement of Findings, which have been prepared according to the provisions of Part 617, the regulations implementing Article 8 of the Environmental Conservation Law - the State Environmental Quality Review Act.



Anthony Adamczyk
Chairman
Albany Pine Bush Commission

May 26, 1993

Date

STATEMENT OF FINDINGS

ADOPTION OF MANAGEMENT PLAN FOR ALBANY PINE BUSH PRESERVE

Pursuant to Article 8 (State Environmental Review Act) of the Environmental Conservation Law and 6 NYCRR Part 617, the Albany Pine Bush Preserve Commission as lead agency makes the following findings:

ACTION: Adoption of a Management Plan for the Albany Pine Bush Preserve

LOCATION: Albany Pine Bush Preserve in the City of Albany, Towns of Guilderland and Colonie, and Village of Colonie, Albany County, New York

DATE FINAL PLAN AND EIS: January 22, 1993

The planning process followed by Albany Pine Bush Preserve Commission and its consultant Environmental Design & Research, P.C. included a public information/scoping meeting, a draft plan/DEIS public hearing and comment period, public and agency comments, and a Final Plan/EIS public consideration period.

FINDINGS: The following facts and conclusions in the Final Plan/FEIS are relied upon in adopting the Management Plan for the Albany Pine Bush Preserve:

1. The requirements of 6NYCRR Part 617 pursuant to SEQR have been met.
2. Consistent with social, economic and other essential considerations from the reasonable alternatives, the Management Plan and FEIS for the Albany Pine Bush Preserve and its implementation will minimize or avoid adverse environmental impacts to the maximum extent practicable through mitigative measures identified in the Environmental Impact Statement process. There are no significant adverse impacts that cannot be avoided or sufficiently mitigated.
3. The Albany Pine Bush Preserve includes the lands that are officially dedicated to the Albany Pine Bush Preserve for protection and beneficial public use. Currently, the Preserve includes parcels owned by public agencies, municipalities and The Nature Conservancy. These lands will be managed by the Commission and will be available for public use and interpretive activity.

4. The Albany Pine Bush Preserve is a globally rare ecosystem that harbors a variety of rare or endangered plants, animals and natural communities. Protection of the Pine Bush ecosystem is of paramount importance. The plan identifies these resources, threats to the resources and alternative means to manage and protect them.
5. The plan identifies a Primary Protection Area made up of lands adjacent to the existing Albany Pine Bush Preserve which have been determined to include ecologically significant elements. The determination of ecological significance is based on the 1984 Natural Heritage Program mapping and the findings of the 1990-91 rare species/natural communities inventory. There are other significant ecological areas outside the Primary Protection Area such as small isolated Karner blue butterfly colonies, breeding sites for amphibians and reptiles, and buffer areas.
6. The boundary of the Primary Protection Area generally follows roads, municipal boundaries and property lines (rather than the boundaries of ecological communities) to alleviate any confusion regarding its location.
7. The Primary Protection Area should receive protection to ensure the long-term viability of the Pine Bush. Within this area, land acquisition and dedication to the Preserve is the preferred means of protecting natural resources. Where fee simple acquisition is not feasible, alternate means of protecting ecologically significant resources should be applied.
8. The Secondary Protection Area includes undeveloped and developed lands that are adjacent to the Preserve or the Primary Protection Area and may have an influence on natural resource protection and management activities. A total of approximately 2,500 acres has been included within this category. Lands within the Secondary Protection Area may be valuable to the long-term protection of the Pine Bush ecosystem. This value could be based on their proximity to significant ecological resources, their role in watershed protection, their open space/buffer function, their public use potential or their potential linkage of disjointed Preserve lands and isolated Karner blue colonies. Therefore a variety of protective measures (as appropriate and feasible) are recommended for this area, ranging from fee simple acquisition to municipal land use controls. Acquiring or otherwise permanently protecting the larger, undeveloped portions of the Secondary Protection Area is considered desirable in terms of fulfilling the Commission's legislative mandate to protect the Pine Bush ecosystem and accommodate public use and education.

9. The Commission does not have condemnation powers or the authority to manage private lands. Therefore all proposed acquisitions would be on the basis of a willing seller (or donor), and alternate protection measures (eg. execution of a conservation easement) would occur only with the voluntary approval of the landowner. It should be noted that the plan does not call for displacement of existing residents or businesses.
10. Research by Givnish and others suggests that a minimum area of approximately 2,000 acres that can be aggressively managed is required for the long-term conservation of the Albany Pine Bush ecosystem and the Karner blue butterfly. Approximately 1,900 acres have been acquired by the various agencies, organizations and municipalities that make up the Albany Pine Bush Preserve Commission. These lands have been or will be dedicated to the Commission for management. This acquisition effort has been carried out in accordance with a plan developed by Givnish and others, and implemented by the NYSDEC, NYSOPRHP, TNC, Towns of Colonie and Guilderland, and City of Albany. Additional acquisitions are currently being pursued in accordance with this plan. By following the plan, the Commission is now close to achieving a 2,000 acre preserve. However, it is necessary that acquisition continue beyond this 2,000 acre preserve in order to 1) secure 2,000 manageable acres, 2) restore and manage the Pine Bush ecosystem, 3) provide for public use and recreation, and 4) ensure open space and watershed protection. The Commission should be alert to opportunities to acquire or otherwise protect areas that would be beneficial additions to the Preserve.
11. The plan identifies alternative means of protecting significant lands (or portions of them). These alternatives need to be evaluated on a site by site basis. The designation of Primary and Secondary Protection Areas as a Critical Environmental Area (CEA) under the State Environmental Quality Review Act (SEQR) is an alternative which should be evaluated.
12. To achieve the long-term goal of perpetuating the Pine Bush ecosystem, active management with an emphasis on controlled burns as the primary management tool will be required. The management plan includes a fire management plan prepared by The Nature Conservancy. The management must include regular burning of pine barrens communities and restoration of successional communities.
13. In severely fire-suppressed communities where fire management alone may not be adequate, use of mechanical and/or chemical management techniques is recommended as an aid to supplement fire management in the restoration of pitch pine-scrub oak techniques (and combinations of techniques) will be researched and undertaken to assess their effectiveness.

14. The plan contains a number of recommendations for managing the Preserve to protect rare and endangered species, significant habitats and water quality, and to control erosion. The Preserve's wildlife should be monitored and managed to maintain populations at levels that are compatible with existing habitat and the existing type and level of human use in the area.
15. Coordination among agencies/jurisdictions is necessary to achieve management goals and objectives.
16. Public use of the Preserve is subordinate to ecological management and protection. Public use is important and nurtures appreciation of and support for the Preserve. Provided that ecological resources are not threatened, public access to and use of the Preserve should be enhanced, yet at the same time controlled. Certain existing uses of the Preserve should be encouraged, while others must be discouraged or prohibited. A set of regulations that will apply to all dedicated Preserve lands will be adopted.
17. An information and education program concerning the Pine Bush is a necessary element of on-going Preserve management as well as a significant public benefit. The primary audience is anticipated to be local residents using the area for passive recreational activities. Other targeted audiences include schools, groups associated with various conservation organizations, and visiting scientists and academics. A multi-level approach is suggested, utilizing an Interpretive Education Center, off-site displays and programs, and interpretive signs at trailheads and public access points.
18. An official trail network will be defined to offer a variety of experiences and views, while avoiding particularly sensitive areas such as rare species habitat, wetlands, ravines and steep slopes. Trails designated for specific uses will be so marked (eg. horse trails, ski trails, foot trails).
19. The Commission has determined that existing equestrian use in the City of Albany parcel is causing significant deterioration of the resources. In part as a result of comments received on the management plan, the Commission's Technical Committee will meet with representatives from the equestrian community to explore the possibilities of establishing equestrian trails on other parcels that are less environmentally sensitive.

20. The Albany Pine Bush Preserve Commission consists of representatives of the Towns of Colonie and Guilderland, the City of Albany, The Nature Conservancy, the NYS Department of Environmental Conservation, the NYS Office of Parks, Recreation and Historic Preservation, and three citizen members appointed by the Governor. The Commission has invited the Village of Colonie and Albany County to participate in the work of the Commission as non-voting members. The cooperation and contribution of in-kind services and financial resources are critical to the implementation of the plan.

ldjr13

**New York State
Albany Pine Bush Preserve Commission**

**SEQR FINDINGS STATEMENT
Albany Pine Bush Preserve
Protection and Project Review Implementation Guidelines**

MARCH 28, 1996

INTRODUCTION

This Findings Statement has been prepared by the Albany Pine Bush Preserve Commission (APBPC) in compliance with the State Environmental Quality Review Act (SEQRA), Article 8 of the New York State Environmental Conservation Law, and its implementing regulations, 6 NYCRR Part 617.

The Albany Pine Bush Preserve Commission, pursuant to ECL Article 46, has the jurisdiction and approval authority for the Albany Pine Bush Preserve Protection and Project Review Implementation Guidelines. Pursuant to SEQRA's lawful authority, the Commission was designated as lead agency.

Under SEQRA, no lead agency may make a final decision to approve an action that has been the subject of a final environmental impact statement until a Findings Statement has been adopted and filed. The planning process followed by the Albany Pine Bush Preserve Commission, in drafting the Implementation Guidelines, included an extensive effort to be sensitive and responsive to public concerns. This process included a public scoping session on June 6, 1994 and release of a Draft Environmental Impact Statement March 20, 1995. Thereafter, public workshops were held on the DEIS on April 11, 1995. Public hearings were held on Wednesday, April 12, 1995. A public comment period started on March 20, 1995 and later was extended to June 15, 1995. Comments were summarized and addressed in the Final Environmental Impact Statement which was completed February 12, 1996 and released for a 14 day consideration period.

