S T A T E O F N E W Y O R K

S. 5663 A. 8265

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

June 9, 2011

IN SENATE -- Introduced by Sens. LAVALLE, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

IN ASSEMBLY -- Introduced by M. of A. SWEENEY, THIELE, ENGLEBRIGHT, FITZPATRICK, LOSQUADRO, MURRAY, RAIA -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the addition of certain lands within the Carmans River watershed to the core preservation area of the Central Pine Barrens

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings. The Legislature finds that increasing protection for the Carmans River and its watershed as a part of the Central Pine Barrens is a vital goal that benefits the environment and the economy of the state. The Carmans River is one of only two found within the Central Pine Barrens. As such, the Carmans River represents a significant and integral part of the Central Pine Barrens ecosystem.

Although various State and local measures have been undertaken to protect the Carmans River over the last several decades, recent scientific studies have indicated that existing measures are insufficient to protect the Carmans River. Further, the Carmans River is beginning to demonstrate a decline in both the quality of its surface water and its ecological integrity.

The town of Brookhaven has commenced a planning process to protect the Carmans River. The proposed plan is designed to protect and preserve the areas within the Carmans River watershed while also allowing for appropriate economic growth in areas of Brookhaven outside of the Carmans River watershed through the implementation of a transfer of development rights program and the creation of a multi-family district to receive those development rights. This process has also involved the cooper-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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ation and participation of the Central Pine Barrens joint planning and policy commission.

The entire watercourse of the Carmans River lies within the Central Pine Barrens and much of its groundwater watershed also lies within the Central Pine Barrens and entirely within the town of Brookhaven. Accordingly, the most effective means of achieving the objectives of environmental preservation of the Carmans River watershed and economic growth on other areas of the town of Brookhaven would be to expand the core preservation area of the Central Pine Barrens.

As a result, it is proposed to expand the core preservation area boundary to encompass those areas most critical to the Carmans River and to include public parklands and open space areas which are near or currently adjacent to the core preservation area and which should be integrated into the core preservation area. The Central Pine Barrens Area boundary located south of the Long Island Expressway will also be expanded to be coincident with boundaries of the expanded core preservation area.

The expansion of the core preservation area will provide significantly more protection to the Carmans River than currently exists and will help to ensure that key ecological values and habitats will be adequately protected, enhanced and maintained.

This legislation establishes a process consistent with the ongoing town of Brookhaven planning process that will result in the inclusion of the Carmans River watershed in the core preservation area and the implementation of an amendment to the Central Pine Barrens Comprehensive Management Plan to protect the Carmans River watershed.

S 2. Section 57-0107 of the environmental conservation law is amended by adding four new subdivisions 10-a, 11-a, 11-b and 15 to read as follows:

10-A. "CARMANS RIVER WATERSHED ADDITION TO THE CENTRAL PINE BARRENS AREA" SHALL MEAN THOSE LANDS DESIGNATED AS THE CARMANS RIVER ADDITION TO THE CENTRAL PINE BARRENS AREA IN THE CARMANS RIVER WATERSHED PROTECTION AND MANAGEMENT PLAN AND MORE SPECIFICALLY DELINEATED ON A MAP DATED, MAY TWO THOUSAND ELEVEN, AS APPROVED BY THE BROOKHAVEN TOWN BOARD.

11-A. "CARMANS RIVER WATERSHED ADDITION TO THE CORE PRESERVATION AREA" SHALL MEAN THAT THOSE LANDS DESIGNATED AS THE CARMANS RIVER ADDITION TO THE CORE PRESERVATION AREA IN THE CARMANS RIVER WATERSHED PROTECTION AND MANAGEMENT PLAN AND MORE SPECIFICALLY DELINEATED ON A MAP DATED, MAY TWO THOUSAND ELEVEN, AS APPROVED BY THE BROOKHAVEN TOWN BOARD AND DESCRIBED IN SUBDIVISION ELEVEN-B OF THIS SECTION.

