

New Jersey Highlands Water Protection and Planning Council

Draft Highlands Monitoring Program Recommendation Report

Comment and Response Document

Release Date: May 2016

Abstract

The following document includes all public comment received during the initial comment period of the Highlands Monitoring Program Recommendation Report public comment period. Highlands Council staff has reviewed each comment and provided responses below.



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DRAFT

Agricultural Resources

DRAFT

HCIS/Comment Number: 54949
Commenter Name: Rick Suydam
Organization: New Jersey Farm Bureau
Municipality: Trenton
Primary Topic: Agricultural Resources
Secondary Topic: Indicators and Milestones

Comment:

We are submitting our list of Indicators to monitor the success of the 2008 Regional Master Plan (RMP) along with recommendations for issues we believe are also crucial to increasing effectiveness of the Plan. The latter will be entered on your web portal as well in hopes of having them discussed and included in the RMP re-examination process.

The 2008 RMP was woefully limited in the number of indicators suggested to monitor progress with Highlands agriculture. Our expanded list will help you assemble a more complete picture of how things stand within our community after seven years under the RMP.

Achieving fair equity compensation for the land values they have lost remains the most crucial issue for our members. It is hoped that these expanded indicators as well as the Fiscal Impact Assessment report will accurately reveal the significant change in land values that being included in the Highlands mapping and regulation has caused.

Please note that Farm Bureau along with many other organizations concerned with Highlands natural resource management has signed on in support of the issues and indicators submitted by the combined professional forestry community. The RMP must be revised, we believe, to protect the water resources through responsible active forest management.

You have our total support for this process. We are ready to participate in any way that we can be of service.

INDICATORS THAT THE HIGHLANDS COUNCIL MUST MONITOR

The New Jersey Farm Bureau believes that there are eight areas for which indicators must be developed so that the success of the RMP can be measured:

Agriculture: development and viability Landowner equity compensation Land use and plan conformance

TDR, clustering etc Land conservation Forest resources Wildlife habitat Economic development
Such measured results, both positive and negative, will show clearly areas where the 2008 RMP has been a success or needs to be improved to better meet all of its protection and planning objectives. Recognizing that not all these indicators can be developed, the most critical ones for Farm Bureau are starred

** , less but still critical * , and the rest necessary when possible.

Following the indicators in each section we make recommendations for Highlands Council (HLC) action that we believe will be critical in improving the performance and equity of the RMP. These will be put on the RMP web portal as well. We look forward to discussing these suggestions at the appropriate TAC meetings.

For agriculture: development and viability

**Number of new direct marketing and/or agri-tourism ventures developed on Highlands farms since 2008.

**Number of enterprises developed to add value to Highlands farm products.

**Number of agricultural development projects (housing, buildings, markets etc) proposed using the Agriculture Development rules (N.J.A.C. 2:92) since 2008.

**Number of agricultural development projects (housing, buildings, markets etc) developed using the Agriculture Development rules (N.J.A.C. 2:92) since 2008.

**Number of municipal Agriculture Retention and Farmland Preservation plans required for Highlands plan conformance developed and implemented.

*Number and nature of Right to Farm complaints since 2008 (CADS and SADC data).

*Market value of crops 2007 vs. 2012 (Ag 2012 Census).

*Economic value of agri-tourism and direct marketing to towns and counties beyond value of products sold. Acres of farmland 2008 vs. 2012; cropland harvested, pastured, woodland/wetlands.

Comparison of acres/numbers of major commodities 2008-2012. Size of Highland farms 2008 vs. 2012.

Number of Highlands towns that permit flexible nonfarm use of existing unused farm buildings. Number of new farm conservation plans developed.(NRCS and Soil Conservation District data).

Recommendations

*Create and consult on a regular basis a broadly based Highlands Agriculture Advisory Committee modeled after the Pinelands Agriculture Advisory Committee..

Schedule regular consultations with agricultural agency experts (NJDA, CADBs, county Boards of Agriculture, county soil conservation districts) about how to enhance a "positive business environment for farming" as the Highlands Act requires.

Response

The Highlands Council acknowledges and appreciates the comment, designating eight areas for which indicators must be developed in order to measure the success of the RMP with regard to agriculture (agriculture development and viability, landowner equity compensation, land use and plan conformance, TDR and clustering, land conservation, forest resources, wildlife habitat, and economic development) and ranking the 12 indicators as most critical indicator, less but still critical, and necessary when possible. The Highlands Council will consider each of the twelve indicators for use in evaluating the Highlands Regional Master Plan.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Agricultural Resources

Secondary Topic: Other

Comment:

Much has been said and much has been claimed about agriculture as regards “landowner equity” in the New Jersey Highlands. Yet very few have taken the time to study the nature and extent of this highly valued resource. In the interest of clarification, the following breakdown of Highlands Agriculture has been compiled. The public perception of the New Jersey Highlands varies greatly. Many who live in the eastern areas of the Highlands do not realize that they are Highlands’ residents, while local officials of communities that receive water from the Highlands have only the vaguest notion of the extent, location and nature of the Highlands region.

Much of Northern New Jersey’s agricultural lands are not in the Highlands. For instance only a third of Sussex County’s agricultural land is within the Highlands. Much of the farmland within the Highlands is preserved, and wood lots represent large portions of land in “agricultural use.” The New Jersey department of Taxation lists 225,000 acres in the Highlands as agriculturally assessed. The Regional Master Plan says that 118,000 to 109,000 acres are in “agricultural use.”

In 2003, there were just less than 71,000 acres in the Highlands under cultivation, some 9% of the Highlands area. More than half of these were in what became the Planning Area and as such were not subject to the Preservation Area constraints to development. Further, many of the remaining acres in cultivation within the restricted Preservation Area were already limited by Farmland Preservation agreements. The latest figures show 15,558 acres in the Highlands Preservation Area as having Farmland Preservation agreements. If we generously estimate the number of acres under cultivation within the Preservation area as one half, then we have 35,500 such acres in the Preservation area. If we further subtract an estimated half of the Farmland Preservation Program acreage we come to approximately 28,000 acres of active farming within the Highlands Preservation Area amounting to an estimated 3.25% of the entire Highlands region. Many of these acres assessed as farmland are of the “gentleman farmer” variety -- small holdings (a single home with at least 5 “farm” acres which are classified as agricultural lands solely for the purposes of property tax reduction) which if numbers were available would further reduce the amount acreage in question. However, as such numbers are not easily available, it is fair to use 3.25% of total Highlands acreage in order to give perspective to the so-called “landowner equity” question.

Farming as we know it in New Jersey would not exist without government aid and subsidies. After the Second World War it became obvious that applying market-based residential or commercial values to farmland for tax purposes would doom agriculture in the State.

Agricultural assessments vary but may amount to discounts of upwards of 90% on local, county and school property taxes. They are, in fact, an open space program that is paid for by local property taxpayers. It should be noted that agricultural assessments are worth every nickel as they preserve farmlands and open space and prop up local residential and commercial land values. Further, the State of New Jersey and its citizens have contributed over \$111,000,000 in Farmland Preservation

funding within what is now the Preservation Area of the Highlands region, along with another \$60,000,000 from other public sources. In addition to these programs, New Jersey citizens contribute to agriculture in the Highlands and various state and federal programs that promote farming in the state.

It is clear that the limitations imposed by the Highlands Act in the Preservation Area have, in some cases, impacted the potential speculative values of some properties. Some describe these values as “equity.” It is also clear that generations of subsidies like tax discounts and outright aid, including public purchase of development rights, have made such “equity” values possible. Further, it is clear that the public has a huge investment in New Jersey farmlands and open space. One of the benefits of that enormous investment is one of the nation’s best and least expensive water supplies. While programs such as the Transfer of Development Rights are meant to assist those who are impacted by the Highlands Act, there is no justification for imperiling the water supply of nearly 6 million New Jerseyans for those who have a share of the value of 3.25% of the Highlands region in question. The Highlands Act was created to preserve Highlands open space, forests, and agriculture, not for its own sake, but for the benefits the Highlands provide --which all New Jerseyans have earned through their ongoing support of open space preservation.

The numbers quoted in this study are provided by County Abstracts of Ratables, Department of Taxation documents on agricultural assessments, State Department of Agriculture documents and the New Jersey Highlands Regional Master Plan.

Response

The Highlands Council acknowledges the commenter’s analyses of landowner equity with regard to agricultural resources.

The major Goals, Policies, and Objectives for Agricultural Resources in the Regional Master Plan (RMP) seek to meet two essential objectives of the Highlands Act; the preservation of agricultural land and the viability of the agricultural industry. The New Jersey Legislature declared that the agricultural lands in active production in the Highlands Region are important resources of the State that should be preserved, and that the agricultural industry in the Highlands Region is a vital component of the economy, welfare, and culture of the State. The Legislature also declared that the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible whenever appropriate in the Highlands Region.

The Highlands Act also recognized “the need to provide just compensation to the owners of those lands” that were identified in the RMP where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n).

The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity. To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the

need to make modifications to the RMP related to landowner equity, the Report will include appropriate recommendations.

HCIS/Comment Number: 88

Commenter Name: Giulia Grotenhuis

Organization:

Municipality: Phillipsburg

Primary Topic: Agricultural Resources

Secondary Topic: Other

Comment:

The nitrate dilution model, which lead to 25/88 acre lots, is also the basis of the acreage for conforming towns. The “Average Lot Size per Septic System by Land Use Capability Zone for Conforming Municipalities in the Planning Area of the Highlands Region” chart shows average lot sizes in these communities ranging from 6.9 (10) to 15.7 (1), with average lot sizes being between 8.0 to 10.9 acres.

http://www.highlands.state.nj.us/njhighlands/planconformance/avg_septic_lucz.pdf

Is an average person going to purchase and build a house on an 8-10.9 acre lot? These lot sizes are for people with means to build a “McMansion” and maintain the grounds. In this fashion it has limited the growth of the more rural counties because these people also want to be in close proximity to art and culture.

Stated in Resolution #31, Land Use presented at the recent NJ State Agriculture Convention, delegates present “that we are opposed to “downzoning” or large-lot zoning or zoning that has the practical effect of large-lot zoning, because it fractures and consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner equity, and therefore is counter-productive to the principles of smart growth

Response

The Highlands Council acknowledges the commenter’s opposition to “downzoning” or other large-lot zoning on farmland. In order to analyze the effect of such zoning on the consumption of farmland, one indicator that could be monitored could be the number of municipalities in the Highlands Region that have enacted large-lot zoning ordinances since August 10, 2004 that affect RMP Agricultural Resource Areas, the number of residential developments that have resulted, and the acreage of active farming that had been converted to residential development. The Highlands Council will consider this indicator in evaluating the Regional Master Plan.

HCIS/Comment Number: 54232
Commenter Name: David K. Dech
Organization: Warren County Planning Department
Municipality: Belvidere
Primary Topic: Agricultural Resources
Secondary Topic: Plan Implementation

Comment:

Agricultural Resources

Agriculture appears to be supported in the Plan. However, agricultural uses are one of the heavier contributors of nitrates, yet the concern with the level of nitrates in the water seem to contradict whatever support the Highlands Plan seems to give to agriculture.

Question #31. How will the Highlands Plan and Council deal with this contradiction in policy?

Response

Nitrate was selected in the RMP as a surrogate for anthropogenic impacts to ground water quality. The RMP Water Resources and Ecosystem Science Agenda also included a recommendation to conduct additional study to further refine, with additional data and modeling, the Region's median nitrate concentrations. Median nitrate concentrations are anticipated to be evaluated throughout the Highlands Region and Land Use Capability Zones for a variety of land use conditions. Median nitrate concentrations are used to develop septic system densities for development outside of sewer service areas. Nitrate loading from agricultural impacts are typically addressed through a variety of conservation programs, such as NRCS' nutrient management programs.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to agricultural resources or nitrate as an indicator in the Highlands, the Report will include appropriate recommendations.

HCIS/Comment Number: 81
Commenter Name: David Peifer
Organization: Association of New Jersey Environmental Commissions
Municipality: Mendham
Primary Topic: Agricultural Resources
Secondary Topic: Programs of the RMP

Comment:

The RMP is correct in focusing on the preservation of the agricultural land base and has developed appropriate priorities and mapped these areas. These policies should be maintained. More thought needs to be given to link agricultural GPOs to others: e.g., water quality, cultural resources (scenic landscapes) or "working landscapes". Policies making condemnation of preserved farmland and farmland preservation easements more difficult needs to be added. Stress and expand the "clearinghouse" function mentioned in Policy 3A8 with specific information on sustainable practices, including organic agriculture. Produce the technical guidance for mentioned in Policy 3E1 for municipal and county ag. retention and conservation plans. Require these for conformance in the ARA. Consider developing specific product branding for Highlands agricultural products. Indicators: Agricultural land conversion (land cover), Land area in field crop production, area in grazing, area in orchard, number and location of farmers' markets, direct marketing trends, preserved farms: area \$\$ expended, cost/ac., farm size, important farmland soils in ag. use, Changes in ARA land use, #of open space and farmland preservation trust funds with rate and \$\$ available, farm income.

Response

The Highlands Council appreciates the recommendation to link the RMP agricultural GPOs to other Highlands resource GPOs, increase the Council's clearinghouse function for sustainable practices, and provide technical guidance for retention and conservation plans. The Highlands Council will consider these suggestions for use in evaluating the Highlands Regional Master Plan.

Future Land Use

DRAFT

HCIS/Comment Number: 54982
Commenter Name: James Adams, Mayor
Organization: Township of Greenwich
Municipality: Stewartsville
Primary Topic: Future Land Use
Secondary Topic: Protection of Highlands Resources

Comment:

3. Land Use Capability Zones - Given the existence of high-water value land within Greenwich Township, the designation of "Land Use Capability Zones" identified in the RMP appear to be arbitrary. For example, in Greenwich Township the "Conservation Environmentally Constrained Zone" excludes undeveloped stream corridors. Additionally, extensive areas of contiguous forest and habitat for threatened and endangered species that occur within the Preservation Area or contiguous to areas designated as "Protection Zone" in the Planning Area are misclassified as either "Conservation Zone" or "Existing Community Zone". At a minimum the "Land Use Capability Zone Map" should be amended to include all resource constraints such as stream corridors and prime recharge areas within the "Environmentally Constrained Sub-Zone", and include contiguous undeveloped forested areas in the "Protection Zone".

