



LONG ISLAND  
PINE BARRENS  
SOCIETY

547 EAST MAIN STREET  
RIVERHEAD, NEW YORK 11901  
P: (631) 369-3300  
F: (631) 369-3389  
WWW.PINEBARRENS.ORG

## **APPEALS COURT OVERTURNS PINE BARRENS DECISION Says Riverhead Must Apply to Commission for EPCAL Development**

**For Immediate Release: March 8, 2010  
Contact: Richard Amper (631) 369-3300**

A New York State Appeals Court has overturned a lower court decision from 2008 that ruled that the New York State Pine Barrens Commission had no jurisdiction over development at the Enterprise Park at Calverton (EPCAL), the former Navy/Grumman aviation facility in Calverton.

The decision by Supreme Court Justice Paul Baisley, Jr. said that economic development was exempt from provisions of the Pine Barrens Protection Act which protects drinking water and preserves critical habitat in Long Island's premier ecosystem.

A March 2 opinion by a four-judge Appellate Court panel ruled that Riverhead had not been harmed by the Pine Barrens Commission's assertion that all three Pine Barrens towns (Brookhaven, Southampton and Riverhead) are subject to the 1993 law that says that all development in the Pine Barrens is subject to the Pine Barrens Act and to a Comprehensive Land Use Plan that is part of the state law that protects the Pine Barrens.

Richard Amper, Executive Director of the Long Island Pine Barrens Society hailed the court decision as "reasoned and reasonable." He said, "This decision does not prevent needed economic development at a site we think is appropriate for balanced development – it just insists that the Pine Barrens Commission must be a part of the approval process." Amper continued, "I believe that EPCAL can and should be developed and that it can be without harming the fragile water resources and habitat that is found in this section of the Pine Barrens."

The decision by the Second Department of the Appellate Division of New York State Supreme Court concluded that Riverhead had "not incurred an actual, concrete injury" resulting from the Pine Barrens Commission's insistence that Riverhead involve the Commission as other towns must. The town had argued that a special exemption in the Land Use Plan excluded Commission involvement.

Environmentalists were especially concerned by a portion of Justice Baisley's ruling which said that "The Commission is permanently enjoined from exercising review jurisdiction over development at EPCAL," and more alarming, that economic activity did not constitute development under the Pine Barrens Act. "If left to stand," Amper said, "that could have undermined all of the protections of the Pine Barrens Act." That ruling has now been set aside.

The environmental arguments of the Pine Barrens Commission were defended by New York State Attorney General Andrew Cuomo.