11-B. THE CARMANS RIVER WATERSHED ADDITION TO THE CORE PRESERVATION AREA SHALL INCLUDE THE FOLLOWING SUFFOLK COUNTY TAX MAP PARCELS, ALL LOCATED IN THE TOWN OF BROOKHAVEN DISTRICT 200, EQUAL TO 1,018.85 ACRES MORE OR LESS.

SECTION	54700	BLOCK	100	LOT	19000
SECTION	61000	BLOCK	100	LOT	22000
SECTION	70700	BLOCK	200	LOT	14000
SECTION	74400	BLOCK	300	LOT	26000
SECTION	74400	BLOCK	300	LOT	34000
SECTION	84600	BLOCK	400	LOT	1000
SECTION	97420	BLOCK	200	LOT	11000
SECTION	84600	BLOCK	500	LOT	10004
SECTION	84700	BLOCK	100	LOT	7001
SECTION	84700	BLOCK	100	LOT	7003
SECTION	90300	BLOCK	100	LOT	14000
SECTION	84600	BLOCK	500	LOT	3000
SECTION	54800	BLOCK	100	LOT	21001

1	SECTION	90200	BLOCK	400	LOT	5000
2	SECTION	50100	BLOCK	100	LOT	2001
3	SECTION	50100	BLOCK	100	LOT	2002
4	SECTION	87800	BLOCK	100	LOT	2000
5	SECTION	97850	BLOCK	200	LOT	5004
6	SECTION	61300	BLOCK	100	LOT	20002
7	SECTION	61400	BLOCK	100	LOT	1005
8	SECTION	90200	BLOCK	400	LOT	2000
9	SECTION	87600	BLOCK	300	LOT	6000
10	SECTION	61100	BLOCK	200	LOT	17000
11	SECTION	54800	BLOCK	100	LOT	3000
12	SECTION	97420	BLOCK	200	LOT	21003
13	SECTION	97420	BLOCK	200	LOT	21004
14	SECTION	90300	BLOCK	100	LOT	13000
15	SECTION	52700	BLOCK	500	LOT	3000
16	SECTION	70700	BLOCK	200	LOT	29002
17	SECTION	61100	BLOCK	200	LOT	15000
18	SECTION	61100	BLOCK	200	LOT	16003
19	SECTION	43200	BLOCK	100	LOT	12000
20	SECTION	43400	BLOCK	100	LOT	7000
21	SECTION	84600	BLOCK	500	LOT	23002
22	SECTION	54800	BLOCK	200	LOT	5001
23	SECTION	63600	BLOCK	200	LOT	48000
24	SECTION	63700	BLOCK	200	LOT	2001
25	SECTION	63600	BLOCK	200	LOT	34000
26	SECTION	54800	BLOCK	100	LOT	20001
27	SECTION	54800	BLOCK	100	LOT	23001
28	SECTION	54800	BLOCK	100	LOT	22001
29	SECTION	54800	BLOCK	200	LOT	1008
30	SECTION	58300	BLOCK	100	LOT	1000
31	SECTION	61400	BLOCK	100	LOT	1004
32	SECTION	61000	BLOCK	200	LOT	23000
33	SECTION	54700	BLOCK	100	LOT	18001
34	SECTION	52800	BLOCK	400	LOT	26000
35	SECTION	84700	BLOCK	300	LOT	30002
36	SECTION	84700	BLOCK	300	LOT	30003
37	SECTION	61100	BLOCK	100	LOT	4001
38	SECTION	61400	BLOCK	100	LOT	1003
39	SECTION	61300	BLOCK	100	LOT	20001
40	SECTION	61300	BLOCK	100	LOT	18000
41	SECTION	45600	BLOCK	200	LOT	5000
42	SECTION	45600	BLOCK	200	LOT	4000
43	SECTION	84700	BLOCK	100	LOT	17003
44	SECTION	81700	BLOCK	100	LOT	17000
45	SECTION	49900	BLOCK	200	LOT	1000
46	SECTION	84600	BLOCK	500	LOT	23001
47	SECTION	87600	BLOCK	200	LOT	17000
48	SECTION	66700	BLOCK	100	LOT	4000
49	SECTION	61000	BLOCK	100	LOT	10000
50	SECTION	63800	BLOCK	300	LOT	2000
51	SECTION	93300	BLOCK	300	LOT	1003
52	SECTION	90300	BLOCK	100	LOT	15000
53	SECTION	78100	BLOCK	200	LOT	25000
54	SECTION	70700	BLOCK	100	LOT	2000
55	SECTION	54700	BLOCK	100	LOT	11000
56	SECTION	52800	BLOCK	400	LOT	38001