The Commission received six letters during the final consideration period. The determination is made that there is one new comment that raises a new factual matter. The fact is that Karner blue butterflies do exist in or about area #53. The recommendations for area #53 have been reexamined in light of this comment, the factual issue raised, the additional 20 points assigned to this area consistent with the FEIS, Chapter II, and the revised ranking relative to other areas. Reevaluation has resulted in a determination by the Commission to maintain the partial protection recommendation for this area, to include full protection of the existing Karner blue butterfly site and full protection of a corridor to provide linkage between the Karner blue butterfly site and other protected lands. As a result, Table 3 of the FEIS (pages 25 - 27) has been revised and reviewed by the Commission Technical Committee and the Commission, and as amended is approved. The revised table 3 is incorporated into the Administrative Record.

The Commission believes that the issues raised in the comments received during the final consideration period were adequately addressed in the FEIS; nevertheless, the Commission wishes to reiterate certain salient points. With respect to the decision to change the recommendation for area #33 from "full protection" to "partial protection," the FEIS (Appendix 3, attachment 1, page 6) explains that as a result of consideration of comments made after the DEIS, the scoring criteria was modified and each area, including area #33, was re-scored. Based on the Protection Goals identified in the FEIS (pages 3-8), the process used to determine boundaries (FEIS, page 8), the Protection Criteria (FEIS, page 11), and the Ranking System and Application (FEIS, pages 11-15), area #33 ranked 38th of 52 areas in relative protection priority (39th of 52 as updated above). A rational explanation of the extent of protection designations, and the reason why certain areas are not recommended for full protection, is provided in the FEIS Appendix 3, "response to Comment 45," on pages 15-16. Based on the ranking of area #33, relative to other areas studied, and the fact that an additional 1,730 acres are recommended for full protection, the Commission determined that area #33 be recommended for partial protection.

Finally, one commentor objected to the inclusion of a partially disturbed mined area in the category of open (<20% developed) lands and the recommendation of "full protection" for all of area #4, as detailed in the FEIS (pages 8 and table 3). This issue is addressed in the FEIS, for example, in the response to comments #28, #46 and #48. Also, disturbed lands are candidates for restoration with native Pine Bush species and can contribute to the viability of Pine Bush communities, and support the existence of individual species, including the Karner blue butterfly.

In the development of this Findings Statement the Commission has reviewed and considered all of the public comments received as set forth in the FEIS and has reviewed the response to the comments, the FEIS, the DEIS, the 1993 Management Plan, and the complete record. This record includes the literature and communications cited in the February, 1996 FEIS pages 50-54, including Minimum area requirements for long-term conservation of the Albany Pine Bush and Karner blue butterfly by Givnish, et. al, and a subsequent letter from Dr. Givnish dated August 21, 1995. In that letter Dr. Givnish confirms "that the Commission's interpretation of the minimum reserve requirements for the Albany Pine Bush accords directly with the specific recommendations made by myself, Eric Menges, and Dale Schweitzer...." The Commission finds the responses to comments made to be accurate, adequate, supported by the record and acceptable.

1. DESCRIPTION OF ACTION

Action: Adoption of the Albany Pine Bush Preserve Commission Protection and Project Review Implementation Guidelines and Final Environmental Impact Statement as a supplement to the Albany Pine Bush Preserve Management Plan (APBPC, 1993).

Location: City of Albany, Towns of Guilderland and Colonie and the Village of Colonie, Albany County, New York.

Date of Implementation Guidelines and Final EIS: February 12, 1996

2. ALBANY PINE BUSH PRESERVE COMMISSION JURISDICTION

The Albany Pine Bush Preserve Commission, pursuant to ECL Article 46, has the jurisdiction and approval authority for the Albany Pine Bush Preserve Protection and Project Review Implementation Guidelines. Pursuant to SEQRA's lawful authority, the Commission was designated the lead agency.

Using the best scientific information available, the Commission is dedicated to working in a cooperative, non-confrontational manner to protect and manage the Albany Pine Bush. The scope and urgency of the Commission's mission requires strong, productive partnerships, based on mutual benefit and trust, between Commission members, property owners, interest groups and the general public.

The Commission does not have the power to condemn or manage private lands, without permission from the landowner. All proposed acquisitions are to be accomplished through negotiations with willing sellers or donors. Other forms of protection by the Commission (e.g., through conservation easement or management agreement) would be with the voluntary consent of the landowner. It should be noted that the plan does not call for displacement of existing residents or businesses.

Actions that occur outside of the Pine Bush Preserve boundaries may impact the environmental resources within the Preserve. The Commission has a responsibility and legal basis to review projects and provide comments and recommendations as to how adverse impacts can be adequately mitigated, if not eliminated. Authority regarding approval of proposed development activities rests primarily with municipal governments, their planning boards/departments, and State Agencies, not the Commission, and accordingly, the recommendations are advisory in nature.

3. FACTS AND CONCLUSIONS IN THE EIS RELIED ON TO SUPPORT FINDINGS

Project Background

On December 29, 1988, the New York State Legislature passed Article 46 of the Environmental Conservation Law establishing the Albany Pine Bush Preserve Commission. The Legislature declared that it was in the public interest to protect and manage the unique and endangered natural communities of the Albany Pine Bush for ecological, recreation and education benefits. The Commission consists of representatives of the Towns of Guilderland and Colonie, the City of Albany, the New York State Department of Environmental Conservation, the New York State Office of Parks, Recreation and Historic Preservation, The Nature Conservancy and three citizens appointed by the Governor.

In May of 1993, the Albany Pine Bush Preserve Commission adopted a Management Plan for the Albany Pine Bush Preserve (Management Plan). That plan evaluated the natural, recreational and cultural resources of the Albany Pine Bush and established goals for the protection and management of these resources. The Commission developed and adopted the Management Plan following extensive public review and comment according to SEQRA requirements.

The Albany Pine Bush is a globally rare ecosystem that harbors a variety of rare or endangered plants, animals and natural communities. Protection of the Pine Bush ecosystem is of paramount importance. The Management Plan, with the Implementation Guidelines, identify these resources, threats to the resources, and alternatives to manage and protect those resources.

The Albany Pine Bush Preserve Protection and Project Review Implementation Guidelines are a supplement that amends the 1993 Management Plan, superceding that document with regards to protection and project review guidelines and processes.

Pine Barrens Research

The Commission reviewed the results of research done in the Albany Pine Bush Preserve, the results of other studies on pine barrens management, research on habitat fragmentation, the use by rare and common species of corridors and linkages, and other relevant scientific evidence and evaluated the effects of human use and encroachment on the Preserve. It has determined that:

- a. although progress has been made in protecting the Albany Pine Bush, with 2,220 acres considered protected thus far, the integrity of the rare pine barrens ecosystem continues to be threatened by development, fire suppression, and use pressures such as vehicular trespass, erosion and dumping;

- b. portions of the Preserve are fragmented with protected areas separated from one another by development and unprotected lands;
- c. areas of existing and restorable pitch pine-scrub oak barrens and buffer areas critical to allowing essential fire management are unprotected;
- d. several areas providing existing or potential habitat for rare species such as the Karner blue butterfly remain unprotected.

Purpose, Goals, and Benefits:

The guidelines provide specific recommendations for protection actions designed to achieve the natural resource protection goals of the Commission. They also provide guidance for the Commission when commenting to agencies and municipalities regarding development projects. (For a more complete discussion of the goals, see pages 3-8 in the FEIS.)

The Commission finds that further acquisition, protection and management of the Albany Pine Bush, as defined in the Management Plan and Implementation Guidelines, is necessary to ensure the long-term viability and protection of the Albany Pine Bush ecosystem and the rare species found there.

Based on research by Thomas Givnish, Eric Menges and Dale Schweitzer, the Commission concludes that a minimum area of 2,000 fire managed acres of pitch pine-scrub oak barren community, that are contiguous to the maximum extent practicable, are required for the long-term conservation of the Albany Pine Bush ecosystem and the Karner blue butterfly. While approximately 2,220 gross acres are considered protected by the various agencies, organizations and municipalities that make up the Albany Pine Bush Preserve Commission, not all of this area can be restored to and maintained as pitch pine-scrub oak barrens. As detailed in the FEIS appendix I, there are approximately 1,630 currently protected acres towards the minimum 2,000 acre goal. Consequently, a minimum of approximately 370 more acres of pitch pine-scrub oak barrens or potentially restorable pitch pine-scrub oak barrens are recommended for protection to reach the desired goal of obtaining 2,000 acres of pitch pine-scrub oak barrens that can be maintained by fire. This is a conservative estimate since it assumes that the Commission will be able to burn within 75 feet of some adjacent properties and that areas supporting black locust can be completely restored to pitch pine-scrub oak barrens. Additional protection recommendations are based on the necessity of maintaining a reasonable degree of Preserve contiguity, buffer and protection of environmentally sensitive resources such as the Karner blue butterfly. Based on this, and as set forth in the FEIS and Guidelines, the Commission recommends full protection of an additional 1,730 acres for a total of 3,980 acres fully protected.

In adopting the Implementation Guidelines, the Commission delineates a Protection area (see FEIS, Map 8, page 22). This protection area consists of Preserve lands and protection areas satisfying one or more of the protection criteria identified in the FEIS. In addition, specific areas are either recommended for Full Protection, Partial Protection Area, or for maintenance as Open Space (see FEIS, pages 21-27). A Project Review Area is identified and defined (see FEIS, Map 10, page 31).