HCIS/Comment Number: 53168
Commenter Name: Rick Sparling
Organization:
Municipality:
Primary Topic: Future Land Use
Secondary Topic: Water and Ecological Science Agenda

Comment:

My proposal is for the problem of finding truth in the scientific basis for the act of protection of our most valuable asset water ...

GRACE I Gravity Recovery & Climate Experiment, a University of Texas satellite(s) that verify the density of the earth's crust, and when queried for specific gravity of the existing water table provides a calculated amount (in gallons). I believe that it will surprise the commission just how wealthy our region already is with regard to this asset. If the Highlands Council can begin the process of requesting a data set prepared for this purpose (as has been made for the west coast) we may be able to review and revise the overbearing septic/subdivision regulations that the RMP has in place.

Furthermore, I have stated in the past, we as a planning people should be restoring the existing dams, and building new watersheds to raise the water table, and most importantly, repair/ replace the existing infrastructure. I look forward to exploring the future that holds promise for both the impacted land owners and the RMP.

Thanx for including us,
Rick Sparling

HCIS/Comment Number: 82-1

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

Climate change is not currently addressed in the Regional Master Plan, but protection of the large tracts of contiguous forests in the Highlands is directly related to mitigating the effects of climate change. Not only do forests in the Highlands provide a plentiful supply of clean water to New Jersey's residents, but they also sequester atmospheric carbon, thus limiting the impacts of climate change. The RMP should include guidelines for mitigating climate change on a regional level.

Given the advancements of climate change policy at the national level, it would not be unprecedented for the Highlands Council and the RMP to consider effects of climate change as part of the planning process. The President's Climate Action Plan was issued in June 2013 and includes three main components: 1) Cut carbon pollution in America; 2) Prepare the United States for the impacts of climate change; and 3) Lead international efforts to combat global climate change and prepare for its impacts.

The Action Plan notes:

"This guidance was called for by the governors, mayors and other local leaders on the President's Task Force on Climate Preparedness and Resilience in their recommendations to the President...The Task Force requested the guidance to ensure that projects and investments are advanced with adequate and coordinated consideration of the project design or alternatives relative to climate impacts and greenhouse gas emissions, to avoid unacceptable public health, safety, and financial risks for communities...This draft addresses land and resource management actions."

According to the Council for Forest Research and Development (COFORD) , forests are a globally important storehouse of carbon and play a critical role in influencing the Earth's climate. Forest trees, plants, and soils drive the global carbon cycle by sequestering carbon dioxide through photosynthesis and releasing it through respiration. When the uptake of carbon dioxide (photosynthesis) is greater than losses via respiration, forests serve as carbon dioxide sinks. When forests are degraded or cleared, their stored carbon is released back to the atmosphere and through respiration. Thus, these forests are net contributors of carbon to the atmosphere.

In an undisturbed forest, approximately 74% of the sequestered carbon is stored in live stems and branches, 16% is stored in roots and 10% remains in soils. However, when forests are cut and the land deforested, up to 32% of the stored carbon is lost due to decomposition. The remaining carbon is initially retained either on-site or in harvested wood products, but this is slowly released over time. Most of the carbon stored on site will be lost if the land is converted to agriculture or development. A major consequence of this new information is that it will not be possible to conduct timber management within an existing forest in order to mitigate or recover lost sequestered carbon from the permanent loss of forest cover at another site. The only way to generate new sequestered carbon is through afforestation, where non-forest lands are converted to forest. This process is slow, and requires an enormous ratio of new forest (saplings) planted for every acre of more mature forest lost to development or other non-forest land uses. Thus, it will likely be impossible for the sequestered

carbon lost through forest clearing to be recovered and balanced in any reasonable timeframe by the applicant.

The loss of carbon due to harvest can be minimized but only if forests are allowed to regenerate. Tree regeneration is not occurring in the Highlands largely due to an abundant deer population and the presence of invasive species. Regeneration of core forests in the Highlands must be assured and monitored -- the most reliable way to do that is through third-party forestry practices certification, such as the Forest Stewardship Council (FSC). Our current management system provides no assurance that forest stewardship activities have any net-positive impact on natural resources in the region.

Forestry-based measures can effectively complement abatement options focused on fossil fuel emissions. Forest-based mitigation of climate change includes:

- Increasing forest carbon absorption (sequestration) capacity - either by planting trees on un-forested land (i.e. afforestation), facilitating the natural regeneration of forests on marginal land and by managing forests to increase biomass accumulation.
- Substitution of sustainably produced forestry products substituting wood products for materials requiring energy-intensive production, such as aluminum or concrete, and substituting woody biomass for fossil fuels as an energy source. This only works using the FSC certification process.
- Conservation of existing forests - to avoid emissions associated with deforestation, forest degradation or clearing.

Another expected side effect in New Jersey from climate change that needs to be addressed is changes in water availability. Climate change projections from the Environmental Protection Agency indicate a stable or increase in yearly average rain fall in New Jersey, but as temperatures increase, less of that water will be available for human use. Warmer temperatures increase the growing season -- during this time, trees consume and evaporate more water which results in less water per unit area. To counter this projected trend, more of New Jersey's open spaces need to be permanently protected from development. More land will provide more water, which will help to mitigate the increased loss of water availability caused by temperature increases.

One of the biggest threats to the core forests of the Highlands is linear development projects, such as pipelines and transmission lines. These projects severely fragment the Highlands forests. With linear energy infrastructure projects having a proportionately greater negative impact on the ability of our forests to sequester carbon, there is a greater need for the Council to emphasize renewable energy as an alternative to fossil fuel based resources. Renewable Energy is mentioned in the RMP, but there are no requirements or guidelines for implementation. Having rules or standards for the implementation of renewable energy technologies would encourage municipalities and developers to use these sustainable technologies and guide them through development issues, such as appropriate site locations. Emphasis on renewable technologies is important to address and mitigate climate change issues.

The President's Climate Action Plan stresses that climate change is affecting nearly every aspect of our society, from agriculture and tourism to the health and safety of our citizens and natural resources and this is especially true in the Highlands region. President Obama is leading the charge to mitigate the effects of climate change and the Highlands Council is would be well within their right to implement guidelines through the RMP Conformance Process.

HCIS/Comment Number: 72

Commenter Name: Joe Metelski

Organization:

Municipality: Bedminster

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

The RMP should define and explain the role of the Highlands Council as it relates to lands in the Highlands region in the Planning Area that have not been submitted as conforming with the RMP. My point is that these lands are in the Highlands Region and deserve the protection of the Council when something is proposed that will be detrimental to the water quality or quantity. As an example, which you might recall from prior correspondence, in Bedminster HRMP Planning Area, a solar developer wants to build an industrial scale solar power plant in the 10 acre rural residential zone. This will devastate the farmlands, forests, wetlands and animal habitat in the RMP planning area. The Highlands Council should actively advocate a position opposing such a development since it would be detrimental to the RMP. You should do this regardless of conforming or not; it is Highlands land.

HCIS/Comment Number: 27

Commenter Name: Dennis Loh

Organization: Geo-Technology Associates, Inc.

Municipality: Ringoes

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

While I understand the importance of protecting natural resources, many of the standards in the RMP, such as 1,000-foot buffers around vernal ponds, and minimum lot sizes of 88-acres for one home, are excessive and not consistent with current DEP regulations. This should be addressed by bringing RMP standards into conformance with already established regulations and policies.

HCIS/Comment Number: 19

Commenter Name: Nicholas Homyak

Organization: NJ Highlands, National Park Service Volunteer

Municipality: Lake Hiawatha

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

Please except this amended version previously submitted by me...Highlands Master Plan Necessity & Enforcement. Presidents New Priority Agenda Enhancing Climate Resilience.Protecting Recognizing Landscapes. A Boost for The NJ Highlands Regional Master Plan.

The matter of the Parsippany Waterview Rezone Attempt Fiasco RD Developer Slaps Parsippany around Citizens Fight Back.

Defending a Unique Landscape Parsippany, NJ has been engaged in an effort along with citizens of Mountain Lakes to prevent an unneeded speculation development on the last undeveloped landscape along Route 46 known as the "waterview tract"; 26.5 acres. This is no ordinary landscape but a hardwood upland forest, with well drained high chroma, non hydric soils. The land borders on the Troy Brook and contains a wetland transition zone.(Harbors a cemetery) The area has also been mentioned in a Rutgers Study of the Troy Brook Regional Stormwater Management Plan, Drainage Area Specific Water Quality Quantity and Recharge Objectives. One most important aspect of this report mentions the importance of maintaining bio-diversity in the area for obvious reasons explicit in the reports title. These landscape characteristics qualify it as a "natural resource" or a natural resource asset already working for us, harboring trees, ground water recharge and community enhancement acting as a threshold to an older traditional Parsippany neighborhood. However because it exists in the Planning Zone of the Highlands none of its assets or character was recognized and its value was market real estate only, zoned for office space. Do to the lack of need and the over development of office buildings in the area the property owner and a developer tried to have the property re-zoned in order to proceed with an unneeded market development scheme. The Administration of Parsippany at the time went along and tried everything they could to promote this development scheme, misleading the public with false premises like tax rateables, jobs and the threat of public housing development if it was not developed now this would happen later. 1. No need existed 2. No change in the character of the immediate neighborhood had occurred.

From a local Letter to the editor by me sums it up:

Because we (Parsippany) are in the Planning Zone of the NJ Highlands Waterview landscape is not seen for its inherit natural resource value, as our Master Plan should. Waterview landscape is like an innocent person being sentenced to prison. It has been deemed real estate not land or resource despite a Rutgers Study, our own master plan and evidence discovered by the Group Citizens 4 Health, Safety, and Welfare. Citizen's argument is supported by the preponderance of substantial, reliable, and probative evidence because the parcel was evaluated for its "natural resource geologic and hydraulic nature and characteristics, in addition to being harmonious with the neighborhood. This unique landscape is so unique it has cause itself to be advocated through the human agency for its defense, simply because it is a provable natural resource in its character, ground water recharge, trees, habitat for other life forms and aesthetic qualities.

Landscapes such as the waterview Block Lot although in the Highlands Region Planning Zone in a Municipality not conforming to the Regional Master Plan and having a water deficient would of complicated their situation by allowing the loss of this important landscape for no just cause or sound reason. Without the formation of the Citizens 4 Health Safety and Welfare this loss would have occurred. The accumulative impacts and cost avoidance scenarios were not part of the Planning Process, nor considered by the administration at that time. Flooding; which does occur in the area, water quality, air pollution, trash/litter, stormwater pollution were all matters to be passed on to the NJDEP, not for the municipal authorities to be concerned. The developer was given more rights and considerations than the citizens themselves. The developer actually attempting to legally loot county open space money for a buffer zone he would of had to provide anyway after the Council voted No to the project the developer sued the Township. (Why it was not thrown out of court is another curious matter).(Perhaps we need special courts and qualified judges to present land use cases based on land science not corporate economic development rights of ownership).

* Note although Parsippany has redevelopment as one of its Master Plan Goals along with protecting natural resources and adding to the open spaces, it did not seem to actually mean anything under the Administration then in power. An underlying series of motives, none of which had anything to do with the community or the Municipal Master Plan. The Plan did not change with the science or the times but with the developers.

Zoning Right/Rezoning to Protect Water, Natural Resources

In conclusion unique landscapes that still remain "everywhere" in the region, (planning zone or not), need to be found and reassessed for their natural resource value.

The Regional Master Plan Now has a Big Allie. Executive Order President Obama May 21, 2014 (Now we have the RMP & the Priority Agenda).

Chapet II: Foster Climate-Resilient Lands and Waters Protect important landscapes and develop the science, planning tools, and practices to sustain and enhance the resilience of the Nation's natural resources.

From: the Office of the President of the United States, Enhancing the Climate Resilience of America's Natural Resources, Council on Climate Preparedness and Resilience.

"the landscape is not defined by the size of the area, but rather by the interacting elements that are meaningful to the management objectives. In addition, for the purposes of this report, the term "landscape" encompasses watersheds and marine environments that match the above description. The term "cumulative impacts" refers to the combined, incremental effects of human activity on a resource ecosystem, or human community.

This in addition to the Regional Master Plan of the Highlands should enforce its position of reason and legality in intervene in such circumstances as what happened in Parsippany, NJ.

Science must replace personal favoritism and political deals favoring rewards for municipal officials that allow unneeded development over objections from the populace or an apathetic populace. Much of what we call the private sector must be made to comply with the best management practices in all circumstance, including energy efficiency and waste curtailment. Higher qualifications for Planning Board Members in land-use must occur. All 88 municipalities should be made to have Highlands officials or representatives attend or be appointed to regular Planning & Zoning Boards as consultants and overseers.

Are We United? Or Free for the Better or Worse?

We call ourselves the United States is not true any longer without coherent regional planning we stand to slowly but surely ruin what nature has given us to be its stewards. From: Christian Parenti, a teacher at New York University, Reading Hamilton from the Left..

As the waters rise and the storms grow more intense, the state and the public sector will be called forth. What the state can or will become as it "returns" is an open question — or rather, open to being reshaped by pressure from social movements.

Unfortunately, American society is very far from facing the crisis. And a huge part of the problem is the Jeffersonian notion that "the government that governs best is the one that governs least." While

that is true as regards individual liberty, it is absolutely dangerous to think that way as regards the economy.

Regional Master Plans must become the stay of the land...

To the Delaware Indians, land was an element, a medium of existence, like the air and the sunlight and the rivers. To him "ownership" of land meant, not exclusive personal title to the soil itself, but occupation of a certain position of responsibility in the social unit which exploited the soil. The sale of land might to the Delaware, be almost mutually satisfactory change in the relationship of two groups of persons subsisting on the land. In the earliest sales the Indians seem to have intended only to give the Christians freedom to use the land in conjunction with the native population.

This was very similar to our own early European Land tenure conceptions. It is also relevant to the present state of affairs here in Parsippany. The Land must be recognized for its inherent natural resource and characteristics, not fall to a corporate developers plan that erases this element of its actual life force. The same society that advanced on the notion of individual rights above all else is the same society that robbed others of their lands and rights, its transformation into market systems will do the same to us all in the end.

Waterview Landscape in Parsippany was like an innocent victim being sentenced to prison because of political, not just cause. Its actual character totally ignored because it's location in the Planning Zone. To Parsippany officials; "no problem exist with water at all, and what is good for the region, may not be good for Parsippany" quote of a present Councilman & former Planning Board member.