1	SECTION	84700	BLOCK	200	LOT	16000
2	SECTION	90300	BLOCK	100	LOT	12002
3	SECTION	90300	BLOCK	100	LOT	6000
4	SECTION	66700	BLOCK	100	LOT	6000
5	SECTION	63700	BLOCK	300	LOT	41000
6	SECTION	66600	BLOCK	100	LOT	21000
7	SECTION	87600	BLOCK	300	LOT	1000
8	SECTION	66300	BLOCK	100	LOT	2000
9	SECTION	61100	BLOCK	300	LOT	17000
10	SECTION	84700	BLOCK	100	LOT	7002
11	SECTION	84700	BLOCK	100	LOT	7004
12	SECTION	74400	BLOCK	200	LOT	9000
13	SECTION	74400	BLOCK	200	LOT	10000
14	SECTION	90200	BLOCK	400	LOT	3001
15	SECTION	97420	BLOCK	200	LOT	21001
16	SECTION	97420	BLOCK	200	LOT	10004
17	SECTION	97630	BLOCK	100	LOT	18001
18	SECTION	97630	BLOCK	100	LOT	18002
19	SECTION	97640	BLOCK	100	LOT	13002
20	SECTION	97850	BLOCK	200	LOT	5002
21	SECTION	84700	BLOCK	100	LOT	17002
22	SECTION	70600	BLOCK	100	LOT	3000
23	SECTION	61200	BLOCK	200	LOT	8000
24	SECTION	97630	BLOCK	300	LOT	8002
25	SECTION	48200	BLOCK	100	LOT	4000
26	SECTION	84600	BLOCK	500	LOT	10003
27	SECTION	63700	BLOCK	200	LOT	7000
28	SECTION	57800	BLOCK	300	LOT	1001
29	SECTION	57900	BLOCK	200	LOT	57000
30	SECTION	93200	BLOCK	300	LOT	34000
31	SECTION	66500	BLOCK	200	LOT	1000
32	SECTION	52800	BLOCK	400	LOT	25000
33	SECTION	84600	BLOCK	500	LOT	23003
34	SECTION	61100	BLOCK	300	LOT	4000
35	SECTION	97420	BLOCK	200	LOT	23005
36	SECTION	52800	BLOCK	600	LOT	10000
37	SECTION	84700	BLOCK	200	LOT	13000
38	SECTION	48200	BLOCK	100	LOT	3001
39	SECTION	49800	BLOCK	300	LOT	21003
40	SECTION	52700	BLOCK	500	LOT	4000
41	SECTION	52700	BLOCK	500	LOT	10000
42	SECTION	54700	BLOCK	100	LOT	12000
43	SECTION	54700	BLOCK	100	LOT	20000
44	SECTION	54800	BLOCK	200	LOT	1007
45	SECTION	61100	BLOCK	300	LOT	3001
46	SECTION	61100	BLOCK	300	LOT	9000
47	SECTION	74400	BLOCK	100	LOT	10000
48	SECTION	81700	BLOCK	300	LOT	35000
49	SECTION	90300	BLOCK	100	LOT	12001
50	SECTION	54800	BLOCK	200	LOT	4000
51	SECTION	54800	BLOCK	200	LOT	2001
52	SECTION	63600	BLOCK	200	LOT	5000
53	SECTION	61300	BLOCK	100	LOT	15001
54	SECTION	61100	BLOCK	300	LOT	22000
55	SECTION	61100	BLOCK	300	LOT	23000
56	SECTION	61100	BLOCK	300	LOT	24000