The Commission evaluated and ranked areas within the study area identified in the Management Plan based on the goals detailed in the FEIS on pages 3-8. These include a) the protection of an ecologically viable pitch pine-scrub oak barrens community; b) providing linkages to increase the contiguity of the Preserve and provide dispersal corridors for species

including the Karner blue butterfly, a species listed as endangered under both the New York State and Federal Endangered Species Acts; c) protecting buffer areas; and d) protecting historic and significant environmental resources. Each of these goals were developed into ranking criteria. Areas were evaluated on the extent to which they met these criteria.

The Commission recommends:

- a. Full Protection areas, totalling approximately 1,730 acres, for protection in their entirety using the greatest means of protection possible, including, acquisition in fee or a conservation easement, from willing sellers.
- b. a total of approximately 1,920 acres for partial protection. Acquisition in fee, conservation easement, management agreement or by set-aside can be used, to the extent that such protection is needed to protect an ecological resource, provide buffer or linkage or meet any of the other goals listed above and in the Implementation Guidelines. Such protection would be in cooperation with willing landowners. Partial Protection Areas allow for compatible and appropriate development or use that would allow for the protection and management of the Preserve.
- c. areas to remain as Open Space include public lands or golf courses which total approximately 570 acres.
- d. continuation of the Commission's opportunity to comment on local, state or federal regulated projects within the Project Review Area that could impact the Preserve. Such comments will be in accordance with the Project Review Guidelines within the FEIS, pages 30 - 34.

Except as amended by this supplemental FEIS, the Commission reaffirms the importance of the recommendations made in the Albany Pine Bush Preserve Management Plan, FEIS (1993) and May, 1993 Statement of Findings. These prior recommendations relate to the management and restoration of the Albany Pine Bush Preserve for recreation, education and open space benefits compatible with protection of the unique and endangered natural communities of the Pine Bush.

Consideration of Alternatives:

The proposed action, no action, protection beyond proposed vision, and protection of less than proposed vision alternatives were evaluated with consideration of the benefits and costs of each alternative, its performance in minimizing adverse environmental impacts, and in meeting goals and objectives. These alternatives were assessed in detail for their environmental impacts in Chapter V of the FEIS.

Regarding the no action and protection of less than the proposed vision alternatives, the Commission has analyzed the effects of existing habitat fragmentation, the need for fire and other forms of management and impacts from existing and potential development and other sources of stress on the Pine Bush ecosystem. These analyses have made it clear that protection of lands beyond the 3,420 acres estimated in the 1993 management plan are necessary to achieve the management plan protection goals and objectives and fulfill the Commission's legislative mandate. In addition, it has become clear that a greater degree of specificity regarding protection recommendations is appropriate. As detailed in Chapter V of the February 1996 FEIS, the no action or protection of less than the proposed vision alternatives will threaten and compromise the long-term viability of the Pine Bush ecosystem.

Acquisition beyond what is recommended to achieve the stated protection goals and objectives, as illustrated by the vision for the Albany Pine Bush Preserve shown in the FEIS (Map 9), would continue to benefit the Albany Pine Bush ecosystem and Commission goals of public use and education. Potential acquisition beyond what is contemplated in these the FEIS would be focused on tracts that are not contiguous to the Preserve. Protection of such tracts, within and beyond the original study area, and beyond what is proposed, would not measurably assist in meeting the goals of the plan or of the legislation establishing the Preserve.

Selection of Preferred Alternative:

The Commission finds that the proposed protection approach in the Guidelines meets the intent and directive of Article 46 and the goal of securing a Pine Bush Preserve that protects a viable Pine Bush ecosystem. Of the alternatives evaluated in Chapter V of the FEIS, the Commission concludes that the proposed action would best meet the goals and objectives in Chapter II of the FEIS. It would be the most cost effective alternative that balances the recognized need for additional protection of pine bush resources, limited financial resources and a diversity of community needs.

The beneficial ecological, social and economic impacts of the proposed protection recommendations are discussed in the FEIS in Chapter V.

Proposed Mitigation as part of Preferred Alternative:

Where an irreversible loss of lands containing existing or restorable pitch pine-scrub oak, linkages between protected lands, buffer areas or significant environmental resources cannot be avoided, permitting authorities should require mitigation. If this takes the form of fees, they would be charged for each acre of land lost to development and would be equivalent to the average purchase price of lands acquired as part of the Pine Bush as calculated by the Commission based on the most recent acquisitions. Mitigation funds would be placed in an account and dedicated for acquisition and protection of the Albany Pine Bush Preserve (See FEIS page 34). See also FEIS response to comments 81, 82, 83, 84 and 85.

Environmental Impacts of the Preferred Alternative:

In numerous chapters the FEIS assesses in detail the potential environmental impacts of the preferred alternative. Chapter V summarizes the beneficial and adverse impacts of the preferred alternative compared with the no action and other alternatives, and recommended appropriate mitigation measures.

4. CERTIFICATION OF FINDINGS TO APPROVE

Having considered the 1993 FEIS, 1995 DEIS, the 1996 FEIS, and having considered the preceding facts, conclusions and complete record relied upon to meet the requirements of 6 NYCRR 617.9, this Statement of Findings certifies that:

- A. The requirements of ECL §8-0109 and 6 NYCRR Part 617 adopted pursuant to the State Environmental Quality Review Act have been met.
- B. Adoption of a Management Plan and the Guidelines as a supplement to that plan are actions that are consistent with the powers and duties of the Commission, as established by ECL Article 46.

617.21
Appendix F
State Environmental Quality Review
Notice of Determination of Non-Significance

Identifying # _____

Project Number _____

Date January 30, 1998

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The NYS Department of Environmental Conservation as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Promulgation of Rules and Regulations for the Albany Pine Bush Preserve.

SEQR Status: Type 1 _____
Unlisted x

Conditioned Negative Declaration: _____ Yes
 x No

Description of Action:

The New York State Department of Environmental Conservation, at the request of the Albany Pine Bush Preserve Commission, is promulgating rules and regulations that would apply to lands dedicated to the Albany Pine Bush Preserve, or managed under an agreement by the Albany Pine Bush Preserve Commission. The purpose of these rules and regulations is to protect the unique and endangered species and communities of the Albany Pine Bush, while providing one consistent set of regulations for improved, appropriate and controlled recreational use and public enjoyment of the 2,300 +/- acre Albany Pine Bush Preserve.

Location:

The action will apply to approximately 2,300 acres currently dedicated to or managed under written agreement by the Albany Pine Bush Preserve, and potentially to an additional 1,700 acres if it is dedicated to the Preserve in the future, in the City of Albany and Towns of Guilderland and Colonie and in the village of Colonie (see attached map).

Reasons supporting this Determination:

(See 617.6(g) for requirements of this determination; see 617.6(h) for Conditioned Negative Declaration)

The final Management Plan/ Final Environmental Impact Statement for the Albany Pine Bush Preserve was adopted in 1993 and addressed SEQR at that time. The proposed rules and regulations will not cause any negative environmental impact to the Preserve. On the contrary, the rules and regulations will provide the Department and the Commission with the authority to promote and enforce controlled and appropriate recreational and educational use of the Albany Pine Bush Preserve, as directed by ECL Article 46, while protecting the environmental resources in the Preserve from visitor misuse or abuse. Without rules and regulations, increased use and increased inappropriate use, including off road motorized vehicles, will cause significant negative environmental impacts on the Albany Pine Bush Preserve lands and waters. These rules and regulations, coupled with aggressive enforcement and education programs, will keep public use from negatively impacting the environmental resources the Preserve was initially created to protect.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed. NA

For Further Information: NYSDEC Region 4
1150 North Westcott Road
Schenectady, NY 12306-2014
(518)357-2047

or:

Albany Pine Bush Preserve Commission
108 Wade Road
Latham, NY 12110
(518)785-1800

Contact Person(s): APBPC - Joel Hecht, Preserve Steward
NYSDEC - Jennifer Grossman, Program Attorney

Address: as above

Telephone Number: as above

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:
Commissioner, Department of Environmental Conservation, 50 Wolf Road, Albany, New York
12233-0001

April 25, 2002

**To: Representative of Involved/Interested Agencies
Persons Interested in the Updated Management Plan for the
Albany Pine Bush Preserve**

Please find enclosed a copy of the agency Decision and Statement of Findings for adoption of an updated Management Plan for the Albany Pine Bush Preserve in the Towns of Colonie and Guilderland, and the City of Albany, New York. These documents were prepared in accordance with the State Environmental Quality Review Act.

Thank you for your interest and participation in the environmental review process. If you have any questions regarding the attached, please contact me at the number below.

Sincerely,

Christopher Hawver
Executive Director

Phone: 518-785-1800

**STATE ENVIRONMENTAL QUALITY REVIEW
FINDINGS STATEMENT**

April 25, 2002

Pursuant to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law and 6 NYCRR Part 617, the Albany Pine Bush Preserve Commission, as the Lead Agency, makes the following findings.