HCIS/Comment Number: 55128-1

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Highlands Project Review

Comment:

The Council should empower itself, to the extent possible, to grant waivers from the provisions of the RMP where issuing such a waiver can be shown to advance the public health and/or safety and/or promote the general welfare. The ability to grant waivers would be limited to requirements unique to the RMP. In revising the RMP, the Council also has the power to recommend changes to the Act including the recommendation to expand the consideration of waivers from the Act on the basis of promoting the general welfare. Recommended changes to the Act are addressed later in this memorandum.

HCIS/Comment Number: 55128-2

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

Comments : Highlands Regional Master Plan Monitoring Report / Reexamination Issues

**REGIONAL MASTER PLAN:
GENERAL CONTENT**

The Act requires that the smart growth component of the Regional Master Plan (RMP) identify existing developed areas capable of sustaining redevelopment activities and investment [N.J.S.A.13:20-11(6)(a)]. The identification of Existing Community Zones in the RMP only identifies areas that may have additional development potential, pending further study. The RMP falls short of identifying specific areas or sites that are actually capable of sustaining increased development/redevelopment. The first version of the RMP focused significantly on identifying areas where growth should not occur; any revision of the RMP should focus on identifying and expanding areas and sites where growth could occur.

The Act requires also that the smart growth component identify undeveloped areas in the Planning Area which are not significantly constrained by environmental limitations that are located near or adjacent to existing development and infrastructure that could be developed [N.J.S.A.13:20-11(6)(c)]. Specific undeveloped parcels with these characteristics should be identified in the RMP, including those that are near or adjacent to, existing development and infrastructure that could be developed. The Act calls for an identification of developable sites beyond sites already developed, i.e. areas where infrastructure is nearby but does not yet exist, where growth expansion may be accommodated in proximity to existing development. The RMP should be amended to include an analysis showing how Existing Community Zones might be logically expanded to accommodate local/regional economic and residential development needs. The Highlands Council should work with related municipalities on this analysis. Any proposals for additional or increased development should only be included if supported by the subject municipality; i.e. through master plan and/or ordinance reference.

HCIS/Comment Number: 55128-3

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

Objective 6G4b: requires counties to use a Highlands Build-out model or equivalent to prepare a utilities plan element of the county master plan and evaluate available development capacity based on lands, resources and utilities. To the extent this applies to the entire county, the Council should recognize that land use control is not the purview of counties. The Highlands Council (not counties) should evaluate available development capacity for all conforming areas, particularly as the Council will have the final review authority in these areas. In particular, the Council should identify where there is infrastructure in the Existing Community Zone that would allow increases in development/redevelopment, either as part of a RMP amendment or as a stand alone technical document. The availability of capacity should be matched to undeveloped and underdeveloped (as per local zoning) sites in the Existing Community Zones. In Morris County, almost all County-

owned lands in the Preservation Area are parks and recreation facilities or otherwise dedicated public use with no significant development potential. The development of a utilities plan element is unnecessary since any projects meeting Highlands disturbance thresholds in the Preservation Area must be submitted to the Council for its review. Policy 6H3 requires conforming counties to include clustering into site development programs. Counties do not regulate private land development and county land development standards are limited to traffic and drainage. Goal 6I Policies (1 – 3) require counties to include cluster requirements in their design regulations; however, county land development standards do not control the use of private land. County land development standards are limited to traffic and drainage. Policy 6N5 requires counties to incorporate programs for community and neighborhood design that supports a variety of housing options, mixed uses, redevelopment, adaptive reuse of historic sites and structures and infill development in their master plans and development regulations. The Council needs to recognize that counties do not regulate local land use and amend the RMP to remove the mandates pertaining to county regulation of local land use and development. Policy 6N6 requires counties to include community outreach and collaboration from the local population in the development of planning and design regulations. See comment re: Policy 6N5. Policy 7A2 seeks to maximize preservation of Preservation Area properties outside the Existing Community Zone or a Highlands Redevelopment Area "with emphasis on properties with the highest Highlands "Conservation Priority scores." This same language appears in the municipal model Highlands element. If conforming local or county government will be required to use these scores as part of the basis for selecting local open space or farmland preservation applications for approval, this should be clearly indicated in the RMP in unambiguous language.

HCIS/Comment Number: 55128-4

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

Page 335-341 – Housing Affordability - The Council should work with COAH / and or the court appointed equivalent, to develop revisions to the affordable housing rules that would enable greater flexibility and shared housing agreements between Highland Region communities on a voluntary basis to help them meet their affordable housing needs. The reduction on the availability of “developable” land and infrastructure capacity resulting from the Highlands Act, NJDEP Highlands Rules and Highlands RMP should be considered in the determination of housing obligations.

HCIS/Comment Number: 55128-5

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Plan Conformance

Comment:

The introduction of the RMP should acknowledge that not all development or activity in the Highlands is subject to the provisions of the Highlands Act and therefore is not subject to the Highlands RMP or any other mandate, guideline, provision or standard of the Highlands Council. Activities that do not achieve the status of “Major Highlands Development” are exempted by the Act. The 17 specified exemptions from the Highlands Act are similarly not subject to the Highlands RMP or Highlands Council decisions. The Plan should acknowledge up front the limitations of the Highlands Council and those activities that are exempt from the RMP. The recognition of these exemptions is necessary for implementation of the Plan in both the Preservation Area and Planning Area. The RMP should acknowledge that municipalities are required to maintain their underlying non-Highlands plans and development regulations for developments that are exempt from the Act and the RMP.

The introduction should similarly describe the relationship of the Act and the RMP and the various related RMP requirement, e.g. Major Highlands Development, Highlands Applicability Determinations, Highlands Preservation Area Approvals, Highlands Resource Area Determinations, Waivers for Redevelopment, Takings. A partial discussion of these relationships is currently buried at the end of the document.

HCIS/Comment Number: 55128-10

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Land Preservation and Stewardship

Comment:

GOALS, POLICIES AND OBJECTIVES

Objective 1H3c - Concerning Land Preservation, the RMP proposes coordination with NJDEP regarding the review of applications for Green Acres diversions for consistency with the RMP. The language should be amended to ensure that coordination with the RMP is not used to discriminate against Green Acres applications of Planning Area municipalities not conforming to the RMP.

Policy 1H41 recommends establishment of dedicated sources of funding for land preservation and stewardship in the Highlands Region, including a Highlands water use fee. This statement should be expanded to direct that money from this or any such related fee be used exclusively for Highlands land preservation and compensation purposes.

Policy 1I2 requires conforming municipalities and counties to identify and delineate existing preserved open space, including easements. There is currently no comprehensive inventory of easements and few local governments maintain an easement inventory. The Council should develop this inventory or provide funding for its development.

HCIS/Comment Number: 54208-1

Commenter Name: Jim Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Future Land Use

Secondary Topic: Local Participation

Comment:

6. Amount and Type of Development - The plan does not adequately address the requirement of the Act to "determine the amount and type of development the region can sustain" and places a significant burden on the municipalities to develop the details that are necessary to understand the land use and zoning implications of the plan. The plan should be amended to include an estimate of the development potential within each municipality based on the "Land Use Capability Zone Map" and consistent with the resource constraints and capacity limitations in the plan.

HCIS/Comment Number: 54208-2

Commenter Name: Jim Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

9. COAH Compliance - The Township previously followed guidance from the Highlands Council regarding compliance with State Affordable Housing Rules which guidance was subsequently invalidated by the courts. The RMP must provide the Township with a clear understanding and high level of confidence regarding obligations necessary to maintain the Substantive Certification at a time when the future of the States Affordable Housing Rules is uncertain. Even as recently as last year, the rules proposed by the Council of Affordable Housing included municipal obligations that were grossly in excess with the amount of development that can be accommodated by the RMP.

10. Mandatory Clustering -Although the Township supports the use of residential and non-residential clustering where the result would be the retention of farmland consistent with community character and resource protection, we object to mandatory clustering.

The Regional Master Plan allows for relaxation of certain resource protection standards for cluster developments and it is unclear who/how that determination would be made or how/where that would apply. The resulting density may also be inconsistent with maintaining existing community character.

Greenwich Township supports the use of clustering as an option rather than a mandatory requirement within the Agricultural Resource Area which includes most of the Township and only if the resource protection standards are met, in locations and densities that do not relax water quality standards due to individual onsite septic systems, and are otherwise compatible. The conformance documents also provide in part that clustering shall be permitted where necessary to avoid land disturbance activities such as steep slope. The Township does not agree that clustering should be an as of right provision available to any development

anywhere in the township. Clustering should not be applied as a way to circumvent reduced development potential due to steep slopes or other resource constraints. If clustering is used it should be developed at the build out intensity determined by the resource protections standards and only if the majority (eg 80%) of the land area can be set aside as open space under appropriate deed restrictions.

Thank you for the opportunity to provide these comments. We look forward to your response.

Cc: Greenwich Township Committee
Greenwich Township Planning Board
Greenwich Township Highlands Task Force
Jim Adams, Mayor, Greenwich Township

HCIS/Comment Number: 54208-3

Commenter Name: Jim Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Future Land Use

Secondary Topic: Plan Conformance

Comment:

4. RMP Updates/Map Adjustments - As part of its petition, Greenwich Township previously identified several RMP Updates and/or Map Adjustments that were necessary due to errors or omissions in the Highlands RMP that need to be addressed and incorporated into RMP. To date these remain unresolved.

As stated in the Land Use Plan of the Master Plan Highlands Element "All updates shall occur prior to adoption of the Highlands Element". As such the Township cannot proceed with adoption of the Highlands Element until these adjustments are adopted by the Highlands Council and incorporated into the RMP.

Greenwich Township believes that the following specific RMP Updates/Map Adjustments must be made to the Plan before municipal conformance can proceed:

- a) Inclusion of the municipally owned property at Block 26 Lot 2 within the Existing Community Zone in its entirety. Mapping used did not reflect development that had already occurred and the site is intended for use as a future COAH compliance site.
- b) Category 1 stream corridors need to be included within environmentally constrained sub zone.
- c) A developed area known as Stewartsville was placed in environmentally constrained sub zone- which should be reviewed so as to not deter or complicate future expansion of sewer utility to the area to address health and safety concerns.

HCIS/Comment Number: 54109-2

Commenter Name: Carol Ann Short, Esq
Organization: New Jersey Builders Association
Municipality: Hamilton
Primary Topic: Future Land Use
Secondary Topic: Plan Conformance

Comment:

Housing Needs

Ten years after the enactment of the Highlands Act, NJBA remains concerned that the restrictions imposed by the Act, as implemented through the RMP and plan conformance, make housing inaccessible to those who would choose to live in the Highlands Region, but simply cannot afford the high median house values. The Highlands Region is uniquely situated and extremely accessible with three interstate highways that provide access to New York City, upstate New York and Pennsylvania. As such, the Region could be attractive for both business interests and residents. However, it is unclear from the RMP and the Land Use Capability Map where housing and workplaces are actually promoted in the Region.

Children of long-time Highlands residents who are just entering the workforce are unable to afford local housing while earning modest incomes. As a result, the Region is losing its pool of talented younger residents who are forced to leave the Region. Similarly, older residents are unable to downsize to age-restricted housing and remain in their communities due to lack of such housing. There is also a jobs to housing imbalance in the Highlands, for both zoned and developed land, with an inadequate supply of workforce housing, especially for the many employees at the more moderate pay scale. The RMP should strive to ensure workers providing essential services in the Region, such as in schools, hospitals, restaurants, stores, emergency services, etc., are able to find affordable housing in the vicinity of their employment.

HCIS/Comment Number: 54109-3
Commenter Name: Carol Ann Short, Esq
Organization: New Jersey Builders Association
Municipality: Hamilton
Primary Topic: Future Land Use
Secondary Topic: Plan Conformance

Comment:

The Council should better balance the need for homes and jobs with resource protection and identify realistic housing opportunities in the Region. The RMP should be revised to encourage municipalities to meet the housing needs of the full spectrum of New Jersey residents by providing a wide range of housing styles, densities and costs. Beyond promoting mixed-use developments, the Plan should encourage a variety of housing to be developed – town homes, single family detached, and apartments. NJBA also notes the availability of abandoned office space in the Region, which should be examined to determine if they can be repurposed for housing.

Cluster zoning is another approach that has been statutorily approved statewide and allows for more compact developments. This is another avenue the Council could affirmatively support and encourage municipalities to enact. Further, the Council should revise its policy position to

mandate growth by those conforming municipalities that already have the capacity and infrastructure to accommodate development. It is insufficient to require conforming municipalities to simply “evaluate” development and redevelopment opportunities for market-rate and affordable housing. An affirmative responsibility should be placed on conforming municipalities to accommodate development and redevelopment opportunities of market-rate and affordable housing.

HCIS/Comment Number: 84

Commenter Name: Erica Van Auken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

Calls for changes to the Regional Master Plan, such as weakened nitrate dilution standards, reduction of riparian boundary setbacks and smaller lots size requirements in the Preservation Area are all based on a false premise. It is believed that such changes will lead to more development and thus increased tax revenue. This is one of the least realistic arguments against the Highlands Act, the Regional Master Plan and regional planning in general. It concerns so-called “ratables.” Developers allege that Highlands regulations have caused them to look elsewhere for money-making opportunities. A thorough examination of Highlands’ ratable values shows this is not the case. Highlands’ ratables have risen and fallen and risen again in recent years, following the exact same pattern as neighboring areas.

Local and county officials in New Jersey have obsessed about revenue-creating ratables since colonial times. In modern times, ratables have become a panacea for cash-strapped municipalities and counties. The more ratables, the more tax revenue, or so the logic goes. However, such is almost never the case. Decades ago huge utility, industrial or commercial projects gave certain localities like Blairstown and Florham Park very low tax rates. For various reasons such advantages no longer exist. The fact is that the ratables game is fixed and the loser is the residential taxpayer.

A brief check of tax rates in “high ratable” communities which have high percentages of retail, commercial and industrial properties, reveals that tax rates are much higher than high-end residential communities. Commercial and industrial properties are judged for value by assessors, tax boards and the courts by different standards. These business properties are able to take advantage of much higher depreciation rates and thus end up paying less and less in taxes as time goes on.