SECTION	61100	BLOCK	300	LOT	25000
SECTION	61100	BLOCK	300	LOT	26000
SECTION	61100	BLOCK	300	LOT	27000
SECTION	61100	BLOCK	300	LOT	28000
SECTION	63600	BLOCK	100	LOT	36000
SECTION	63600	BLOCK	100	LOT	37000
SECTION	63600	BLOCK	200	LOT	14000
SECTION	63600	BLOCK	200	LOT	15000
SECTION	63600	BLOCK	200	LOT	33000
SECTION	63600	BLOCK	200	LOT	35000
SECTION	63600	BLOCK	200	LOT	36000
SECTION	63600	BLOCK	200	LOT	38000
SECTION	63600	BLOCK	200	LOT	41000
SECTION	63600	BLOCK	200	LOT	42000
SECTION	63600	BLOCK	200	LOT	43000
SECTION	63600	BLOCK	200	LOT	45000
SECTION	63600	BLOCK	200	LOT	56001
SECTION	63600	BLOCK	200	LOT	56002
SECTION	63600	BLOCK	200	LOT	57001
SECTION	63600	BLOCK	200	LOT	57002
SECTION	63600	BLOCK	200	LOT	57003
SECTION	63600	BLOCK	200	LOT	59001
SECTION	63600	BLOCK	200	LOT	59002
SECTION	63600	BLOCK	200	LOT	60001
SECTION	63600	BLOCK	200	LOT	60002
SECTION	63600	BLOCK	200	LOT	61000
SECTION	63700	BLOCK	300	LOT	1000
SECTION	63700	BLOCK	300	LOT	4000
SECTION	63700	BLOCK	300	LOT	7000
SECTION	63700	BLOCK	300	LOT	8000
SECTION	63700	BLOCK	300	LOT	10000
SECTION	63700	BLOCK	300	LOT	25000
SECTION	63700	BLOCK	300	LOT	26000
SECTION	63700	BLOCK	300	LOT	27000
SECTION	63700	BLOCK	300	LOT	28000
SECTION	63700	BLOCK	300	LOT	29000
SECTION	63700	BLOCK	300	LOT	32000
SECTION	63700	BLOCK	300	LOT	35000
SECTION	63700	BLOCK	300	LOT	36000
SECTION	63700	BLOCK	300	LOT	37000
SECTION	63700	BLOCK	300	LOT	38000
SECTION	63700	BLOCK	300	LOT	39000
SECTION	63700	BLOCK	300	LOT	40000
SECTION	63700	BLOCK	300	LOT	42000
SECTION	63700	BLOCK	300	LOT	43000
SECTION	63700	BLOCK	300	LOT	45000
SECTION	63700	BLOCK	300	LOT	46000

15. "CARMANS RIVER WATERSHED PROTECTION AND MANAGEMENT PLAN" SHALL MEAN THE DRAFT COMPREHENSIVE LAND USE PLAN PREPARED FOR THE TOWN OF BROOKHAVEN, BY THE CARMANS RIVER STUDY GROUP, DATED FEBRUARY TWO THOUSAND ELEVEN.

S 3. The environmental conservation law is amended by adding a new section 57-0122 to read as follows:

S 57-0122. CARMANS RIVER WATERSHED PLAN AMENDMENT.

1. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE TOWN OF BROOKHAVEN SHALL FINALIZE THE CARMANS RIVER WATERSHED PROTECTION AND

MANAGEMENT PLAN, AND THE COMMISSION SHALL APPROVE SUCH FINALIZED PLAN, FOLLOWING RATIFICATION BY THE COMMISSION THE TOWN BOARD OF THE TOWN OF BROOKHAVEN SHALL RATIFY SUCH FINALIZED CARMANS RIVER WATERSHED PROTECTION AND MANAGEMENT PLAN AS A PLAN AMENDMENT TO THE CENTRAL PINE BARRENS COMPREHENSIVE MANAGEMENT PLAN IN ORDER TO PROVIDE FOR THE PROTECTION OF THE CARMANS RIVER WATERSHED. SUCH PLAN AMENDMENT SHALL BE CONSISTENT WITH THE FINDINGS ENUMERATED BY THIS ACT, AS WELL AS SECTION 57-0105 OF THIS TITLE, AND THE PLAN GOALS ENUMERATED IN SUBDIVISIONS TWO, THREE AND FOUR OF SECTION 57-0121 OF THIS TITLE.