Name of Action: Management Plan for the Albany Pine Bush Preserve

Description of Action: Adoption of an updated Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve

Location: Towns of Colonie and Guilderland
City of Albany
Albany County
New York

Agency Jurisdiction: Lead Agency Under SEQRA

Management Plan/Final Environmental Impact Statement Filed: April 10, 2002

Facts and Conclusions Relied on to Support the Decision

The Albany Pine Bush Preserve and its Significance

1. The Albany Pine Bush is located on a gently rolling sand plain between the Cities of Albany and Schenectady, New York. The sandy, well-drained soils in this area are characterized by a variety of plant species and ecological communities adapted to dry conditions and periodic fires. This area supports the Karner blue butterfly, a state and federally listed endangered species, and the globally rare pitch pine-scrub oak barrens community. The area also includes other natural communities, such as oak and pine forests and a diversity of wetlands, as well as several successional communities that have resulted from historic land use and fire exclusion.
2. In December of 1988 the New York State Legislature established the Albany Pine Bush Preserve Commission and created the Albany Pine Bush Preserve, consisting of dedicated public and dedicated private land. The Commission is responsible for managing the Preserve for the purposes of its protection and appropriate public use. Commission members include the New

York State Department of Environmental Conservation (NYSDEC), New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP), The Nature Conservancy (TNC), the City of Albany, the towns of Colonie and Guilderland, Albany County and four private citizens appointed by the Governor.

The Management Plan/Action

3. In accordance with the legislation establishing the Albany Pine Bush Preserve, the initial *Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve* was prepared and adopted in 1993. A supplement to that plan, entitled *The Albany Pine Bush Preserve Protection and Project Review Implementation Guidelines and Final Environmental Impact Statement* was prepared and adopted in 1996. These plans have successfully guided resource protection and management activities in the Preserve over the past eight years.
4. The legislation establishing the Preserve requires review of the Preserve Management Plan every five years. The 2002 Management Plan for the Albany Pine Bush Preserve combines and updates information previously found in the 1993 Preserve Management Plan and the 1996 Implementation Guidelines, and updates the Preserve Fire Management Plan.
5. The overall vision of the Albany Pine Bush Preserve is a continuation and refinement of the visions expressed in the 1993 and 1996 Plans. The Preserve will include dedicated public and dedicated private lands that have the necessary size, contiguity and condition to maintain the natural ecological processes that support the long term viability of the pitch pine-scrub oak community, the Karner blue butterfly, and the full range of natural upland and wetland communities (and associated native species) that make up the Pine Bush. The Preserve will also protect cultural resources (historic and archaeological sites), accommodate a variety of appropriate recreational uses, and provide educational and outreach opportunities for the public.
6. Land development remains the primary challenge or threat to achievement of Preserve goals, and ultimately to the long-term viability of the natural communities and native species that make up the Preserve. The continued incremental loss of undeveloped land makes it increasingly difficult to assure adequate protection of the land necessary to allow natural ecosystem functions to occur in the Preserve. In addition, development results in increased fragmentation of the Preserve and increased human population and infrastructure in the areas surrounding the Preserve. Both of these factors significantly increase constraints on natural ecosystem functions and effective Preserve management. In particular, the

juxtaposition of developed lands with Preserve property has created significant difficulties in the effective use of fire as a management tool.

7. The overall management objective for the Preserve's pitch pine-scrub oak community remains the same; to have at least 2,000 acres that can be managed by fire (with prescribed burns the primary tool for maintaining this community) within 15 years (by 2017). However, based on 10 years of experience in managing the Albany Pine Bush, the Commission has determined that the objective of simply burning 200 acres annually, by itself, is no longer sufficient to assure the long-term viability of the Albany Pine Bush. In addition to fire, other management techniques will be necessary to restore habitat. As recommended by the 2002 Management Plan, management units will be established, with objectives for each unit to be developed. The primary focus of these objectives will be to restore and maintain the pitch pine-scrub oak community, Karner blue butterfly habitat, and habitat for other rare, declining and vulnerable species.
8. Fire management activities will be guided by the updated Fire Management Plan included as an appendix to the 2002 Preserve Management Plan. This plan provides both required and recommended prescription parameters for weather and environmental conditions and personnel and equipment needed to safely implement prescribed burns and achieve ecological objectives. Selective mechanical (grubbing, cutting, mowing) and chemical (herbicide) treatments will be utilized to supplement fire management in areas where fire alone will not be effective in restoring pitch pine-scrub oak or in reducing or eliminating certain invasive species, such as black locust or aspen. These techniques are also appropriate in areas where adjacent development places severe constraints on the use of fire. The Commission will also engage in the restoration of natural communities through the planting of native plants, and will continue to encourage the use of such plants by adjacent landowners.
9. The 2002 Preserve Management Plan also recommends expansion of existing Karner blue butterfly habitat and populations. There are currently four occupied Karner blue butterfly sites within the Albany Pine Bush Project Review Area. Each of these needs to be expanded so that there are at least 1,000 adult butterflies in the summer brood at each site. In addition, - eight new sites, with similar subpopulation sizes need to be created. Since the NYS Thruway (I-90) is effectively a barrier for Karner blue butterfly movement, these 12 subpopulations will be part of two populations, one north of I-90 and one south of I-90. In accordance with the draft New York State Karner Blue Butterfly Recovery Plan, the goal for each

population is 3,000+ adult butterflies for a total of 6,000-7,000 in the Preserve.

10. Recreation and public use, within the Preserve are primarily natural resource-oriented and/or trail-oriented. To accommodate such uses, the 2002 Plan proposes publication of an official trail map, evaluation of opportunities for future trail connections, and development of a hierarchy of trail use as additional land is acquired and incorporated into the Preserve. Pursuit of opportunities for connection with other open space resources is proposed. The Management Plan recommends that a comprehensive recreation plan be developed to address appropriate public use and access to Preserve lands, while assuring that the Commission's resource protection and management goals are met.
11. Building on recommendations included in the 1993 Management Plan, the 2002 Plan proposes construction of a visitor/education center, referred to as the Pine Bush Discovery Center. The Discovery Center is proposed to include outdoor and indoor classrooms, guided and self-guided walks, interactive and interpretive exhibits, a green house, and native plant and butterfly gardens. In addition, educational program modules, video documentaries, critical issues and time-lapse exhibits, expanded volunteer programs, and an educational resource network will be developed.
12. The Preserve currently totals approximately 2,735 acres, of which, approximately 1,850 are considered fire-manageable. Commission experience has been that the criteria used in the development of the 1996 Implementation Guidelines and the project review process established in that Plan generally have worked well in defining protection priorities and providing Commission input on projects that could affect the Preserve. However, in response to the current configuration and community composition of the Preserve, adjacent development, as well as new information/insight on Preserve resources and management obtained since 1996, the ranking criteria and scores utilized in the 1996 Implementation Guidelines were reevaluated and slightly modified in the 2002 Management Plan. The overall result of the reevaluation of protection priorities is that the 2002 Management Plan envisions a Preserve of 4,610 acres. This vision is based on the recommendation of an additional 705 acres for full protection (i.e. protection of undeveloped portions of designated areas in their entirety), increasing the total recommended for full protection to approximately 1,875 acres. Adding this acreage to the existing 2,735 acre Preserve would create a Preserve totaling 4,610 acres. The 2002 Plan reduces the overall acreage recommended for partial protection (i.e. protection of an average 50% of a designated area) from 1,920 acres to 1,085 acres.

13. The 2002 Management Plan recommends that site-specific analysis of all partial protection areas be undertaken to identify specific features/functions each area provides and means of protecting them. The Plan also recommends that the Commission develop a set of development and conservation guidelines for use by project sponsors in preparing plans for development in the Pine Bush. Encouragement of incentive zoning and/or transfer of development rights by the Pine Bush municipalities are also recommended. The Commission will continue to actively work with willing landowners to acquire or otherwise protect lands within the Pine Bush Study/Project Review Area, while still respecting private property rights. As in the 1996 Implementation Guidelines, an important component of the Commission's resource protection activities will also be the continued provision of review and comment on proposed development projects within the Albany Pine Bush Project Review Area.

SEQR Process

14. Pursuant to SEQRA the Albany Pine Bush Preserve Commission assumed lead agency status and initiated the process of reviewing and updating the existing Preserve Management Plan/EIS on March 16, 2000. Prior to preparation of the updated Draft Preserve Management Plan/Draft Environmental Impact Statement ("Draft Plan/DEIS"), a public information and scoping session was held on October 10, 2000 for the purpose of providing an opportunity for interested parties to raise issues and voice their concerns.

Staff of agencies within the Commission, and the consultants to the Commission, had several meetings with representative of other agencies and interest groups to further identify the issues that should be addressed. The Draft Plan/DEIS was made available for review on August 15, 2001, its date of completion. A public hearing was held on October 18, 2001 to obtain comments on the Draft Plan/DEIS. Written comments were received by the Commission from August 15 through October 29, 2001 (close of the comment period).

Comments made at the hearing and in the public comment period that followed were taken into consideration in preparing a Preserve Management Plan/Final Environmental Impact Statement ("Management Plant/FEIS"), which was issued on April 10, 2002.