While many have used the Highlands Act and its regulations as a whipping boy to decry property tax burdens, the fact is, as it is with the real estate market in general, property taxes are no more of a problem in the Highlands than they are outside the Highlands. Moreover, as ratables have not proved to be a cure for property tax woes anywhere in the first place, changes in the rules governing development in the Highlands will not address its taxation problems. Therefore, lower standards in the Highlands would be a costly gesture meant to address a problem that does not exist. This would be planning based on political mythology at a very high price indeed -- which of course is not planning at all.

Response:

The Highlands Council acknowledges and appreciates these comments. The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 54946-2

Commenter Name: none none

Organization: Mansfield Township Land Use Board

Municipality: Port Murray

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

3. Reevaluate existing rules concerning development on or near existing highway/railroad right-of-ways.

Encourage light Industrial I business development along existing access infrastructure.

The Highlands boundaries seem to be arbitrary. They lack foundation in basic and fundamental good planning policy. Specifically, we request that the Highlands reconsider currently drawn boundaries and encourage development along already established highway and railroad right-of-ways. This will enable existing companies to grow appropriately and leverage existing and underutilized infrastructure.

HCIS/Comment Number: 13

Commenter Name: Brian Plushanski

Organization: none

Municipality: Asbury

Primary Topic: Future Land Use

Secondary Topic: Land Preservation and Stewardship

Comment:

To whom it may concern,

Living on the 173 Corridor on the line between Bethlehem and Union Townships for more than 50 years on the stretch of what was once called Old 22 from Clinton to Bloomsbury it has had to watch as the lack of Commercial growth runs down this stretch of hi-way. I understand about the clean water and preservation. But there must be a more relaxed standard put in place for these

Commercial Areas so that they are allowed to prosper. This corridor is suffering. Potential property developers are forced to give up, are scared away or don't even want to try to update, rebuild or build something new because the Highlands Act and with the Governing Bodies being so against any type building the builders just think it is much easier go somewhere else.

This first of two examples is Jugtown Mountain Liquors in Bethlehem Township which about one half mile west of exit 11 on Rt. 173 on the west bound side. Approximately 10 years ago the then owner wanted to update and or build a new building on the same lot. I sympathetically watched and listened to him as he was denied and was not even able to get started after a year. Next they figured they would try and put on a second story and give the place a face lift which took a couple years to be denied. Finally they sold out to someone else who owned it for six or eight years. Not being able to make improvements the new owner could not make a profit so they just closed the doors a couple months ago.

Another example in Union Township is the Shell Gas Station on exit 12. The Design Engineer, RBZ of Clinton told me the Owner has spent over \$120,000 to try and update his place. It is an existing gas station with a small building maybe 30' x40' they have been trying for years to update keeping the same footprint but can't even get started. They want to improve the looks of an existing building, remove the gas pumps make the place nice, give the Township more tax money and after 3 years they can't even get a shovel in the ground. This is not unusual. At this point he is in too deep to stop. This is a big reason why builders are leaving NJ only to be welcomed elsewhere and excavating contractors like myself (Brian Plushanski Const Co) are suffering because of it. I used to employ over 50 operators and laborers and mechanics and now I have just 5 operators and struggle every week just to make payroll. Thanks for listening, Brian P

Response:

The Highlands Council acknowledges that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2).

To that end, the Highlands Act provided 17 exemptions and three (3) waivers to allow for certain types of development in the Region. (A fourth waiver was included in the NJDEP Highlands Rules). In addition, the Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. The RMP’s Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to economic development in the Highlands, the Report will include the appropriate recommendations.

HCIS/Comment Number: 29
Commenter Name: William Meller
Organization: Smolin, Lupin & Co., P.A.
Municipality: Fairfield
Primary Topic: Future Land Use
Secondary Topic: Landowner Equity

Comment:

Why, the program reduced the value of land in the Highlands Preservation area. As the result who will fund my retirement.

HCIS/Comment Number: 54208-4
Commenter Name: Jim Adams, Mayor
Organization: Township of Greenwich
Municipality: Stewartsville
Primary Topic: Future Land Use
Secondary Topic: Land Preservation and Stewardship

Comment:

5. Cost of Land Preservation -The plan does not provide sufficient details regarding the land preservation priorities within the "Protection" and "Conservation" zones, nor does it provide a financial analysis of the cost to preserve these lands as required under the Act. The plan should be amended to include the identification of lands that should be preserved because they lack any development potential due either to resource or capacity constraints. The plan should include the estimated cost necessary to acquire these lands by either fee simple or conservation easement

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the

need to make modifications to the RMP related to landowner equity, the Report will include the appropriate recommendations.

HCIS/Comment Number: 82-3

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

Linear projects can be defined using the definition from the NJDEP's Freshwater Wetlands Rules: ".....land uses such as roads, drives, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission lines and the rights-of-way therefor, the basic function of which is to connect two points. Linear development shall not mean residential, commercial, office, or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads" (N.J.A.C. 7:7A).

The Highlands region is crossed by a series of linear projects that have important environmental consequences if expanded and as new projects are proposed. It is reasonable to expect this to happen given the history of linear projects in the Highlands and the region's strategic location between energy sources and markets.

There should be a presumption in the RMP that the resources of the Highlands should have a higher priority than that currently applied in the facility siting process. The Council should take a firm advocacy role to protect Highlands resources in the current regulatory framework (Federal Energy Regulatory Commission – FERC for electric transmission and interstate gas lines and all of the NJDEP permitting programs).

Additional stress should be placed on resisting open space diversions, intrusion into State owned agricultural easements and other State owned or controlled properties. This effort would be strengthened by several actions:

1. Additional policy and development of definitions around Highlands Act Exemption 11: "(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act". The terms "routine maintenance", "(routine) operations", "rehabilitation", "preservation", "reconstruction", "repair" and "upgrade" and "public utility" should be defined to facilitate the required consistency determination.

2. The exemption seems to indicate that activity is expected to occur on existing rights of way. Policy should be clarified as to the exemption's applicability where new rights of way are proposed.

3. Existing rights of way and appurtenant facilities should be mapped and analyzed to determine Highlands resources that would be impacted by disturbance and/or widening in advance of a proposal.

4. Mitigation Policy: The Council should develop policies related to mitigation that require an alternatives analysis (including the “no build” alternative) and requiring avoidance first, minimization second and mitigation last to address consistency determination requirements. Similar requirements and others can be found in the NEPA rules.

HCIS/Comment Number: 32

Commenter Name: Daniele Basralian

Organization:

Municipality: Chatham Township

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

My family and neighbors are very concerned about the proposed route for the Pilgrim Crude Oil Pipeline -- through many miles of Highlands down Route 287. My biggest concerns are that (1) undetected (and detected) leaks will seriously undermine water quality throughout the Highlands and impact water users inside and outside the Highlands, (2) the construction, existence and maintenance of a crude oil pipeline will further undermine home values and economic development prospects in the Highlands, and (3) There is ZERO benefit of this proposal to the Highlands region, homeowners or businesses. Therefore, THE PROPOSED CRUDE OIL PIPELINE IS ANTI-ETHICAL TO BOTH FOUNDING PRINCIPLES OF THE HIGHLANDS: RESOURCE PRESERVATION AND ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION.

One point of clarification: the Pilgrim pipeline proposal is for TWO pipelines: 18" southbound (carrying Bakken crude oil) and 16" northbound (taking products like diesel) back to Albany. Millions of gallons of crude oil will flow every day. Leaks and ruptures between turn-off valves could be hundreds of thousands of gallons. Most leaks are discovered by residents, not the company (if they are detected at all). We won't get cheaper fuel prices along the way. In New Jersey, we are already at the center of an energy hub and experience some of the cheapest gasoline prices in the nation.

Here are a few data points:

There were 400 reported pipeline incidents with 119,200 Barrels spilled resulting in \$266 Million in Property Damage in 2013. (Pipeline and Hazardous Materials Safety Administration.)

The 10 year average (2004 - 2013) is 631 incidents/year with 97,263 Barrels/year spilled resulting in \$494 Million in Property Damage. (<http://insideclimatenews.org/news/20130911/exclusive-pipeline-safety-chief-says-his-regulatory-process-kind-dying>)

Between 1990 and 2007 oil pipelines spilled two to three times more oil than barges. (Forbes Magazine April 2014)

Between 1996 and 2007 pipelines spilled more than two to three times as much oil as trains.
(<http://www.forbes.com/sites/jamesconca/2014/04/26/pick-your-poison-for-crude-pipeline-rail-truck-or-boat/>)

We should visualize that this is what oil pipeline leaks can look like:

<https://www.google.com/search?q=oil+pipeline+leak&client=firefox-a&hs=y0e&rls=org.mozilla:en-US:official&channel=fflb&tbm=isch&tbo=u&source=univ&sa=X&ei=ENVeVLY-Doa1sQST3oDADQ&ved=0CEEQsAQ&biw=1509&bih=761>

Thousands of oil spills nationwide go unreported to the public. Laws permit this. Example from one state:

<http://www.usatoday.com/story/news/nation/2013/10/25/north-dakota-oil-spill/3189101/>

Oil pipeline safety regulations are incomplete and often lax. We cannot entrust our water security and our special towns to them. <http://www.propublica.org/article/pipelines-explained-how-safe-are-americas-2.5-million-miles-of-pipelines>

Even after disruptive pipeline construction, major maintenance projects and disturbance cause strain on homeowners and impair property values. While this is bad enough, it is nothing compared to the risk of leaks in two massive new oil pipelines through our towns and water supplies.

Here is a list of 40 of the many U.S. oil and oil products pipeline spills in the past 5 years for reasons including lightning, corrosion, faulty parts, improper construction, and landowner mistakes. (It appears that my reference footnote links are not working in this Comment format, but the links work here:

http://en.wikipedia.org/wiki/List_of_pipeline_accidents_in_the_United_States_in_the_21st_century"
2014.

On October 13, a Sunoco/Mid-Valley crude oil pipeline ruptured, and spilled about 168,000 gallons of crude oil in Caddo Parish, Louisiana.

On August 20, about 100 gallons of crude oil spilled from a pipeline at a tank facility at the Port of Albany in Albany, New York. Workers on a routine inspection of the above-ground pipeline noticed oil spraying out of a faulty gasket and shut off valves.[471]

On May 6, Sinclair Oil Company pipeline detected a pressure drop on a pipeline, with the problem being traced 2 days later to a leak in Knox County, Missouri. A mixture of gasoline and diesel fuel contaminated soil on a farm.[467]

On March 18, a 20-inch Mid-Valley Pipeline Company pipeline failed in Hamilton County, Ohio, spilling at least 364 barrels of crude oil into the adjacent Oak Glen Nature Preserve.

On March 6, contractors working for Shell Oil Company hit Shell's Houston-to-Houma (Ho-Ho) crude oil pipeline near Port Neches, Texas, spilling 364 barrels of crude oil.[456]

2013

On December 20, a Sunoco pipeline was found leaking gasoline, near Coal Township, Pennsylvania, from external corrosion. The initial spill size was reported as 2 gallons, but, later on, 480 tons of soil were removed as part of the remediation of that leak.

On October 29, a Koch Industries 8-inch pipeline spill about 400 barrels of crude oil near Smithville, Texas. The oil polluted a private stock pond and two overflow reservoirs.[440]

On October 7, authorities were notified of a Lion Oil Trading and Transportation crude oil pipeline leak in Columbia County, Arkansas. It was estimated that the leak started on September 21. Oil spread into a Horsehead Creek tributary.[436]

On August 14, A leak developed on a valve on Longhorn Pipeline in Austin, Texas during maintenance, spilling about 300 gallons of crude oil.

On July 26, a leaking BP 20-inch crude oil pipeline spilled 50 to 100 barrels of crude oil in Washington County, Oklahoma. Some of the crude spilled into a drainage ditch leading to a water reservoir.[427]

On July 23, a downed 13,000 volt power line sparked a massive gas fire in Mamaroneck, New York when a gas main was damaged by the electricity. 3 automobiles were destroyed, and homes were threatened for a time

On March 29, ExxonMobil pipeline carrying Canadian Wabasca heavy crude from the Athabasca oil sands ruptured in Mayflower, Arkansas, about 25 miles northwest of Little Rock. Approximately 12,000 barrels (1,900 m³) of oil mixed with water had been recovered by March 31. Twenty-two homes were evacuated.[1] The United States Environmental Protection Agency (EPA) classified the leak as a major spill. A reported 5,000–7,000 barrels of crude were released. [39]

On March 18, a Chevron 8-inch petroleum products pipeline ruptured along a seam, spilling diesel fuel into Willard Bay State Park near Ogden, Utah.
2012

On November 20, about 38,000 gallons of crude oil spilled from an Enbridge pipeline at a tank farm in Mokena, Illinois.[388][389]

An Enbridge crude oil pipeline ruptured in Grand Marsh, Wisconsin, releasing an estimated 1,200 barrels of crude oil. The pipeline had been installed in 1998. Flaws in the longitudinal welds had been seen during X-ray checks of girth welds

On July 17, a West Shore Pipe Line petroleum products pipeline burst near Jackson, Wisconsin, releasing about 54,000 gallons of gasoline. At least one family self evacuated due to the leak. At least 44 water wells nearby were contaminated from benzene in the gasoline, including a municipal well. A LF-ERW seam failure was suspected as the cause. Further testing revealed that at least 26 other areas on this pipeline needed repairs, with 22 within the Jackson Marsh Wildlife Area

On April 28, an ExxonMobil 20/22-inch-diameter pipeline ruptured near Torbert in Pointe Coupee Parish, Louisiana, about 20 miles west of Baton Rouge, and crude oil spilled into the surrounding area, and flowed into an unnamed tributary connected to Bayou Cholpe. About 117,000 gallons of

crude were spilled, with about 37,000 gallons being lost. The pipeline failed due to a manufacturing defect

On March 17, a crude oil pipeline leaked near Grand Isle, Louisiana on March 17, spilling as much as 8,400 gallons of crude oil.

On February 15, 2012, in Arenac County, Michigan, oil was discovered in the soil around a 30-inch Enbridge crude oil pipeline.

On January 18, the original Colonial Pipeline mainline failed in Belton, South Carolina, spilling about 13,500 gallons of petroleum product. The failure was caused by internal corrosion.

On January 12, a Sunoco pipeline ruptured and spilled about 117,000 gallons of gasoline in Wellington, Ohio, late on January 12. Some residents were evacuated for a week
2011

On December 10, a landowner using a bulldozer hit an 8-inch and a 12-inch petroleum pipelines near Nemaha, Nebraska, rupturing both lines. The spill size was estimated to be 119,000 gallons of gasoline, jet fuel, and diesel fuel. Some of the fuels flowed into a creek leading into Jasper Creek.
[330][331][332][333]

A 2-inch crude oil gathering pipeline failed in Oklahoma on October 12, spilling about 120 barrels of oil.