2. THE PLAN AMENDMENT SHALL PROVIDE FOR, ADDRESS, AND INCLUDE THE IMPLEMENTATION OF LAND PROTECTION MECHANISMS INCLUDING, BUT NOT LIMITED TO: (A) ACQUISITION; (B) CONSERVATION EASEMENTS; (C) TRANSFER OF DEVELOPMENT RIGHTS, INCLUDING BUT NOT LIMITED TO THE CREATION OF RECEIVING ZONES FOR THE USE OF SUCH RIGHTS ADEQUATE TO ACHIEVE THE GOALS OF PRESERVATION AND BALANCED GROWTH WITHIN THE TOWN OF BROOKHAVEN; (D) PURCHASE OF DEVELOPMENT RIGHTS; (E) DONATIONS; (F) CLUSTERING; (G) PLANNED UNIT DEVELOPMENT; (H) LAND TRUSTS; (I) EXCHANGES BETWEEN PRIVATELY AND PUBLICLY OWNED LANDS; (J) OR OTHER ZONING ACTIONS CONSISTENT WITH THE PROVISIONS OF THIS SECTION.

3. SUCH PLAN AMENDMENT SHALL BE ADOPTED BY THE COMMISSION PURSUANT TO PROVISIONS RELATING TO PLAN AMENDMENTS ENUMERATED IN SUBDIVISION THIRTEEN OF SECTION 57-0121 OF THIS TITLE. SUCH PLAN AMENDMENT SHALL BE RATIFIED BY THE BROOKHAVEN TOWN BOARD, PURSUANT TO A DULY ADOPTED RESOLUTION OF SUCH BOARD.

4. UPON ADOPTION AND RATIFICATION OF THE PLAN AMENDMENT, SUCH AMENDMENT SHALL BE IMPLEMENTED BY THE TOWN OF BROOKHAVEN AS PROVIDED BY SUBDIVISION FIVE OF THIS SECTION.

5. WITHIN THREE MONTHS AFTER THE LAND USE PLAN HAS BEEN ADOPTED BY THE COMMISSION, THE BROOKHAVEN TOWN BOARD SHALL ADOPT AND AMEND AS NECESSARY LAND USE AND ZONING REGULATIONS, BY LOCAL LAW OR ORDINANCE, RULE OR REGULATION TO CONFORM THEIR LAND USE REGULATIONS TO THE PLAN AMENDMENT. AT LEAST THIRTY DAYS BEFORE ADOPTION THEREOF, THE TOWN BOARD SHALL SUBMIT THE PROPOSED REGULATIONS TO THE COMMISSION FOR ITS REVIEW AND APPROVAL. WITHIN TEN DAYS OF RECEIPT OF SUCH PROPOSED REGULATIONS, THE COMMISSION SHALL REVIEW AND APPROVE SUCH PROPOSED REGULATIONS, OR IF IT DOES NOT APPROVE THEM, RETURN THEM WITH COMMENTS ON WHAT NEEDS TO BE DONE TO MAKE THEM APPROVABLE. THE PLAN AMENDMENT SHALL BE DEEMED TO BE IMPLEMENTED UPON ADOPTION BY THE TOWN BOARD OF APPROVED LAND USE REGULATIONS.

6. UPON IMPLEMENTATION OF THE LAND USE REGULATIONS BY THE TOWN BOARD, ALL THE PROVISIONS OF THIS ARTICLE RELATING TO THE CORE PRESERVATION AREA AND CENTRAL PINE BARRENS AREA SHALL ALSO APPLY TO THE CARMANS RIVER WATERSHED ADDITION TO THE CORE PRESERVATION AREA AND THE CARMANS RIVER ADDITION TO THE CENTRAL PINE BARRENS AREA.