15. A public consideration period was held from April 10 and April 24, 2002.

Ecological Resource Impacts and Mitigation

16. Implementation of the proposed management, protection, and public use recommendations included in the 2002 Management Plan will result in a variety of beneficial impacts to the Albany Pine Bush ecosystem. These impacts include the protection, maintenance and restoration of unique pine barrens communities and rare, declining and vulnerable species (including the Karner blue butterfly) and their habitats. Research indicates that this can best be achieved by acquiring enough land to secure and manage a more or less contiguous block of approximately 2,000 fire manageable acres of Pine Bush natural communities. Because of uncertainty regarding the achievement of protection priorities and the effectiveness of various techniques to restore certain communities to pitch pine-scrub oak, an area significantly larger than 2,000 acres must be protected to achieve this goal.
17. Enhanced fire management capabilities as proposed in the 2002 Management Plan, are essential to maintain pitch pine-scrub oak communities and several rare, declining and vulnerable species, including the Karner blue butterfly.
18. Protection and management of additional lands as described in the 2002 Management Plan will result in greater contiguity of the Albany Pine Bush Preserve. Increased contiguity will ensure that existing dispersal opportunities for flora and fauna can be maintained and enhanced through ecological management. Protecting linkages and creating habitat conditions suitable for the establishment of new subpopulations along these linkages is essential for ensuring the long-term viability of the Pine Bush Karner blue butterfly population.
19. Acquisition of additional land will also provide larger and more effective buffer areas around portions of the Preserve. Commission experience since adoption of the 1996 Implementation Guidelines has revealed the increased importance of buffers to an effective fire management program and as a means of accommodating increased recreational demand while still protecting the Preserve's ecological resources.
20. Protection and management of additional land also serves to protect and maintain forests, wetlands and important water resources, such as the Hungerkill basin. Protection of water resources is important to the maintenance of good water quality, hydrological processes and viable amphibian populations in the Albany Pine Bush.
21. The potential adverse impacts on ecological resources are primarily related to vegetation management, specifically the use of controlled burns to maintain and restore natural pine

barrens communities. The protection and management of additional land and the updated Fire Management Plan will allow for the expansion of the fire management program. Increasing the potential number of acres that can be burned each year may have some short-term adverse environmental impacts on plant and animal populations. Because fire consumes organic matter, above-ground vegetation is reduced and mortality of some animals may occur. However, since only a small portion of the Pine Bush will be burned at any given time, loss of vegetation and wildlife will generally be insignificant relative to existing population sizes.

22. The long-term cumulative benefits of fire management far outweigh any short-term adverse impacts these practices may have on ecological resources. Although plant material may be charred and consumed, native pine barrens plant species have adaptations that allow them to survive and flourish after a fire. This positive response of the vegetation after fire, in turn, provides more food and other resources for wildlife. Additionally, wildlife will still have an abundance of resources in the remaining unburned areas.
23. To minimize any adverse impacts on the Karner blue butterfly and other rare species incapable of escaping fire, areas supporting these species will initially be managed so that a remnant population survives that can then re-colonize the treated area. This can be done by burning only a portion of the area that supports the Karner blue so that suitable habitat and survivors remain. Managing only a portion of the area at any one time will allow the Commission to monitor the species response to treatment and provide valuable information for making even more effective management decisions in the future.
24. The potential adverse ecological impacts associated with increased public use of the Preserve were addressed in the EIS prepared for the 1993 Management Plan. These impacts were primarily related to the possible overuse or inappropriate use of the Preserve, and were determined to be manageable if certain guidelines were followed. These guidelines have been utilized by the Commission in its development of recreational facilities, rules and regulations since adoption of the 1993 Plan and will continue to guide implementation of the 2002 Plan.
25. The only significant action identified in 1993 that has not yet been done is development of an environmental education center for the Preserve. Retrofitting the former SEFCU building at 195 New Karner Road, as proposed in the Plan, is not anticipated to incur any potential ecological impacts due to the fact the structure already exists. Therefore, impacts associated with constructing a new building such as potential

site disturbance, visual impacts and soil erosion are not expected to occur. The plans for the developing the Discovery Center are still in the initial stages of planning and the full scope and magnitude of potential impacts associated with retrofitting and operation of the Center have yet to be determined. Once plans are finalized, the project will minimize all potential environmental impacts and evaluate appropriate mitigation measures if necessary, at that time.

Socio-Economic Impacts and Mitigation

26. Protection of additional land, as called for in the 2002 Management Plan, will improve the quality of life for Preserve neighbors and residents of the Capital District as a whole. Establishing a larger Preserve will provide more open space for recreational and educational opportunities for the public and will protect the scenic resources of the area, while decreasing the potential for resource damage resulting from overuse.
27. As described in the 1996 Implementation Guidelines, areas near open space such as the Preserve are considered desirable places to live and work, and as a result may realize increased valuation.
28. Avoidance of areas containing wetlands and ravines will prevent development in inappropriate and hazardous locations. This will reduce the costs of development; costs to property owners for additional maintenance, and costs of government services needed to assure public health and safety as a result of developing in difficult areas. To the extent that implementation of the Plan results in reduced development in the area, this provides "quality of life" benefits for current residents of the area, and will reduce traffic congestion and the demand for additional infrastructure and municipal services.
29. Development of an official trail map will encourage public use while protecting the ecological resources of the Preserve from excessive or inappropriate use. Developing trails where appropriate, on newly acquired land will improve public access and accommodate recreational demand from a growing population of users, including children, senior citizens, and handicapped individuals who might otherwise never get a chance to experience the Pine Bush.
30. Regulated hunting, as allowed in the Plan, provides recreational opportunities for area sportsmen and a means of controlling a growing deer population that could have an adverse impact on Preserve ecology. Rules and regulations regarding hunting have been established so that potential

conflicts with other Preserve users and safety concerns are minimal.

31. The Plan proposes to continue the Commission's educational efforts, including school projects for elementary to high school students, the development of fact sheets, informational meetings, educational walks with school classes, presentations to a variety of groups, etc. Participation of volunteers with field work also provides additional opportunities to learn about management techniques and Pine Bush ecology.
32. Development of the proposed Pine Bush Discovery Center will enhance recreational and educational opportunities available to the public, and will build public understanding and support for the Preserve.
33. Public uses proposed in the Management Plan may result in expenditures of resources by Preserve visitors, which would have a positive economic impact. As the Preserve's identity develops and as the opportunities for recreational, educational and research uses of the area increase, it is anticipated that the Preserve will attract more visitors and produce more income for the local economy.
34. Implementation of the 2002 Management Plan, specifically, development of the Pine Bush Discovery Center will provide direct employment opportunities estimated at the equivalent of at least two full-time positions, plus some seasonal help. Additional personnel required to implement the fire management plan will also result in some minor employment/economic benefits for the area.
35. The use of public money for acquiring additional property may be considered by some as a potential adverse socio-economic impact. It is estimated that fee simple acquisition of the 1,875 acres recommended for full protection would cost between \$15 and \$25 million. Since 1994, the Albany Pine Bush has consistently been listed in the Executive Budget as a state priority for protection. It is thus anticipated that state funding will continue to be made available for land acquisition. Since the EPF includes dedicated funds for open space, other publicly funded programs are not directly affected.
36. To mitigate the potential adverse financial impact of additional land acquisition, the 2002 Management Plan, as in previous plans, provides for the use of land swaps, conservation easements, purchase of development rights, donations of land, mitigation fees and set asides, where possible and appropriate, as alternatives to more costly fee simple acquisition. The acquisition of only the most

significant part of a parcel is an additional means of reducing acquisition costs.

37. Acquisition of additional properties recommended for full protection would result in a loss of some developable land and property tax revenue in the affected municipalities and Albany County. Addition of the undeveloped portions of these parcels to the Preserve would result in a loss of tax revenues from the currently undeveloped land, as well as a loss in future revenues that could result from their development. However, many of these parcels include structures that would not be incorporated into the Preserve and taken off the tax rolls. As these structures probably account for the majority of the properties' assessed value, actual loss of tax base would be much less significant. In terms of future value, large scale development on parcels without adequate infrastructure is less likely due to the increased expense of adding a road network, public sewer, water, etc. For those residentially zoned parcels with infrastructure, which might be developed within the next few years, the potential property tax loss would have to be considered in light of the municipal service costs which would be saved. Residential development typically provides less in tax revenue than it costs to provide municipal and school district services. Therefore, the savings realized by keeping residentially zoned areas as open space would likely more than off-set any potential loss of tax revenue.
38. Since commercial and industrial development can benefit the local tax base, full protection of commercially and industrially zoned properties would preclude such development and reduce potential tax revenues. The 2002 Management Plan proposes full protection for some land within such districts. Development that could potentially occur on these parcels is likely to be allocated elsewhere in the Pine Bush municipalities, given the availability of suitable sites and infrastructure. The reallocated development will help offset the potential loss of tax revenues resulting from full protection of parcels so designated.
39. Because the 2002 Management Plan does not propose expansion of the Protection Area and the Project Review Area boundaries established in the 1996 Implementation Guidelines, no additional properties will be affected by the updated plan. The possible concern that designation of private lands within the Protection Area for full protection would represent a "regulatory taking" was addressed in the previous plans, and is not supported by case law. As stated in the 1996 Implementation Guidelines, such designations are planning tools that identify areas where significant resources are known to occur and where certain types of actions may be appropriate. All recommendations regarding resource protection and management within these areas are made with the

understanding that the Commission has no jurisdiction to impose these recommendations without the voluntary cooperation of the landowner or agency with jurisdiction (e.g. NYSDEC, local planning boards, etc.).

40. As mentioned previously, acquisition of additional land for the Preserve will reduce the potential for development. In commercial and industrially zoned areas, reduced development could result in some loss of future, as yet undetermined, employment and revenue potential. However, the majority of the additional land recommended for full protection is zoned for residential use, so the loss of employment and economic opportunities is not a consideration on most sites. The off-setting effects of reduced traffic congestion, enhanced land value and reduced municipal service costs associated with reduced development, and the avoidance of development in wetlands, ravines and other inappropriate areas mentioned previously would mitigate any potential adverse impacts on employment.
41. Operational expenses associated with achieving the Commission's vision of an ecologically viable Preserve with enhanced public recreational and educational opportunities are estimated at \$640,000 to \$774,000 per year, suggesting the need for an endowment of \$8 to \$10 million. Achievement of the capital program goals, including the proposed Discovery Center, are estimated to cost from \$1.5 to \$3 million. To the extent that these expenditures utilize public funds, they can be seen as having an adverse impact on other programs in competition for these funds. However, the legislation establishing the Commission and the State Open Space Plan identify the Preserve as a resource worthy of protection.