On September 20, a landowner digging to lay drainage tile hit a 10-inch gasoline pipeline near Aurelius, New York, spilling about 3,300 US gallons (12 m³) of gasoline.

On August 31, a pipeline carrying heating oil was hit by construction workers in East Providence, Rhode Island, spraying oil on roofs, trees, and pavement, and flowed into storm drains. At least 56,000 US gallons (210,000 L) of oil were spilled.[314]

On July 1, a 12-inch Exxon Mobil crude oil pipeline, also known as the Silvertip Pipeline, ruptured, and spilled 60,000 gallons of oil into the Yellowstone River in south-central Montana. There was confusion in the pipeline control room, causing a delayed pipeline shutdown. Some residents of Laurel, Montana had to be evacuated.[296][297] The break near Billings fouled the riverbank and forced municipalities and irrigation districts to close intakes.[298][299]

On July 1, a 2-inch lateral on a crude oil pipeline rupture in Huntington Beach, California. A major road, Goldenwest Street, had to be closed for cleaning and pipeline repairs.[295]

On May 19, a 10-inch crude oil pipeline ruptured near Maysville, Oklahoma. Over 42,000 US gallons (160,000 L) of crude were lost. There was no fire. Internal pipeline corrosion was the cause.[293][294]

On May 7, a threaded connection failed on a Keystone Pipeline pump at a station in Sargent County, North Dakota, spilling about 400 barrels of crude oil. Due to a number of other leaks on this pipeline system, Keystone's owner, TransCanada Corporation, was given a Corrective Action Order by PHMSA.[291]

April 13, a farmer and rancher near White Oak Township, Michigan smelled gasoline on April 13, and discovered gasoline from a products pipeline leaking into a drainage ditch. As of late September,

an estimated 460,000 gallons of gasoline had been released, with about 111,000 gallons of it recovered.[290]

On February 24, a pipeline near Texas City, Texas ruptured, sending up to 5,000 US gallons (19,000 L) of gasoline into Bayou Pierre.[283][284]
2010

On December 21, a crude oil pipeline was discovered leaking into the Dominguez Channel in the Port of Los Angeles, California. Over 1,000 gallons of crude oil was recovered, but the pipeline company was alleged to have failed to report the spill to State or Federal pipeline authorities. A 61 count criminal complaint was later filed in this accident.[267]

On December 14, a pipeline leaks crude oil near Lockport, Illinois. EPA officials say the spill is near wetlands that house several endangered species. Federal officials say about 21,000 US gallons (79,000 L) of oil were released in Lockport and Romeoville, about 35 miles (56 km) southwest of Chicago.[265]

On December 1, a valve on a crude oil pipeline leaked about 500 barrels (79 m³) of crude in Salt Lake City, Utah. This failure was only 100 yards from a June 2010 failure on the same pipeline.[263]

On August 10, the U.S. Environmental Protection Agency (EPA) and the Justice Department announced that Plains All American Pipeline and several of its operating subsidiaries have agreed to spend approximately \$41 million to upgrade 10,420 miles (16,770 km) of crude oil pipeline operated in the United States. The settlement resolves Plains' Clean Water Act violations for 10 crude oil spills in Texas, Louisiana, Oklahoma, and Kansas, and requires the company to pay a \$3.25 million civil penalty.[247]

On July 26, Enbridge Energy Partners LLP (Enbridge), reported that a 30-inch (760 mm) pipeline belonging to Enbridge burst in Marshall, Michigan. Enbridge had numerous alarms from the affected Line 6B, but controllers thought the alarms were from phase separation, and the leak was not reported to Enbridge for 17 hours. Enbridge estimates over 800,000 US gallons (3,000,000 L) of crude oil leaked into Talmadge Creek, a waterway that feeds the Kalamazoo River,[241][242] whereas EPA reports over 1,139,569 gallons of oil have been recovered as of November 2011.[243]

On June 12, a Chevron crude oil pipeline, damage by lightning, ruptured, causing 800 barrels (130 m³) of crude to spill into Red Butte Creek in Salt Lake City, Utah. Crude then flowed in a pond in Liberty Park.[239]

On May 23, a BP pipeline carrying gasoline leaked nearly 93,000 US gallons (350,000 L) into a farm field over the Memorial Day weekend. The leak occurred in Constantine Township, St. Joseph County, Michigan.[31][235]

On April 5, a crude oil pipeline ruptures near Green River, Wyoming, on April 5. At least 84,000 US gallons (320,000 L) of crude were spilled. Corrosion in the pipeline was the cause.[31]

On March 1, Mid-Valley Pipeline identified a release of crude oil in the manifold area of the Mid-Valley tank farm in Longview, TX. Crude oil was observed “gushing” from the soil in the manifold area, and 198 barrels of crude oil were estimated to have been released and 196 barrels were recovered from the secondary containment area within Mid-Valley's site.[232]

On January 2, Enbridge's Line 2 ruptured near Neche, North Dakota, releasing about 3,784 barrels of crude oil, of which only 2,237 barrels of were recovered. The cause was a material defect.[225][226]

HCIS/Comment Number: 33

Commenter Name: Daniele Basralian

Organization:

Municipality: Chatham

Primary Topic: Future Land Use

Secondary Topic: Landowner Equity

Comment:

Consistent with the longer comment just submitted, I would like to emphasize that oil pipelines pose very different risks from gas pipelines. Oil pipeline leaks ooze and flow -- they do not dissipate the way natural gas leaks do. As a result they are very likely to badly pollute rivers, aquifers, soil, roads, businesses and homeowners' yards. This is another reason why the Pilgrim Crude Oil Pipelines proposal is consistent with BOTH tenets of the Highlands: resource protection AND economic development.

Under no circumstances should a massive double crude oil pipeline be permitted to traverse the Highlands. The Regional Master Plan should be updated to be very clear on this point, and leave no loopholes through which such a pipeline can feed through.

Response:

The Highlands Act and the NJDEP Highlands Rules require coordination between the Highlands Council and NJDEP regarding certain projects within the Region. The Highlands Act provides NJDEP with regulatory authority over what it defines as "major Highlands development" in the Preservation Area (C.13:20-3). In the Planning Area, NJDEP Rules (N.J.A.C. 7:38) call for the Highlands Council to review and comment on proposed projects in the Highlands Region. N.J.A.C. 7:38-1.1(j) states that: "For both the planning area and preservation areas, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in making permit decisions that provide relief from strict compliance with the standards of the applicable permit programs, such as making a determination of public benefit or hardship waiver from certain Departmental permits." All permitting in the Highlands Region is through NJDEP; the Highlands Council does not issue permits. The RMP includes extensive cross-references to the NJDEP Highlands Rules in the project review section in Chapter 6.

In the case of linear development projects such as pipelines and transmission lines proposed to be constructed through the Highlands Region, the Highlands Council has limited authority, in an advisory capacity, to provide comments and recommendations to NJDEP for the protection, minimization and mitigation of impacts to Highlands resources. If the project qualifies for an exemption from the Act and Rules, under the definition of Exemption #11, the Highlands Council has more of a jurisdictional role in determining whether or not the project is consistent with the goals of the Highlands Act. Again, this is a

coordinated review with NJDEP and is provided in the form of a Consistency Determination.

The Highlands Council cannot make determinations based upon proposed need of a project, source of transmitted product, destination of product or the public utility status of an applicant.

HCIS/Comment Number: 55128-8

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Transfer of Development Rights

Comment:

The discussion of landowner equity (pages 124-126) hinges largely on the promise of the Transfer of Development Rights concept included in the Act and unfulfilled promises of increased funding from Trenton for the preservation of lands in the Highlands Region. Since 2004, not one community anywhere in the State of New Jersey has chosen to become a “receiving community” for Highlands Development Credits, despite a number of communities conducting TDR cost benefit analysis with grants from the Highlands Council. The RMP should recognize that the concept of TDR to produce meaningful compensation has been a failure and at best, may someday play a minor role in addressing equity, and that a steady funding source dedicated to compensating Highlands Preservation Area landowners for the significant reduction in their properties’ value must be addressed by the State Legislature.

HCIS/Comment Number: 40

Commenter Name: Warren Evanko

Organization:

Municipality: Glen Gardner

Primary Topic: Future Land Use

Secondary Topic: Landowner Equity

Comment:

New Jersey residents,

Please find the following information. I was born and raised in New Jersey. My Father was selected to the 1966 Constitutional Convention for New Jersey and incorporated two major cities in New Jersey. I was born and raised to believe that certain rights would always be held by citizens of the United States. Perhaps the most significant right was that of land ownership. Indeed our forefathers recognized the utmost importance of land ownership as a way of creating a commitment to this great country. Twelve years ago the Highlands discussion began. I attended every meeting that asked for public comment especially those that occurred in Patterson New Jersey. I was offered engineering information that at best could be described as "dubious". I listened to repeated

individuals testifying that indeed I did not own my property. I was just a "renter" because we all die sometime. I was told my property did not belong to me it belonged to the state. Having an engineering background I inspected the information provided and found all of the documentation was based on speculative criteria surrounding ground water and its percolation migration. I was shocked to learn that the most stringent criteria would be placed on certain areas in the designated Highlands zone, while zoning requirements of central New Jersey areas would be relaxed to make up for the "lack of development". That additional development would create a draw on the resevoirs that required time to back up the flow of water to create a percolation rate that would provide clean water. Clearly the Highland's was not about clean water. I questioned how an entire township with the most difficult DEP stream, river, steep slope, wetlands frontage requirements and now ten acre zoning could now be concieved as having the possibility for overdevelopment. Indeed Lebanon Township prior to the Highlands would have seen less than 400 total homes constructed in it parameters because of the already excessive DEP regulations. It became clear that the Highlands was little more than a political movement set forth to squash growth and asset accumulation in districts that did not emmulate Governor McGreevy. I confirmed the same with his chief of staff that I attended school with. Sadly this process was wrapped in a veil of "keeping water safe". When political parties suggest they will keep their constituency safe from themselves that is when we are no longer a democracy. The Highland's provision is a land grab nothing more. New Jersey now finds itself governed by a gentleman that will make the platform of his presidency personal freedoms and restricted government intervention. How will that be possible in a state where the largest single land grab by a government body ever has occurred and not been rectified. Our planning boards mean nothing. Local officials are now meaningless. We have no rights as owners in the Highlands. Sadly the community itself is now dying. Our atndance rates to schools have plummeted. It will not be long until we have to keep all facilities operating with no new young families to support the existing infrastructure. We will have the largest chipmunks anywhere but no community to share it with. I am an advocate for human beings, specifically good taxpayers in the state of New Jersey. I am ashamed at the complacency of my generation to have allowed themselves to have their rights removed. Thank You

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 million toward preservation and landowner equity.

In addition, the Highlands Council has consistently supported a dedicated source of funding to support protection of the important watershed lands of the Highlands Region (Resolutions 2005-18, 2006-22, 2008-13, 2009-51, 2013-10). Those efforts are ongoing and

will likely be incorporated into the RMP Monitoring Program and ongoing Highlands Research and Science Agenda.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to landowner equity, the Report will include the appropriate recommendations.

HCIS/Comment Number: 83

Commenter Name: David Peifer

Organization: Association of New Jersey Environmental Commissions

Municipality: Mendham

Primary Topic: Future Land Use

Secondary Topic: State Agency Coordination

Comment:

At numerous the Highlands Water Planning and Protection Act and the RMP anticipate cooperation between the Highlands Council and the State Planning Commission. The Act alone contains 19 references to the State Planning Commission. Many of these have to do with redevelopment, TDR and economic development aspects of the Highlands. Due to the dysfunctional nature of the State Planning Commission, the failure to periodically update the 2001 State Development and Redevelopment Plan as required by statute, and the failed attempt to substitute a brief State Strategic Plan for the SDRP, these interactions are not taking place as required or anticipated by the RMP. The statutory obligations for interaction with the State Planning Commission should be analysed and Specific procedures must be developed to provide functions analogous to those required by statute.

HCIS/Comment Number: 52062

Commenter Name: Barbara Sachau

Organization:

Municipality: None provided

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

the highlands act should not be meddled with. it should stand as written. the whiners are simply that whiners, who want to do the rest of nj in.

we all have an obligation to make sure water is there for the state. I do not understand why 4 people were appointed who seem to be those in favor of cutting up the highlands act into pieces.

I am against the creation of this 4 member council with preexisting ideas that they have. this

comment is for the public record.

HCIS/Comment Number: 56

Commenter Name: Bill Asdal

Organization: Asdal Management, llc

Municipality: CHESTER

Primary Topic: Future Land Use

Secondary Topic: Landowner Equity

Comment:

The Highlands Commission and empowerment, sold as water preservation, has not built one reservoir, not added 12" of pipe distribution nor made it rain. In short, Nothing has been done on the premise of the law or commission. It goals vacated, the commission and law should be withdrawn and vacated. The short term damage and destruction is nothing short of a planning disaster for the future of the area,

Response:

The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

HCIS/Comment Number: 54109-1

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Future Land Use

Secondary Topic: Plan Conformance

Comment:

Land Use Capability Map

The statutorily mandated Land Use Capability Map ("Map") could be a useful tool to provide a framework for regional planning and identify areas suitable for development and redevelopment. Unfortunately, the Map is environmentally oriented with a stagnant picture for the future. The RMP describes the "Existing Community Zone" depicted in the Land Use Capability Map as "those areas characterized by existing development with comparatively fewer natural resource constraints than the Protection and Conservation Zones; they often are currently or more easily served with public infrastructure. The Existing Community Zone includes previously developed lands of regional significance in size, geography and infrastructure that may include areas of opportunity for future growth and development, including development and redevelopment which may involve the use of Highlands Development Credits (HDC), provided that such growth and development are consistent and compatible with existing community character, natural resource constraints and is desired

by the municipality.” (RMP, page 188)

However, there are very limited amounts of vacant and developable acreage – only 16,000 acres (11%) of a total of 145,682 acres defined as Existing Community Zone. This represents less than 2% of Region’s entire land area as available for development

The Council should re-examine these defined areas to identify other opportunities to achieve the statutory goals for the RMP to “encourage, consistent with the State Development and Redevelopment Plan and smart growth strategies and principles, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth...” (Section 2.) Ultimately, the RMP should be revised to ensure the Existing Community Zones have significant amounts of vacant and developable acreage. The Council also has the duty to promote brownfields remediation and redevelopment in the Region. Overall, the RMP should be amended to remove vague language that the Council would “encourage” such development and instead incorporate specific actions to be taken, as we are well beyond the initial phases of Plan Conformance and RMP implementation.