S 4. Agriculture and horticulture study and analysis in the Central Pine Barrens. 1. Agriculture and horticulture continues to be a major, important and vital industry in the Central Pine Barrens and it continues to be the policy of the state of New York that compatible agricultural and horticultural uses be maintained and encouraged within the Central Pine Barrens. Sustaining agriculture in the Central Pine Barrens while harmonizing and balancing such use with other, concomitant Central Pine barrens objectives, including groundwater and ecological protection, continues to be a primary goal of the state of New York.

2. As soon as is practicable and within twelve months of the effective date of this section, the Central Pine Barrens Joint Planning and Policy commission shall prepare or cause to be prepared, in cooperation and

coordination with the Suffolk county planning department and the Suffolk county agricultural and farmland protection board, a comprehensive study and analysis of agriculture and horticulture in the Central Pine Barrens.

3. The study shall examine and shall incorporate the following elements:

(a) An identification and inventory of existing farms, farmland, agricultural land and horticultural land within both the compatible growth area and the core preservation area. The inventory shall include, but not be limited to:

(i) locations of existing farms;

(ii) boundaries of existing farms, including tax map parcels;

(iii) ownership;

(iv) leased farmland;

(v) areas of farms in active cultivation;

(vi) areas of farms which have been cleared of natural vegetation;

(vii) areas of fallow farmland;

(viii) areas of farms remaining in natural vegetation;

(ix) areas of farms devoted to other uses including, but not limited to, infrastructure, windbreaks, structures, equipment storage, irrigation wells and pumps;

(x) agricultural products generated by each farm;

(xi) ecological, hydrological, geological, historical, scenic and archaeological features within or in proximity to existing farms;

(xii) location of agricultural districts in relation to existing farms; and

(xiii) any other elements considered necessary.

(b) An identification and inventory of the existing land uses which lie adjacent to and/or occupy the areas surrounding each farm.

(c) An identification and analysis of areas adjacent to existing farms which may be considered for farm expansion in future years, the extent of active cultivation on existing farms and the presence of natural vegetation and ecological, geological, historical, scenic and archaeological features in portions of existing farms which may be desirable for expanded cultivation in the future.

(d) The study shall include an analysis and review of trends, influences and issues affecting farming in the Central Pine Barrens and the potential impacts of these elements on farming in the Central Pine Barrens.

(e) The study shall develop and provide a comprehensive vegetation management plan for non-cultivated areas of vegetation within all existing farms in the Central Pine Barrens which, if adopted, would allow the Central Pine Barrens Joint Planning and Policy commission to review potential vegetation clearing and other matters within farms in a comprehensive, panoptic and systematic manner as opposed to on a case-by-case basis.

(f) The study shall make recommendations, as and if needed, for amendments to the Central Pine Barrens comprehensive land use plan considered necessary as an outgrowth of the study's analysis. The study shall also make recommendations to the towns within the Central Pine Barrens as to code and plan changes, pertaining to land use within the Central Pine Barrens, which should be contemplated, particularly to reduce or eliminate conflicts among overlapping regulatory jurisdictions.

S 5. Severability. The provisions of this act shall be severable and if any portion thereof or the applicability thereof to any person or

circumstances shall be held invalid, the remainder of this act and the application thereof shall not be affected thereby.

S 6. This act shall take effect immediately, provided that if nine months after this act shall have become a law, the plan amendment specified in section 57-0122 of the environmental conservation law shall not have been adopted, ratified, and implemented as provided for by section three of this act, this act shall be deemed repealed and of no force and effect. If the plan amendment is adopted, ratified, and implemented, the Central Pine Barrens Joint Planning and Policy commission shall provide an accurate metes and bounds description of the boundaries depicted in the map dated May 2011, as further described in subdivision 11-b of section 57-0107 of the environmental conservation law, as added by section two of this act, and as approved by the Brookhaven town board, to the state legislature within such nine month period. If the state legislature does not approve the metes and bounds description within nine months of their receipt of such description, then this act shall expire and be deemed repealed. The Central Pine Barrens Joint Planning and Policy commission shall notify the legislative bill drafting commission upon the adoption, ratification, and implementation of the plan amendment pursuant to section 57-0122 of the environmental conservation law authorized pursuant to section three of this act and subsequent legislative approval of the metes and bounds description required pursuant to this section in order that the legislative bill drafting commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.