Air Quality Impacts and Mitigation

42. Carbon monoxide, hydrocarbons and particulate matter, which can be harmful in high concentrations, are present in smoke generated by controlled burns; however, they are produced only in insignificant amounts and are quickly dispersed by wind.
43. Smoke hazards can be minimized in several ways. Wind, weather and atmospheric conditions are carefully chosen for each burn site using computer fire behavior models. Controlled burns are only conducted on days when temperature and relative humidity are within ranges that reduce the chance of the fire escaping. Wind direction and speed are chosen to insure that the fire can be controlled to minimize the amount of smoke being carried into smoke-sensitive areas and to maximize the rate of smoke dispersal. Burns are not conducted during temperature inversions. Instead, mixing heights and transport winds are carefully selected to ensure that smoke

risers high above smoke-sensitive areas and adequate dispersal occurs. All conditions, equipment, personnel, notifications (public officials, local residents, Commission representatives, media, etc.) and other preparation necessary to conduct a safe controlled burn are described in what is known as a burn prescription. Burn prescriptions are reviewed and approved by the NYSDEC according to the Commission's legislation (ECL Article 46) and the prescribed burn requirements of ECL Article 9, Title 11 and NYCRR Title 6, Chapter II, Part 194.

44. During the growing season, live, green vegetation contains more moisture than cured vegetation and, therefore, produces more smoke as the moisture turns to steam. Currently, the Commission selects small areas to burn in the summer. Burning during the late fall through early spring when vegetation is cured minimizes smoke production and its associated potential adverse impacts.
45. The size and shape of the area burned and the way in which it is ignited can also be chosen to minimize smoke and fire hazards. For example, several small areas can be burned instead of one large area to produce small amounts of smoke for short durations.
46. Since the implementation of the fire management program in 1991, over 80 controlled burns have been conducted. The Commission has demonstrated that it can effectively manage the smoke from the majority of the burns it has conducted. The majority of the burns conducted since 1991 have occurred in highly sensitive areas, near developments and roadways. Responses to Post-burn questionnaires, conversations with individuals and observations made during the burns indicate that when burns are conducted under carefully chosen conditions, fire can be used as a management tool within the Pine Bush without adversely affecting air quality.
47. The Commission uses computer models recommended by the U.S. Environmental Protection Agency and the Bureau of Land Management to predict smoke dispersal patterns and concentrations of particulate matter produced by controlled burns in the Pine Bush. To date, the computer models predict that for all the controlled burns analyzed, the Commission has been in compliance with air quality standards.

Water Quality Impacts and Mitigation

48. Many areas considered restorable in the 2002 Management Plan currently support some weedy species, such as black locust. Experience with black locust control in the Pine Bush has shown that both fire and mechanical removal may not effectively control this tree species. Therefore, elimination

of black locust may require chemical treatment as part of the restoration process. Experience in areas outside of the Pine Bush indicates that certain chemical treatments have the potential to adversely affect water quality. Within the Pine Bush, the most common use of chemical applications will involve stump treatment of locust trees. Such chemicals, where needed, will be applied in a manner that avoids any runoff and maintains a sufficient buffer area around streams and wetlands, so as to avoid affecting water quality. The chemical(s) chosen for this application would also be carefully selected and applied by certified applicators to reduce any potential adverse effects.

Public Health and Safety Impacts and Mitigation

49. Ecological restoration and management as proposed in the 2002 Plan will serve to enhance public health, safety and welfare by reducing potential for uncontrolled fires by maintaining low fuel loads, providing easier access to control wildfire by preventing undergrowth from becoming too dense, managing deer populations to reduce property damage, motor vehicle accidents, and the potential spread of Lyme disease, and providing open space for low-impact recreational use.
50. In areas with major roadways, smoke from controlled burning has the potential to reduce visibility. Burns that occur in the Albany Pine Bush near major thoroughfares are carried out so smoke does not interfere with the roadway. These burns are conducted only when conditions allow for smoke to be carried away in a direction opposite the road. Often highway visibility problems are associated with the smoldering phase of fires. Smoldering will continue to produce large amounts of particulate even though a fire is considered to be out. Because of the low heat release rate from smoldering fuels, smoke tends to stay near the ground, creating potential visibility problems in localized areas. Smoldering is minimized during prescribed burns in the Albany Pine Bush to further decrease any impact on nearby roadways.
51. At high relative humidities, a small concentration of smoke can trigger fog formation creating poor visibility. High humidities are not conducive to most prescribed burn operations, in that specified objectives are unlikely to be met. The vegetation will not burn well and the fire will not spread. Because of poor combustion and little biomass consumption, objectives will not be accomplished, and the burn is usually postponed.
52. Adequate public notification is important to ensure public health and safety. Individuals with asthma, emphysema or other respiratory problems may be affected by smoke. Information regarding the burns and a questionnaire used to

identify individuals potentially sensitive to smoke are mailed to residents and businesses located within an approximately 0.25-mile radius of the burn sites. Known sensitive individuals are called on each day of a burn to notify them of the burn. An informational meeting is held annually, and flyers are distributed one month prior to the burn season to notify all Preserve neighbors near the burn sites of the anticipated time of the burns. Press releases are also provided to the major newspapers and television and radio stations. The Commission has NYSDOT approved signage for roadways, notifying drivers of on-going controlled burns and instructing them to drive cautiously in case of smoke. Local and State Police and the NYS Thruway Authority are notified of the controlled burns a month in advance and on the day of the burns. This alerts them to possible problems and allows for quick response. To reduce the likelihood of a controlled burn escaping, local fire departments are notified a month in advance, and on the day of the burns, so that they can be prepared for a quick response.

53. Careful attention to the fundamentals of prescribed burning also serves to minimize adverse impacts of fire on human health and safety. These include: 1) selecting burn prescriptions that predict behavior for a fire to assure it can be controlled; 2) designing burn size and shape to aid in the ability to control the fire; 3) designing ignition patterns to ensure that fire behavior can be controlled to reduce potential smoke hazards; 4) burning large areas as smaller units in highly sensitive areas so that small, quickly dispersed puffs of smoke will be generated instead of large continual amounts; 5) ensuring proper equipment and experienced personnel are available to control the fire and respond to changing conditions if necessary; 6) ensuring proper monitoring of fire behavior, weather and smoke dispersal during a fire so that, if necessary, adjustments can be made to reduce potential impacts on people; and 7) bordering all fire units by wide firebreaks to prevent fire damage to surrounding areas.

54. To respond to controlled burns that may escape, a wildfire contingency plan has been prepared and is outlined in the Fire Management Plan. Radios and cellular phones are at the burn site, and the burn crew has direct contact with local police and fire dispatch for rapid communication. Equipment at the site of the burns is available for fire suppression should this be necessary.

Certification to Approve/Fund/Undertake:

Having considered the draft and final Environmental Impact Statement and having considered the preceding written facts and

conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.
3. Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR Part 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

Albany Pine Bush Preserve Commission

Signature of Responsible Official

Name of Responsible Official

Title of Responsible Official

Date

Address of Agency: 108 Wade Road
Latham, New York 12110

Cc: Other Involved Agencies



October 7, 2010

**To: Representative of Involved/Interested Agencies
Persons Interested in the Updated Management Plan for the Albany Pine Bush
Preserve**

Please find enclosed a copy of the agency Decision and Statement of Findings for adoption of an updated Management Plan for the Albany Pine Bush Preserve in the Towns of Colonie and Guilderland, and the City of Albany, New York. These documents were prepared in accordance with State Environmental Quality Review.

Thank you for your interest and participation in the environmental review process. If you have any questions regarding the attached, please contact me at the number below.

Sincerely,

Christopher Hawver
Executive Director

Phone: 518-456-0655

**STATE ENVIRONMENTAL QUALITY REVIEW
FINDINGS STATEMENT**

October 7, 2010

Pursuant to Article 8 (State Environmental Quality Review – SEQR) of the Environmental Conservation Law and 6 NYCRR Part 617, the Albany Pine Bush Preserve Commission, as the Lead Agency, makes the following findings:

- Name of Action:** Management Plan and FEIS for the Albany Pine Bush Preserve
- Description of Action:** Adoption of an updated Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve
- Location:** Towns of Colonie and Guilderland
City of Albany
Albany County
New York
- Agency Jurisdiction:** Lead Agency Under SEQR
- Management Plan/Final Environmental Impact Statement Filed:** September 22, 2010

Facts and Conclusions Relied on to Support the Decision

The Albany Pine Bush Preserve and its Significance

1. The Albany Pine Bush is located on a gently rolling sand plain between the Cities of Albany and Schenectady, New York. The sandy, well-drained soils in this area are characterized by a variety of plant species and ecological communities adapted to dry conditions and periodic fires. This area supports the globally rare pitch pine-scrub oak barrens community, the Karner blue butterfly, a state and federally listed endangered species, more than 40 wildlife Species of Greatest Conservation Need (SGCN), and several rare plants. The area also includes other natural communities, such as oak and pine forests and a diversity of wetlands, as well as several successional communities that have resulted from historic land use and fire exclusion.
2. In December of 1988 the New York State Legislature established the Albany Pine Bush Preserve Commission (“Commission”) and created the Albany Pine Bush Preserve (“Preserve”), consisting of dedicated public and dedicated private land. The Commission is responsible for managing the Preserve for the purposes of its protection and appropriate public use. Commission members include the Commissioner of the New York State Department of Environmental Conservation (NYSDEC), the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP), the Mayor of the City of Albany, the Town Supervisors of Colonie and Guilderland, the chief executive officer of Albany County, the State Director of the New York field office of The Nature Conservancy (TNC), and four members appointed by the Governor with the advice and consent of the Senate.