Response:

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to Land Use Capability Zones, the Report will include the appropriate recommendations.

HCIS/Comment Number: 6

Commenter Name: Joe McKenzie

Organization:

Municipality: Wayne

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

I don't think I need 20,000 characters to stress the importance of protecting our water supplies, associated open spaces and wildlife habitat. Encouraging the re-development of our already developed, and too often not well utilized properties is a far better move. I support that the Highlands Act remain as is and continues to protect our valuable resources for generations to come.

HCIS/Comment Number: 9

Commenter Name: Gary Oppenheimer

Organization:

Municipality: Newfoundland
Primary Topic: Future Land Use
Secondary Topic: Protection of Highlands Resources

Comment:

As someone who lives in the middle of the Highlands Preservation, I want to go on record as stating that I am strongly in favor of the Highlands Act and the preservation it provides. Like death from a thousand cuts, every new house, every new development and every new encroachment in the area only serve to reduce the quality of the environment and the water. If people want to invest in land for building, I urge you to redirect them to the blighted areas of our cities and rebuild them.... and when they do, we'll have the clean water they'll be needing.

HCIS/Comment Number: 11
Commenter Name: carolyn masone
Organization:
Municipality: Riverdale
Primary Topic: Future Land Use
Secondary Topic: Protection of Highlands Resources

Comment:

Keep the Highlands Act the way it is. It benefits all New Jersey residents. It protects our critical water supplies, reduces flooding, and preserves wildlife habitat through sensible limits on development. The Act is promoting the healthy future of our state.

Please leave the Act alone. Please don't weaken it.

HCIS/Comment Number: 45
Commenter Name: Kenneth Malkin
Organization:
Municipality: Hillsdale
Primary Topic: Future Land Use
Secondary Topic: Protection of Highlands Resources

Comment:

As one who has lived in a suburban community for 46 years, and one who loves to hike and enjoy the outdoors, I believe that the Highlands Council must take the value of those experiences into account as much as a developer's right to a profit. The Council knows how difficult it is to set a value on the affect open spaces has on the emotional health of every individual, but I believe it is fair to say that our mental hospitals would be much fuller without them. This is a value that may be difficult to measure, but is none the less as tangible as the use of these open spaces for development.

Response:

The Highlands Council acknowledges and appreciates this comment.

HCIS/Comment Number: 75

Commenter Name: Helen Heinrich

Organization: NJ Farm Bureau

Municipality: Trenton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

The RMP Goals and Policies for Highlands forest protection are very inadequate starting with the limited indicators being used (tract size, adjacency). For starters indicators that should be used:

Number of Woodland Management Plans for Highlands forested properties approved by the State Forester, number of acres managed under them; number of Forest Stewardship Plans developed or in progress for Highlands forests; number of wildlife management plans required of conforming municipalities; list of NJ Fish and Wildlife Deer Management Zones covering Highlands forests; deer management bag limits for each such zone; change in populations of wildlife not using core habitat, using edges, cleared areas (early successional vegetation); number of plans being implemented required by the RMP and acres covered by such as Forest Management Plans, Forest Mitigation Plans, Community Forest Management Plans.

Given the importance of Highlands forestland to water protection, forest condition, health must be assessed and monitored: effects of insects and diseases; destruction of woodlands by several large storms since 2008; status of invasion by exotic vegetation. Health forests protect water, not ones weakened by these factors. NJ Forest Service must have this data for state lands. Reservoir lands have had Woodland Management Plans for decades with professional foresters protecting and enhancing their health.

HCIS/Comment Number: 99

Commenter Name: Helen Heinrich

Organization: NJ Farm Bureau

Municipality: Trenton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

RE: sustainable economic development: The Council must make sure municipal and county economic development agencies and plans include agricultural businesses and ag labor needs, ensuring that such boards/plans include representative farmers and farm agency personnel. Viable agriculture could be an economic engine for a community. Include also agri-tourism venues with supporting zoning etc.

Re:Protection of Highlands natural resources: The Council must reassess whether forest resource policies are scientifically valid ways to protect & enhance the resource, ask the US Forest Service to update its earlier assessment of Highlands forest health, and ability to provide forest protection and ecological services. Many acres have had their value and functions diminished by storms, insect

damage, erosion, takeover by invasive plant species, and deer depredation, thus reducing the forest resource's ability to protect the water resources.

The Council must incorporate state and private data on wildlife populations (deer, bird species) from Deer Management Zone harvest totals and bird species counts such as the Xmas Counts and World Series of Birding to be fully informed about what the RMP is doing to increase or diminish these resources.

HCIS/Comment Number: 82-2

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

The Highlands Act at Section 11 (6) specifically authorizes the Council to include energy considerations in the RMP, specifically in the Smart Growth section. We note that at present there is no energy section included. We strongly recommend the development and inclusion of such a section.

An overall energy audit of the region should be conducted to assess the baseline consumption of stationary and mobile energy and a “carbon footprint” developed. (See:

<http://www.sustainablejersey.com/actions-certification/actions/#open/action/24>)

Electrical generation facilities (including renewables) and electrical transmission system (>69kV) as well as other linear energy facilities (e.g., natural gas pipelines) should be mapped.

Goals, policies and objectives should be developed that: harmonize with the New Jersey Global Warming Response Act (P.L. 2007, ch. 112), facilitate the improvement of energy efficiency in all sectors, encourage load management, facilitate and control the development of renewable sources (solar, wind, geothermal and small scale hydro (< 3 MW)).

Specifically, priority should be given to large scale solar facilities that are located on existing rooftops, over existing impervious surfaces, on remediated brownfields, and in areas of highly disturbed ground, (e.g., quarries, gravel pits). Facilities should be dissuaded or prohibited from lands that are largely forested, farmland of Statewide, local or unique importance, contain hydric soils, wetlands, transition areas, riparian zones, slopes over 15% or Highlands waters, contain Threatened or endangered species habitat, or are open waters. In areas planned for residential or commercial development, facilities should be allowed as accessory uses on rooftops and over impervious surfaces. Ground mounter facilities should be prohibited in areas zoned for affordable housing, but should be permitted in industrial zones on parcels >25 acres. (See ANJEC’s Resource Paper, “Solar Siting and Sustainable Land Use” <http://www.anjec.org/pdfs/SolarWhitePaper2012.pdf> for some guidance on utility scale solar facility siting).

While development of renewable energy is highly desirable, conflicts will arise. For example, large utility scale (>10 MW) solar proposals may conflict with other Highlands policies like agricultural preservation, forest removal, scenic objectives. Wind energy development has the potential to conflict with wildlife considerations and scenic objectives while small hydro may conflict with historic resources, water quality and aquatic biological concerns.

Overall greenhouse gas reduction policies, based on the Global Warming Response Act, should be adopted for the region.

Response:

The Highlands Council will consider each proposed indicator for use in evaluating the Highlands Regional Master Plan.

HCIS/Comment Number: 55128-6

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: State Agency Coordination

Comment:

The NJDEP and the Planning Area

The Act requires the NJDEP to adopt rules, regulations, environmental standards and permitting procedures for the Preservation Area of the Highlands, stating specifically that they should not be applied in the Planning Area. (C.13:20-31) The clear intent was that the Act and the RMP apply to the Preservation Area only unless a municipality or county in the Planning Area chose to voluntarily conform.

However, the NJDEP adopted Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38 et seq.), which also include an intent by the NJDEP to not issue “any approval, authorization or permit” for the Planning Area where the Department determines that it would be incompatible with the resource protection goals of the RMP [7:38-1.1 (h)]. This restriction is inconsistent with the intent of the Highlands Act.

No state agency, including the NJDEP, should be allowed to amend its permitting or regulatory policies to require consistency with the RMP in the Planning Area or apply amended provisions unless a Planning Area municipality has voluntarily conformed to the RMP, and then, only for as long as the municipality agrees to maintain that conformance. Morris County’s position in this was expressed in Freeholder Resolution #35 in July of 2008.

Response:

The Highlands Act provides NJDEP with regulatory authority over what it defines a “major Highlands development” in the Preservation Area (C.13:20-3). All permitting in the Highlands Region is through NJDEP; the Highlands Council does not issue permits. However, the Highlands Act requires coordination between the Highlands Council and NJDEP regarding certain projects within the Region. The RMP includes extensive cross-references to the NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) in the project review section in Chapter 6.

HCIS/Comment Number: 55128-7

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: State Agency Coordination

Comment:

Stormwater Management/Pervious Pavement

As part of the low impact development program, the RMP recommends the use of pervious pavement to improve groundwater recharge. (Page 346) Since the Highlands Act and the NJDEP Highlands rules treat pervious pavement as impervious surface, the RMP should recommend a change in the Highlands Act and NJDEP definition of impervious surface that would support the use of pervious pavement. Under the current definitions, there is no benefit to be gained by a developer for its use, so it is unlikely to be employed, despite the advantages noted in the RMP.

Response:

The definition of “impervious surface” is found in the Highlands Act (P.L. 2004, c.120). The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7. In addition, the RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 55128-9

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Future Land Use

Secondary Topic: Transfer of Development Rights

Comment:

Policy 7B7g calls for review and assessment of the Highlands TDR Program five years after adoption of the RMP. Has there been an evaluation of the Highlands TDR program? If so, the findings should be appended to a revised RMP.

Response:

The Highlands Council is proposing to include a number of indicators related to the Highlands TDR Program as part of the monitoring program.

HCIS/Comment Number: 54232

Commenter Name: David K. Dech

Organization: Warren County Planning Department

Municipality: Belvidere

Primary Topic: Future Land Use

Secondary Topic: Transfer of Development Rights

Comment:

Future Land Use

Transfer of Development Rights

According to the Highlands Planning and Water Protection Act at N.J.S.A. 13:20-8 Preparation, adoption of master plan for the Highlands Region, it reads:

8. a. "The council shall, within 18 months after the date of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings. The council shall not adopt the regional master plan unless it recommends

receiving zones in the planning area and capacity therefor for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this act."

And then according to the Act at N.J.S.A. 13:20-13 it reads "The council shall set a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area."

The Plan states on page 353 that 17,776 acres are to be identified to meet this statutory goal.

However

the current plan has "identified" only 12,980 acres equating to approximately 3% of the planning area

12,000 acres are redevelopment and infill areas, and 980 acres are considered greenfields. The plan falls

4,796 acres short of the statutory requirement. In addition, the areas mapped are inaccurate and inappropriate. Using Belvidere as an example, the Courthouse, Annex, the Third Street School, the Catholic Church, the High School, etc. have been identified for redevelopment and infill possibilities.

How can the Highlands Regional Plan identify these buildings/areas for redevelopment/infill when they are used currently for essential county, school, and religious activities. The surrounding land area around the building are athletic fields, parking lots, and small green spaces. Yet these lots are being used in the calculation to meet the 4% land area goal for receiving zones.

Belvidere is not the only example. One can look at Hackettstown, Washington Borough, and Phillipsburg. It is apparent that no meaningful attempt was made to identify land appropriate for receiving zones for TOR. Page 354 states that it will rely on the plan conformance process with municipalities to identify the remaining additional lands. This statement is not consistent with the intent of the Act for two reasons. The first is that the statement assumes the areas identified as part of the 4% are appropriate for development. The second is that the Act does not say to identify a portion of the 4% and then identify the remaining lands during plan conformance.

Question #35. The Plan was adopted before it met this statutory requirement. What efforts are being made to identify viable receiving zones to remedy this statutory insufficiency before the next RMP is adopted?

Question #36. Has the Council advised the Legislature of the inconsistencies with the Act, and the need to remedy the insufficiencies in this statutory mandate?
Clustering

The Highlands Plan's policies specify that clustering is to take place on a parcel where 80% of the remaining land area is to be left vacant for agricultural, environmental, open space purposes. The plan states further that the development should take place on no more than 10% of the parcel. While it is understood that the goal is to prevent complete coverage of lands and to protect and preserve vital agricultural and environmental features, it seems that placing the 80% and 90% restrictions on new clusters would tend to discourage clustering rather than encourage it.

Question #37. Rather than being so rigid in the clustering standard what provisions will be included in the RMP to provide flexibility in the clustering standards to avoid going through a lengthy waiver process?

According to the RMP, the median HUC 14 nitrate concentrations measured in the Highlands region range from .17mg/I to 3.Gmg/I are well below the Federal public health standard. The Warren County Strategic Growth Plan used 2 mg/I which is five times more stringent than the Federal public health standard and was considered to be an acceptable model assumption to protect groundwater resources, and has been adopted for use in statewide application by NJDEP. In addition, the County's Strategic Plan suggested alternative septic systems that promote a denitrification process that provides for a

further reduction in nitrates and allows septic system densities to be much less. These systems will help promote clusters

Question #38. How will the RMP promote the use of alternate septic systems and denitrification systems to promote clustering on smaller lots?

Clustering and Nitrates

The following wording appears in the Plan.

Objective 2L2e: New residential development using septic systems where clustering or conservation design techniques are employed shall have a gross density (for all parcels involved in the development proposal) based on the nitrate dilution target appropriate for the Land Use Capability Zone, but with the density for the developed portion of the site based on a nitrate dilution target not to exceed 10 mg/L or any more stringent requirement as required by N.J.A.C. 7:15.

It seems like a conflict in the application of scientific principles. The 25 acre and 88 septic densities are used in the preservation area because of the purported desire to maintain or restore water quality to a pristine condition for drinking. Yet in a cluster, while the overall density of the cluster is to remain at the level established in the Protection, Conservation, or Existing Community Zone, the developed portion of the site may be built on lot sizes based on a nitrate dilution model using the 10mg/I standard. This sets a standard where nitrates may be higher in clusters and that human consumption of higher nitrates living in clusters is acceptable.

Question #39. If it is acceptable to drink water with up to 10mg/I nitrates in a cluster, why not use that standard when modeling water quality Statewide?

Question #40. Why do nitrates introduced at a cluster in a watershed have less impact than nitrates introduced in a non-cluster in a different location in the same watershed?

Question #41. Is there any indication that septic nitrate inputs for a single family varies in impact on overall water quality based on whether it is located in a planning or preservation zone?

Response:

It has been determined that the Highlands Council's identification of potential receiving zones in the Regional Master Plan complied with the requirements of the Highlands Act

regarding the establishment of TDR Receiving Areas (In re Highlands Regional Master Plan, 24 A. 3d 314 - NJ: Appellate Div. 2011).

Regarding nitrate limits, the Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the *Water Resources Technical Report – Volume I*. The RMP also included a Water Resource and Ecosystem Science Agenda, which outlines additional research into improved ambient nitrate concentration estimates. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

Overall, the RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 46

Commenter Name: John Cummins

Organization:

Municipality: Hackettstown

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

Dear Council,

Over the past ten years we have watched the Highland Act cut into our way of life! Over those ten years we have seen lack of controlled development to support our local government infrastructure and quality of life.

I live in Independence Township in which we have areas we could have had controlled growth, west of route 517 north of Hackettstown and west on route 46. When asked why an area with sewer and water was not in the area for future growth, the council stated a “blind line was drawn up route 517” and on the west side of the road was put in preservation and on the east side was in the planned area? We continue to have sewer and water in these areas why not allow controlled growth?

Why not allow those areas where we have sewer and water available to be developed? These areas would help with our ratable growth to sustain our way of life?!

The Township already has a resolution passed to assess a tax on those using the water from our township. So let’s either allow growth in these areas or assess a water tax and then pass those revenues to the Municipalities that have been harmed by the taking of their land right?

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Sincerely,
John M. Cummins

Response:

The Highlands Council has consistently supported a dedicated source of funding to support protection of the important watershed lands of the Highlands Region (Resolutions 2005-18, 2006-22, 2008-13, 2009-51, 2013-10). Those efforts are ongoing.

HCIS/Comment Number: 54947
Committer Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Future Land Use
Secondary Topic: State Agency Coordination

Comment:

To meet housing needs, the Highlands RMP should ensure that a wide range of housing styles, densities and costs are available. In considering this, the needs of the aging population must also be addressed. The development of more age-restricted housing that is affordable would help guarantee that older residents remain in the area, rather than leaving their communities. And when working within the constructs of the affordable housing mandates, absent the state Legislature's hopeful intervention in reforming COAH the RMP should also recognize that a town's affordable housing obligation and ability to comply should take into consideration the existing capacity and infrastructure that can even support development.

Response:

The Highlands Act specifically requires that affordable housing obligations in the Highlands Region recognize the restrictions of the Highlands Act and the RMP. The Highlands Council addresses affordable housing obligations through Plan Conformance and has provided additional resources for conforming municipalities based on recent Court decisions. Issues related to housing and housing affordability will be discussed by the Future Land Use Technical Advisory Committee.

HCIS/Comment Number: 87
Committer Name: Dena Hrebenak
Organization: Township of Mansfield Committee and Planning Board

Municipality: Port Murray
Primary Topic: Future Land Use
Secondary Topic: Redevelopment

Comment:

Reevaluate existing rules concerning development on or near existing highway/railroad right-of-ways. Encourage light industrial / business development along existing access infrastructure. The Highlands boundaries seem to be arbitrary. They lack foundation in basic and fundamental good planning policy. Specifically, we request that the Highlands reconsider currently drawn boundaries and encourage development along already established highway and railroad right-of-ways. This will enable existing companies to grow appropriately and leverage existing and underutilized infrastructure.

Response:

The Highlands Council is charged with implementation of the Highlands Act (P.L. 2004, c.120). The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

The Highlands Council acknowledges that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2).

To that end, the Highlands Act provided 17 exemptions and three (3) waivers to allow for certain types of development in the Region. (A fourth waiver was included in the NJDEP Highlands Rules). In addition, the Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. The RMP’s Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to economic development in the Highlands, the Report will include the appropriate recommendations.

HCIS/Comment Number: 92
Commenter Name: Eric Snyder
Organization: County
Municipality: Newton
Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

There is a need to move from arbitrary restrictions to use of accepted engineering techniques to improve water recharge and quality. Further, there should be one definition of impervious coverage. Gravel is either impervious or not. It cannot be both depending on circumstances.

Response:

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. In addition, the Highlands Council is charged with implementation of the Highlands Act; it does not have the power, authority, or jurisdiction to change the Highlands Act. At the conclusion of the Monitoring Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 86

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

The application of the Trela-Douglas nitrate dilution model is one of the keystones of the Regional Master Plan (RMP). The adoption of the model's approach and specific inputs by both the NJDEP and the Highlands Council are in response to the requirements of the Highlands Water Quality Planning and Protection Act (the Act). With the passage of the Highlands Water Protection and Planning Act in 2004, the legislature specified a new more protective approach to land use planning in the Highlands region. It is important to note that the act passed the legislature by large margins: 34-2 in the Senate and 69-10 in the Assembly. Several of those legislators voting against the bill have continued their political opposition the Act until the present.

Specifically the Act stipulates that the RMP should focus on the protection, restoration and enhancement and quality and quantity of surface and ground waters in both the Preservation and Planning Areas (C13:20-10.b(1) and c13:20-11.1(a).

What exactly is meant by the three words, "restore", "protect", and "enhance" in the context of water resources and land use planning in New Jersey? In Its RMP Technical Resource paper, "Water Resources Vol. 1" the Council carefully examined the three terms, protect, enhance, and restore as follows:

“Restore” is the simplest – where waters violate water quality standards, their quality must be improved to the point where they at least meet the water quality criteria established to protect designated water uses such as drinking water, fishing, swimming and ecosystems. The Highlands Region includes areas of both localized and wider scale contamination where restoration would be appropriate, ranging from the effects of intensive agriculture, to the impacts of communities with many septic systems on small lots, to areas of industrial contamination.

“Enhance” is also fairly clear but less used for regulatory purposes – it means improving water quality even where the waters currently meet all standards. The laws do not provide a direct mechanism for doing so, but some regulatory programs (e.g., uniform requirements for secondary treatment of sanitary sewage, industrial treatment standards, municipal stormwater permits) enhance water quality. Voluntary efforts (e.g., agricultural improvement cost-share programs, public education) or indirect efforts (e.g., where efforts to control one contaminant achieve improvements for a non-targeted contaminant) also enhance water quality.

“Protect” is the most variable in meaning, but is a critical focus of water pollution control programs. Existing regulations, case law and legislative history at both the state and federal level make clear that “protect” covers a wide range of policies, from natural quality (no non-natural pollutant loadings of any type) to non-degradation (no reduction in water quality from a baseline condition) to various levels of anti-degradation (allowing some level of reduction in water quality but never beyond the water quality criteria and always controlled to protect public interests). What becomes clear from historic use is that “protect” refers to the protection of water uses ranging from highly sensitive ecosystems that tolerate no degradation, to other water uses that will tolerate some limited degradation under some situations.

Additionally, the Act specifies that a carrying “capacity approach” should be used in the Regional Master Plan: “The regional master plan shall include, but not be limited to: (1) A resource assessment which determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall values thereof with special reference to surface and ground water quality and supply (emphasis added).”

These requirements, the use of a non-degradation approach to surface and groundwater quality and the use of a carrying capacity approach, have been met by the RMP which employs the Trela-Douglas nitrate dilution model along with other planning techniques.

A brief introduction to the nitrate dilution model as used in New Jersey is contained in the N.J. D.E.P.’s “Nitrate Dilution Model, Frequently Asked Questions” (<http://www.state.nj.us/dep/njgs/enviroed/infocirc/nitratedilutionFAQ.pdf>). The Trela-Douglas nitrate dilution model was developed in New Jersey and is capable of meeting important statutory objectives mandated by the Act. Perhaps the first clearly articulated explanation of the model appeared in 1988 in “Document 32: Development of the Nitrate Dilution Model for Land Use Planning in the State of New Jersey”, a technical document prepared by the Office of State Planning (<http://www.nj.gov/state/planning/docs/nitratemodel120788.pdf>).

The model was specifically reviewed to determine its ability to provide carrying capacity guidance to land use planning in non-sewered areas: “Traditional tools for evaluating the suitability of a development site for onsite wastewater disposal from conventional septic systems focus on the

ability of the surface soils and underlying geologic formations to absorb and transmit septic effluent. These evaluations (e.g., percolation tests) are frequently accurate in determining the ability of the land to support individual septic systems with respect to the filtering and drainage ability of surface and subsurface soils. However, such tests do nothing to evaluate the ability of the environment to dilute and transport contaminants safely out of the watershed. Thus, groundwater degradation may occur in areas having a high density of approved, properly functioning septic tank systems; this may be compounded by additional contaminants introduced by intensive agricultural use of the land. (Doc. 32, p.1). The model was applied statewide and found appropriate septic unit densities ranging from 3.1 ac/unit to 31.1 ac/unit based on a 3mg/l output concentration.

The model was adopted for use in New Jersey by the State Planning Commission, the N.J. D.E.P., the Pinelands Commission and numerous municipalities. An excellent guide to the model at a watershed scale and its use was published by Somerset County in 2010: (WQMP Rule N.J.A.C. 7:15: Development of the NJGS HUC11-Scale Nitrate-Dilution Model to Determine Regional Septic Densities 03-09-10)(<https://www.co.somerset.nj.us/planweb/wastewater/maps/NJDEPNO3-Models.pdf>).

This document addresses the use of the model to meet the requirements of the N.J. D.E.P.'s Water Quality Management Planning Rule that by then had incorporated the use of the model. The extensive bibliographic references, numerous reviews and applications of the model in New Jersey indicate that the model has a strong scientific basis and has been reviewed and used by a wide variety of scientific and non-scientific land use practitioners. Overall, the model is, at present, the best available and understood mechanism for establishing appropriate septic densities in non-sewered areas.

Like other models, the inputs used have an effect on the results. In the case of the nitrate dilution model, several factors must be carefully considered. The Council's entire approach and application of the nitrate dilution model is described in the Water Resources Technical Report, Vol 1 on pages 114-173. The document recognizes that there is a clear association between land use intensity and the concentrations of nitrates present in groundwater. It also recognizes that nitrate concentrations are not only a potential health problem but that they can be used as an indicator to predict the presence of other contaminants in groundwater. While health concerns are of crucial importance it is also necessary to consider the impacts of nitrate concentrations on ecological systems. Since many of the Highlands stream systems are, or should be, low nutrient streams, the threshold for ecological protection is generally lower than the human health threshold.

Median nitrate concentrations were evaluated using 352 direct well measurements and a logistic regression process implemented by the U.S. Geological Survey. "Of the 183 subwatersheds, the median concentration for the Highlands Region as a whole was determined to be 0.83 mg/L, slightly lower than the 1.1 mg/L value calculated directly from well sampling analytical results. The model-derived median is considered more accurate as it addresses limitations in the well monitoring network, related to the overall distribution of wells with a disproportionately small number located in undeveloped areas. The modeling analysis also provides an indication of general trends in water quality and magnitude of contamination in terms of both areal extent and actual concentrations that are related to nitrate loadings.

Estimated median nitrate concentrations for each of the 183 subwatersheds range from 0.17 to 3.6 mg/L; just nine subwatersheds have an estimated median concentration greater than 2.0 mg/L. The

median nitrate concentration in undeveloped areas was estimated to be 0.1 mg/L, with concentrations in subwatersheds with very limited development typically less than 1.0 mg/L. Highly urbanized areas are likely to have somewhat elevated concentrations, with intensely agricultural areas most likely to have the highest concentrations of nitrate. The results of the median nitrate concentration analysis, aggregated into representative values for the HUC14-specific results are illustrated in the map figure entitled Median Nitrate Concentrations by HUC14". Water Resources Technical Report (Vol.1,p. 116).

Median results from the Protection Zone were .72 mg/l, Conservation Zone, 1.87 mg/l and for the ECZ, 1.17 mg/l. The median concentrations for the Protection Zone and the Conservation Zone were adopted as targets while 2.0 mg/l was adopted as the target in the ECZ Zone corresponding to the NJ DEP statewide level. The Council did not analyze the Preservation Area of the N.J. D.E.P.

While there may be some distrust of the modeled results it is important to note that in 2014 a report prepared by the N.J.'s New Jersey Geologic and Water Survey found N.J. G &WS: Technical Memorandum 14-1, 2014 Nitrate Concentrations of New Jersey's Highlands Region, using 19,369 sample results generated through the Private Well Testing Act found similar figures: for the Protection Zone the median was .2 mg/l, for the Conservation Zone 2.55 mg/l and for the ECZ 3.55 mg/l. The overall range was similar ranging from .1mg/l in the Protection Zone of the Preservation Area to 3.55 mg/l in the ECZ in the Planning Area. Based on a comparison of these two studies it is clear that median concentration have been accurately determined.

Another variable in the model is the recharge volume. The Council and the N.J. D.E.P. both used the 1961-1966 drought of record to inform the model. This was done to assure a conservative analysis and is the proper choice for long term water resources planning. Home occupancy was also considered at 4 persons per household, despite the fact that census figures indicate an average home occupancy of 2.73 people per unit in the region. This is explained in the Technical Report as a compensation for other potential sources of nitrate such as lawn fertilizer and to account for occupancy above the average.

The model was then applied to all 183 subwatersheds to determine the average density to be permitted so as not to break the target number. Each municipality was assigned a percentage of the available septic capacity based on its land area in the watershed.

Controversy about NJDEP's Septic Density Standard for the Highlands Preservation Area, characterizing it as junk science, etc. comes from the equally valid input variables used by NJDEP in the nitrate model. The Trela-Douglas Nitrate Model is a peer-reviewed tool that has been in use in New Jersey and elsewhere for more than 30 years. The model is not controversial, but the inputs do not sit well with those unhappy with the results. For example, NJDEP assumed a recharge based on drought rather than annual precipitation averages; for nitrate loading, NJDEP assumed household sizes of four persons instead of a regional average of 2.7 occupants. These very conservative inputs to the formula result in the 88 acre and 25 acre densities.

NJDEP's use of these conservative inputs are directly responsive to the mandates of the Highlands Act and justification by the Department can be found on their website at Basis & Background of the Septic Density Standard of the Highlands Water Protection and Planning Act Rule at N.J.A.C. 7:38-3.4.