The Management Plan/Action

3. In accordance with the legislation establishing the Preserve, the initial *Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve* was prepared and adopted in 1993. A supplement to that plan, entitled *The Albany Pine Bush Preserve Protection and Project Review Implementation Guidelines and Final Environmental Impact Statement* was prepared and adopted in 1996 (“Implementation Guidelines”). These plans were consolidated and amended with the adoption of the *2002 Management Plan and Final Environmental Impact Statement for the Albany Pine Bush Preserve*, which has successfully guided resource protection and management activities in the Preserve over the past eight years.
4. The legislation establishing the Preserve requires review of the Preserve Management Plan every five years. A review of the *2002 Management Plan and FEIS* was initiated on March 15, 2007. The 2010 Management Plan and FEIS (“Management Plan and FEIS”) for the Albany Pine Bush Preserve updates information previously found in the *2002 Preserve Management Plan and FEIS*.
5. The overall vision of the Preserve is a continuation and refinement of the visions expressed in the 2002 Plan. The Preserve will include dedicated public and dedicated private lands that have the necessary size, contiguity and condition to maintain the natural ecological processes that support the long term viability of the pitch pine-scrub oak community, the Karner blue butterfly, and the full range of natural upland and wetland communities (and associated native plant and animal species) that make up the Albany Pine Bush. The Preserve will also protect cultural resources (historic and archaeological sites), accommodate a variety of appropriate recreational uses, and provide educational and outreach opportunities for the public.
6. Land development remains the primary challenge or threat to achievement of Preserve goals, and ultimately to the long-term viability of the natural communities and native species that make up the Preserve. The continued incremental loss of undeveloped land makes it increasingly difficult to assure adequate protection of the land necessary to allow natural ecosystem functions to occur in the Preserve. In addition, development results in increased fragmentation of the Preserve and increased human population and infrastructure in the areas surrounding the Preserve. Both of these factors significantly increase constraints on natural ecosystem functions and effective Preserve management. In particular, the juxtaposition of developed lands with Preserve property has created significant difficulties in the effective use of prescribed fire and other management tools.
7. The overall management objective for the Preserve’s pitch pine-scrub oak community remains the same; to have at least 2,000 acres that can be managed by fire (with prescribed burns the primary tool for maintaining this community). However, based on 19 years of experience in managing the Albany Pine Bush, the Commission has determined that the objective of simply burning 200 acres annually, by itself, is no longer sufficient to assure the long-term viability of the Albany Pine Bush. In addition to fire, other management techniques, including mechanical and chemical strategies, will be necessary to meet the Commission’s objectives. As recommended by the Management Plan and FEIS, management units will be established, with objectives for each unit to be developed. The primary focus of these objectives will be to restore and maintain the pitch pine-scrub oak community, Karner blue butterfly habitat, and habitat for other rare, declining and vulnerable species, including those species listed by the NYSDEC as SGCN.

8. Fire management activities will be guided by an updated Fire Management Plan included as an appendix to the Management Plan and FEIS. This plan provides both required and recommended prescription parameters for weather and environmental conditions and personnel and equipment needed to safely implement prescribed burns and achieve ecological objectives. Selective mechanical (grubbing, cutting, mowing) and chemical (herbicide) treatments will be utilized to supplement fire management in areas where fire alone will not be effective in restoring pitch pine-scrub oak or in reducing or eliminating certain invasive species. These techniques are also appropriate in areas where adjacent development places severe constraints on the use of fire. The Commission will also engage in the restoration of natural communities through the planting of native plants, and will continue to encourage the use of such plants by adjacent landowners.
9. Karner blue butterfly recovery in the Preserve will be guided by the Karner Blue Butterfly Recovery Plan for the Albany Pine Bush Metapopulation which is included as an appendix to the Management Plan and FEIS. The Management Plan and FEIS recommends expansion of existing Karner blue butterfly habitat and populations to meet state and federal recovery thresholds. There are currently 12 occupied Karner blue butterfly sub-populations within the Albany Pine Bush Study/Project Review Area. In accordance with the draft New York State Karner Blue Butterfly Recovery Plan, the goal for the population is a minimum of 7,600 adult butterflies in 4 out of 5 years in the Preserve.
10. Recreation and public use within the Preserve are primarily natural resource-oriented and/or trail-oriented. To accommodate such uses, the Management Plan and FEIS includes a comprehensive recreation plan titled, The Resource Protection and Visitor Experience Vision for the Albany Pine Bush Preserve (“RPVEV”). This recreation plan details the recreational opportunities available in the Preserve, provides an analysis of existing recreation infrastructure, and a conceptual framework for future recreational opportunities in the Preserve, while assuring that the Commission’s resource protection and management goals are met.
11. The Preserve currently totals approximately 3,200 acres. The criteria used in the development of the *2002 Management Plan and FEIS* have generally worked well in defining protection priorities/recommendations and providing Commission input on projects that could affect the Preserve. However, in response to the current configuration and ecological community composition of the Preserve, adjacent development, as well as new information/insight on Pine Bush resources and management in the western Pine Bush in Schenectady County, the scores utilized in the *2002 Management Plan and FEIS* were reevaluated and slightly modified in the Management Plan and FEIS for increased accuracy. The overall result of the reevaluation of protection priorities is that the Management Plan and FEIS envisions a Preserve of approximately 5,380 acres. This vision is based on the recommendation of an additional 305 acres for full protection (i.e. protection of undeveloped portions of designated areas in their entirety), increasing the total recommended for full protection to approximately 2,180 acres. Adding this acreage to the existing 3,200 acre Preserve would create a Preserve totaling approximately 5,380 acres. The Management Plan and FEIS reduces the overall acreage recommended for partial protection (i.e. protection of an average 50% of a designated area) from 1,085 acres to 635 acres and increases the acreage recommended to remain as open space (e.g. golf course, cemetery) from 665 acres to 877 acres.
12. The Commission will continue to actively work with willing landowners to acquire or otherwise protect lands within the Albany Pine Bush Study/Project Review Area, while still

respecting private property rights. As in the *2002 Management Plan and FEIS*, an important component of the Commission's resource protection activities will also be the continued provision of review and comment on proposed development projects within the Albany Pine Bush Study/Project Review Area.

SEQR Process

13. Pursuant to SEQR the Commission assumed lead agency status and initiated the process of reviewing and updating the existing *2002 Management Plan and FEIS* on March 15, 2007. Prior to preparation of the updated Draft Preserve Management Plan/Draft Environmental Impact Statement ("Draft Plan/DEIS"), a public information meeting was held on July 31, 2007 for the purpose of providing an opportunity for interested parties to raise issues and voice their concerns.

The Draft Plan/DEIS was made available for review on March 24, 2010, its date of completion. A public hearing was held on April 15, 2010 to obtain comments on the Draft Plan/DEIS. Written comments were received by the Commission from March 24, 2010 through May 5, 2010 (close of the comment period).

Comments made at the hearing and in the public comment period that followed were taken into consideration in preparing the Management Plan and FEIS, which was accepted as complete and noticed in the Environmental Notice Bulletin on September 22, 2010.

14. A consideration period was held from September 22 through October 4, 2010.

Ecological Resource Impacts and Mitigation

15. Implementation of the proposed management, protection, and public use recommendations included in the Management Plan and FEIS will result in a variety of beneficial impacts to the Albany Pine Bush. These impacts include the protection, maintenance and restoration of unique pine barrens communities and rare, declining and vulnerable species (including the Karner blue butterfly and other SGCN wildlife) and their habitats. Research indicates that this can best be achieved by acquiring enough land to secure and manage a more or less contiguous block of fire manageable acres. Because of uncertainty regarding the achievement of protection priorities and the effectiveness of various techniques to restore certain communities to pitch pine-scrub oak, an area significantly larger than 2,000 acres must be protected to achieve this goal.
16. Enhanced fire management capabilities as proposed in the Management Plan and FEIS, are essential to restore/maintain pitch pine-scrub oak communities and several rare, declining and vulnerable species, including the Karner blue butterfly and more than 40 other wildlife SGCN.
17. Protection and management of additional lands as described in the Management Plan and FEIS will result in greater contiguity within the Preserve and between the Preserve and the Woodlawn Preserve, as prescribed in the 2009 NYS Open Space Conservation Plan. Increased contiguity will ensure that existing dispersal opportunities for flora and fauna can be maintained and enhanced through ecological management and enhanced recreational opportunities. Protecting linkages and creating habitat conditions suitable for the establishment of new subpopulations along these linkages is essential for ensuring the long-term viability and recovery of the Albany Pine Bush Karner blue butterfly population.

18. Acquisition of additional land will also provide larger and more effective buffer areas around portions of the Preserve. Commission experience since adoption of the Implementation Guidelines has revealed the increased importance of buffers to an effective fire management program and as a means of accommodating increased recreational demand while still protecting the Preserve's ecological resources.
19. Protection and management of additional land also serves to protect and maintain forests, wetlands and important water resources, such as the Hungerkill basin. Protection of water resources is important to the maintenance of water quality, hydrological processes and viable animal populations in the Albany Pine Bush.
20. The potential adverse impacts on ecological resources are primarily related to short-term effects of vegetation management, specifically the use of mechanical, chemical and fire treatments to maintain and restore natural pine barrens communities. The protection and management of additional land and the updated Fire Management and Invasive Species Management Plans will allow for the expansion of the restoration and management programs. Increasing the potential number of acres that can be managed each year may have some short-term adverse environmental impacts on plant and animal populations. However, since only a small portion of the Preserve will be managed at any given time, the short-term impacts on vegetation and wildlife will generally be insignificant relative to existing populations.
21. The long-term cumulative benefits of Preserve management far outweigh any short-term adverse impacts these practices may have on ecological resources. Although plant material may be damaged, native pine barrens plant species have adaptations that allow them to survive and flourish after a fire and mechanical management. This positive response of the vegetation, in turn, improves wildlife habitat quality. Additionally, wildlife will still have an abundance of resources in remaining unmanaged areas. Maintaining sufficient temporarily unmanaged areas, or refugia, are important to maintaining healthy plant and animal populations and mitigating any short term adverse effects.
22. To minimize any adverse impacts on the Karner blue butterfly and other rare species incapable of escaping fire or other management treatments, areas supporting these species will be managed so that a remnant population survives that can then re-colonize the treated area. This can be done by managing only a portion of the habitat to ensure a sufficient portion of the population remains. Managing only a portion of the area at any one time will allow the Commission to monitor the species response to treatment and provide valuable information for making even more effective management decisions in the future.
23. To address potential adverse ecological impacts associated with increased public use of the Preserve a comprehensive recreation plan was prepared and amended to the Management Plan and FEIS. The RPVEV provides an evaluation of existing recreational infrastructure and opportunities. Implementation of the RPVEV will improve recreational access by establishing new trailheads and trails, improving visitor experience and also enhancing resource protection by reducing habitat fragmentation within the Preserve. The Management Plan and FEIS do not propose any changes to the Preserve's rules and regulations.

Socio-Economic Impacts and Mitigation

24. Protection of additional land, as called for in the Management Plan and FEIS, will improve the quality of life for Preserve neighbors and residents of the Capital District as a whole. Establishing a larger Preserve will provide more open space for recreational and educational opportunities and will protect the scenic resources, while decreasing the potential for resource damage resulting from overuse.
25. As initially described in the Implementation Guidelines, areas near open space, such as the Preserve, are considered desirable places to live and work, and as a result may realize increased valuation.
26. Avoidance of areas containing wetlands and ravines will prevent development in inappropriate and hazardous locations. This will reduce the costs of development; costs to property owners for additional maintenance, and costs of government services needed to assure public health and safety as a result of developing in difficult areas. To the extent that implementation of the Management Plan and FEIS results in reduced development in the area, this provides “quality of life” benefits for current residents of the area, and will reduce traffic congestion and the demand for additional infrastructure and municipal services.
27. Implementation of the RPVEV will enhance access to Preserve lands for a wide variety of passive recreational uses. Establishing new trail-heads and end-to-end trails through the Preserve will expand recreational opportunities within Albany Pine Bush municipalities and the Capital Region for a growing population of users, including children, senior citizens, and disabled individuals who might otherwise never get a chance to experience the Albany Pine Bush.
28. Regulated hunting, fishing and trapping, as allowed in the Management Plan and FEIS, provides traditional recreational opportunities and a means of managing white-tailed deer, turkey and other wildlife populations that can have adverse impacts on Preserve ecology. Rules and regulations regarding such uses have been established so that potential conflicts with other Preserve users and safety concerns are minimal.
29. The Management Plan and FEIS proposes to continue the Commission’s educational and outreach efforts, by utilizing the Albany Pine Bush Discovery Center, Preserve trails and off-site programs. Educational programming is guided by the Education and Outreach Plan for the Albany Pine Bush Preserve which is appended to the Management Plan and FEIS.
30. Operation of the Albany Pine Bush Discovery Center will enhance recreational and educational opportunities available to the public, reduce impacts on natural resources in the Preserve, and will build public understanding and support for the Preserve.
31. Public uses proposed in the Management Plan and FEIS may result in expenditures of resources by Preserve visitors, which would have a positive economic impact. As the Preserve's identity continues to develop and as the opportunities for recreational, educational and research uses of the area increase, it is anticipated that the Preserve will attract more visitors and produce more income for the local economy.
32. The use of public money for acquiring additional property may be considered a potential adverse socio-economic impact. It is estimated that fee simple acquisition of the 2,180 acres recommended for full protection would cost between \$25 and \$30 million. Since 1994, the Preserve has consistently been listed in the Executive Budget and the NYS Open Space Conservation Plan as a state priority for protection. It is thus anticipated that state funding

will continue to be made available for land acquisition. Since the NYS Environmental Protection Fund includes dedicated funds for open space, other publicly funded programs are not directly affected.

33. To mitigate the potential adverse financial impact of additional land acquisition, the Management Plan and FEIS provides for the use of land swaps, conservation easements, purchase of development rights, donations of land, mitigation fees and set asides, where possible and appropriate, as alternatives to more costly fee simple acquisition. The acquisition of only the most significant part of a parcel is an additional means of reducing acquisition costs.
34. Acquisition of additional properties recommended for full protection would result in a loss of some developable land and property tax revenue in the affected municipalities and Albany County. Addition of the undeveloped portions of these parcels to the Preserve would result in a loss of tax revenues from the currently undeveloped land, as well as a loss in future revenues that could result from their development. However, many of these parcels include structures that would not be incorporated into the Preserve and taken off the tax rolls. As these structures probably account for the majority of the properties' assessed value, actual loss of tax base would be much less significant. In terms of future value, large scale development on parcels without adequate infrastructure is less likely due to the increased expense of adding a road network, public sewer, water, etc. For those residentially zoned parcels with infrastructure, which might be developed within the next few years, the potential property tax loss would have to be considered in light of the municipal service costs which would be saved. Residential development typically provides less in tax revenue than it costs to provide municipal and school district services. Therefore, the savings realized by keeping residentially zoned areas as open space would likely more than off-set any potential loss of tax revenue.
35. Since commercial and industrial development can benefit the local tax base, full protection of commercially and industrially zoned properties would preclude such development and reduce potential tax revenues. The Management Plan and FEIS proposes full protection for some land within such districts. Development that could potentially occur on these parcels is likely to be allocated elsewhere in the Albany Pine Bush municipalities, given the availability of suitable sites and infrastructure. The reallocated development will help offset the potential loss of tax revenues resulting from full protection of parcels so designated.
36. The Management Plan and FEIS proposes an expansion to the Albany Pine Bush Study/Project Review Area of approximately 450 acres between the existing Preserve and the Schenectady County boundary. Nearly half of this area is already encumbered by local, state and federally protected wetlands and waterways. The possible concern that designation of private lands within the Study/Project Review Area for full protection would represent a "regulatory taking" was addressed in the previous plans, and is not supported by case law. As stated in the Implementation Guidelines, such designations are planning tools that identify areas where significant resources are known to occur and where certain types of actions may be appropriate. All recommendations regarding resource protection and management within these areas are made with the understanding that the Commission has no jurisdiction to impose these recommendations without the voluntary cooperation of the landowner or agency with jurisdiction (e.g. NYSDEC, local planning boards, etc.).
37. As mentioned previously, acquisition of additional land for the Preserve will reduce the potential for development. In commercial and industrially zoned areas, reduced development

could result in some loss of future, as yet undetermined, employment and revenue potential. However, the majority of the additional land recommended for full protection is zoned for residential use, so the loss of employment and economic opportunities is not a consideration on most sites. The off-setting effects of reduced traffic congestion, enhanced land value and reduced municipal service costs associated with reduced development, and the avoidance of development in wetlands, ravines and other inappropriate areas mentioned previously would mitigate any potential adverse impacts on employment.

38. Operational expenses associated with achieving the Commission's vision of an ecologically viable Preserve with enhanced public recreational and educational opportunities are estimated at \$2.5 to \$2.8 million per year, suggesting the need for an endowment of \$8 to \$10 million. To the extent that these expenditures utilize public funds, they may be seen as having an adverse impact on other programs in competition for these funds. However, the legislation establishing the Commission and the NYS Open Space Conservation Plan identify the Preserve as a resource worthy of protection.

Air Quality Impacts and Mitigation

39. Air quality impacts associated with Preserve management were addressed in the *2002 Management Plan and FEIS*.
40. Since the implementation of the fire management program in 1991, over 120 controlled burns have been conducted. The Commission has demonstrated that it can effectively manage the smoke from the majority of the burns it has conducted. The majority of the burns conducted since 1991 have occurred in highly sensitive areas, near developments and roadways. Responses to post-burn questionnaires, conversations with individuals and observations made during the burns indicate that when burns are conducted under carefully chosen conditions, fire can be used as a management tool within the Preserve without adversely affecting air quality.

Water Quality Impacts and Mitigation

41. Water quality impacts associated with Preserve management were addressed in the *2002 Management Plan and FEIS*.

Public Health and Safety Impacts and Mitigation

42. Public health and safety impacts and mitigation were addressed in the *2002 Management Plan and FEIS*.

Certification to Approve/Fund/Undertake:

Having considered the draft and final Environmental Impact Statements and having considered the preceding written facts and conclusions relied on to meet the requirements of 6 NYCRR Part 617.11, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met; and
2. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is the one that avoids or minimizes adverse environmental impacts to the maximum extent practicable. Adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.
3. Consistent with the applicable policies of Article 42 of the Executive Law, as implemented by 19 NYCRR Part 600.5, this action will achieve a balance between the protection of the environment and the need to accommodate social and economic considerations.

Albany Pine Bush Preserve Commission

Signature of Responsible Official

Name of Responsible Official

Title of Responsible Official

Date

Address of Agency:

195 New Karner Road
Albany, New York 12205