The Highlands Act is unequivocal in stating the goals it intends for the Highlands Preservation Area. Primary among them are the goals: to protect, restore, and enhance the quality of surface and groundwaters (C.13:20-10.b.1 et seq.). Also stated are goals to: preserve extensive and, to the maximum extent possible, contiguous areas of land in its natural state and to: prohibit or limit to the maximum extent possible construction or development incompatible with preservation. Unlike the series of goals stated for the Planning Area, which includes the character, location and types of development that are encouraged, except for brownfield remediation and development, there exists absolutely no provision to accommodate any form of residential or commercial development in the Preservation Area. For the Preservation Area there is no intention that its primary purposes of protection, restoration and enhancement of water resources be mitigated or softened with loopholes in accommodation of development such as, to the maximum extent practical, or practicable, or feasible.

Clearly, the legislative intent for the Highlands Preservation Area is to maintain, if not enhance, the landscapes that contribute to the Highlands supply of clean water. Any human disturbances that could damage the existing fragile ecology is not to be limited, but prohibited. Land uses must conform to policies that are not merely anti-degradation, but non-degradation.

NJDEP, in developing a septic density standard for the Highlands Preservation Area had to fully incorporate the mandates of the Act into standards for non-degradation. With that in mind, the 88 acre and 25 acre minimum lot sizes for residential development is not jaw-dropping if the goal is to maintain forest ecology, as it surely is. Lot size shock only comes into play when looking at the Highlands Act as a development plan. It is a preservation plan, and one with lines drawn in the sand.

It should be noted that the septic density standard for the Highlands Preservation Area is a component of NJDEP's Highlands Rules in response to the Highlands Act. The standard is not subject to the jurisdiction of the Highlands Council, or a component of the Highlands Regional Master Plan, except as adopted by reference into the RMP.

In sum, the nitrate dilution model is a proven mechanism to aid in calculating septic densities and to distribute remaining capacity in an equitable basis. Its application by the Highlands Council and the DEP was carefully considered and assumptions were carefully made. Overall, we can see no reason to abandon or modify the approach. We strongly recommend that the Council continue to apply the model during conformance until substantial land area is controlled by appropriate zoning and further direct groundwater and surface water measurement and analyses can be performed.

Response:

The Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the *Water Resources Technical Report*. The RMP also included a Water Resource and Ecosystem Science Agenda that outlines additional research into improved ambient nitrate concentration estimates.

Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 44

Commenter Name: Nicholas Homyak

Organization:

Municipality: Lake Hiawatha

Primary Topic: Future Land Use

Secondary Topic: Protection of Highlands Resources

Comment:

Parsippany harbors the 7th largest buried aquifer ground water system in the nation. It is also in the Planning Zone. We talk on State & Federal levels having commissions on water its future health and availability; however no real clout exists to sincerely protect the actual resource, leaving it up to local politicians in places like Parsippany. Not only that but constant development leaves ground water recharge areas outdated and in need of update. How can Federal and State agencies honestly be effective if they do not help sponsor and advocate for needed updates and when required even new land development moratoriums? Without direct influence and coordination with Federal & State Water Resource Committees only fantasy exists.

Much of the ground water recharge assessment maps and information are outdated; with development since the time of the assessments. Waterview was overlooked because of its Planning Zone and Zoning status within the Planning zone. However a Rutgers Troy Brook Study of the Troy Brook Water quality, quantity and stormwater has identified Block 421 Lot 29 as a critical landscape for preservation of bio-diversity, stormwater, water quality & quantity in the area.

Hydrologist and environmental reports have identified Waterview 421 29; landscape as having unique & perfect geography for ground water recharge, unconsolidated soils and sediments, sloped and forested.

Conformance to RMP should not be decided from one Planning Zone Municipal Administration to another, one conforming one not. It should be put to the people as a major subject referendum. It should not be limited to minimum attention by media or part of the Planning Board Meeting alone, but part of a mass Town Council Agenda.

1. Cost avoidance 2. Accumulative impacts concerning all development must be part of the environmental impacts of any development or redevelopment. These two aspects are not part of the DEP assessments; as engineering schemes and municipal ordinances donot carry through in their intentions or claims. Things as obvious and simple as trash & litter accumulations.

In towns like Parsippany only redevelopment should be allowed. A Moratorium of all new land development must come into law if the area is over developed and properties stand unused or idle; Planning Zone or Not Planning is still planning or is it simply free market speculation? Planning Zones such as Parsippany if allowing "new land development"t such as Block 421 Lot 29 are then not in the mode of planning, when available redevelopment properties exist. To boot the new land development would ruin a ground water recharge area in a impeded Buried Valley Aquifer System.

Parsippany would be in water supply deficit without its two private sources of water supply. There were no economically feasible alternative drinking water sources identified which could replace the Buried Valley Aquifer System. No property owner or local political administration should have the right to inflict short term fixes on the future for unneeded land use. The property owner subverts the principals of good land use law and responsibility to the future generations not considering true impacts, but imagined benefits of market speculation instead of cost avoidance by preventing loss of ecosystems.

Highlands advocates and officials need come out strong against private water ownership, as fixing or repairing and updating a system should not required or mandate ownership..

Response:

Plan Conformance in the Planning Area is at the discretion of the municipality. This is a standard of the Highlands Act. The Highlands Council is charged with implementation of the Highlands Act; it does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

HCIS/Comber Number: 54946

Committer Name: none none

Organization: Mansfield Township Land Use Board

Municipality: Port Murray

Primary Topic: Future Land Use

Secondary Topic: Other

Comment:

As an impacted community covered by the NJ Highlands Act, Mansfield Township has a vested interest

in seeing that the Highlands Act be reevaluated to take Into consideration the concerns of our community.. Recently, the Warren County Freeholders submitted their comments on the Highlands Regional Master Plan as part of the Monitoring Program. Mansfield Township concurs with the comments submitted by the Freeholders and further makes the following comments:

1. Reevaluate Minimum Zoning Acreage Requirements for new development with Highlands Master Plan.

a. Adjust 88 acres to 10-15 acres for single family home development on forested lots.

b. Adjust 25 acres to 10-15 acres for single family home development on non•forested lots.

The Highlands Act instituted significant changes to the minimum zoning acreage requirements for

new development. Specifically, single family home development on forested lots must now meet a minimum of 88 acres and new development on non-forested lots must meet a minimum of 25 acres in the area covered by the Highlands Act. This Is an unreasonable constraint on our community and has virtually halted economic growth in Mansfield surrounding new home construction. It is our recommendation that the Highlands Act be adjusted to a more reasonable zoning requirement with minimum acreage established at 10-15 acres for both forested and non-forested lots.

Response:

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

In addition, the Highlands Council is charged with implementation of the Highlands Act; it does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

HCIS/Comment Number: 98
Commenter Name: Helen Heinrich
Organization: NJ Farm Bureau
Municipality: Trenton
Primary Topic: Future Land Use
Secondary Topic: Landowner Equity

Comment:

The Council must create and consult on a regular basis a broadly based Highlands Ag Advisory Committee modeled after the Pinelands Ag Advisory Committee to assist in policy and other decisions re Highlands agriculture.

It must schedule regular consultation with ag agency experts (NJDA, NRCS, Rutgers Cooperative Extension, CADBs, county Boards of Agriculture and soil conservation districts) to work with the Council to enhance the "positive business environment" for farming the Highlands Act requires.

RE: TDR: The Council must revisit & re-justify calculations that set the opening HDC price of \$16,000/credit, including the developers in the effort.

In municipal Plan Conformance, towns must be required to encourage & permit clustering on contiguous and noncontiguous parcels through specific Plan Development ordinance language. The Council must investigate reasons why landowners, municipal officials, and developers shy away from TDR programs for the Highlands towns.

Response:

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

The minimum value of HDCs was adopted by the HDC Bank based on the Highlands Council Transfer of Development Rights Technical Report. The technical reports that support the Regional Master Plan (RMP) contain detailed and objective scientific background and supporting data. Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to the demand for the purchases of HDCs by the HDC Bank, the Report will include the appropriate recommendations.

DRAFT

Historic, Cultural, Archaeological, and Scenic Resources

DRAFT

HCIS/Comment Number: 75

Commenter Name: Helen Heinrich

Organization: NJ Farm Bureau

Municipality: Trenton

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Indicators and Milestones

Comment:

Highlands agriculture indicators in the RMP are too limited. Should include:

Number of ag development review using NJDA rules; new conservation plans; land values esp. changes since 2009 using Dual Appraisal; number of Ag Retention and Farmland Preservation Plans required of conforming municipalities; Highlands towns with conforming cluster option ordinances; change in value added operations since 2008; Right to Farm complaints; number of counties and towns with Ag Planning Incentive Grants; value of Highlands ag products; farm sales Ag Census 2012 vs 2007; number of farms making direct sales to public 2012 vs 2007; farmland sales; noncontiguous clustering attempted by town; number of opportunities to recapture land value equity; coordination of established ag agencies with Highlands Council and staff; economic effects of Highlands ag besides sales, ag tourism, sales tax collected, money spent by visitors to farm markets, ag tourism venues; ecological benefits of land kept undeveloped quantified, more than sales of products; number of new farm housing units built; ag employment including labor intensive organic farms; tree farms preserved as "farms" with easements purchased, not fee simple sale; number of Highlands counties and towns with open space tax programs, amount available for use in preserving land in Highlands.

Ag agencies in NJ have this info available in many cases. In others data would have to be generated.

Response:

The Highlands Council will consider each of the proposed indicators for use in evaluating the Highlands Regional Master Plan.

HCIS/Comment Number: 82-1

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Other

Comment:

Bridges and dams should be mapped and linked to a relational data base so that the condition of the structure, historic value (if any) and regulatory status can be determined as part of interactive map analysis.

HCIS/Comment Number: 82-2

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Other

Comment:

1. The scenic beauty of the New Jersey Highlands is both a valuable and a fragile resource. The Highlands' scenic resource is highly valued by residents and visitors, as well as artists and landscape planning professionals. In the 1800's, Jasper Cropsey, an important American artist of the Hudson River school, painted Greenwood Lake and other Highlands sites. More recently, the Highlands were recognized as a "landscape of national significance" in the 1992 federal USDA/Forest Service New York-New Jersey Highlands Regional Study, which found that the Highlands delineate "where the pavement ends and nature begins." The report cautioned that the region faced "the immediate prospect of unprecedented urbanization and change," a conclusion reinforced by the Study's 2002 Update.

2. The 2004 New Jersey Highlands Water Protection and Planning Act is clear in its intent to protect scenic and aesthetic resources. The Legislature's "findings and declarations" introducing the Highlands Act conclude: "The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners; ... and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations..." C.13:20-2

Highlands Act Goals for the Regional Master Plan in the Preservation Area include to "preserve extensive and ...contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains unique and significant natural, scenic and other resources representative of the Highlands Region;... protect the natural, scenic, and other resources of the Highlands Region...; [and] prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area." P.L. 2004, Chapter 120, and C.13:20-10.b Highlands Act Goals for the Regional Master Plan in the Planning Area include "protecting and maintaining the essential character of the Highlands environment." C.13:20-10.c.

3. Protection and enhancement of the scenic character of the Highlands will be a major factor in the Region's success as a tourism and recreation destination, and deserves far more attention than it has received thus far. The RMP must recognize that natural and cultural resources are interdependent and inseparable. Effective protection of the Highlands' scenic quality will increase the Region's ability to attract and sustain agri-tourism, eco-tourism and heritage tourism, as well as a wide range of outdoor and cultural recreational activities and events that contribute to the Highlands economy in a variety of ways.

4. The RMP includes a baseline Scenic Resources Inventory of 131 scenic resource areas, which is comprised of publicly-owned federal, State and county open space and recreation lands. However, Policy 4B1 “to maintain and periodically update the Highlands Scenic Resources Inventory,” has not been implemented.

5. In 2008, after more than a year of consideration, the Highlands Council approved by a vote of 10 – 1 (with 3 absent) a procedure for local governments and the public to nominate regionally significant scenic resources in the Highlands, as a first step towards their evaluation and potential inclusion in the Scenic Resources Inventory, and protection Resolution 2008-57 also included approval of a volunteer Scenic Design Advisory Board to be convened. However, the procedure has not yet been implemented further.

The Highlands Council itself “may also designate and institute region-wide protection standards for broad categories of regional scenic resources that warrant protection.” RMP policies and objectives also include development of guidelines and model ordinances to assist local officials and agencies and private entities in fulfilling the procedures.

6. The RMP requires that “conforming municipalities and counties include a Historic, Cultural and Scenic Resource Protection Element in municipal and county master plans and development regulations...” (Policy 4C1). We strongly urge the Council to enforce this requirement. In municipal plan conformance submissions, as well as that requiring conforming municipalities to include minimum standards for the protection and enhancement of scenic resources listed in the Highlands Scenic Resources Inventory in their development regulations (Policy 4C3).

7. The Highlands Council Scenic Resource procedures identify five types of regionally significant scenic resources:

A. Scenic byway/corridor – transportation corridors that have outstanding scenic, natural recreational, cultural, historic or archaeological significance. Included are roads, trails, rail-trails, foot trails, bikeways, and waterways. Regionally significant trails in the Highlands include the Appalachian National Scenic Trail and the Highlands Millennium Trail.

B. Panorama and Valley – The Highlands’ characteristic steep sided ridges and lower elevation valleys create scenic panoramas that may encompass a combination of scenic resources within a viewshed.

C. Ridgeline, mountainside and geological feature, such as cliffs and rock outcrops - “Because of their prominent elevation and size, ridgeline scenic resources are particularly damaged aesthetically by inappropriate development. The intent of ridgeline protection is to ensure that development near ridges does not rise to the height of the ridge top and does not stand out in contrast to the surrounding area.” 4. Natural features, including vegetation and water features “that meet the criteria of the National Wild and Scenic Rivers Act or the RMP Critical Habitat features.” RMP Critical Habitat includes 1. Critical Wildlife Habitat (for rare, threatened, and endangered species); 2. Significant Natural Areas (regionally significant ecological communities); and 3. NJDEP-certified vernal pools. 5. Cultural landscapes, including community gateways, landmarks, and historic or archaeological features – four types recognized by the U.S. Department of the Interior (DOI), include historic sites, historic designed landscapes (notable parks, campuses and estates); historic

vernacular landscapes (functional – village, industrial complex, agricultural) and ethnographic landscapes (heritage resources of associated people, such as settlements or sacred sites).

HCIS/Comment Number: 85

Commenter Name: Wilma Frey

Organization: New Jersey Conservation Foundation

Municipality: Far Hills

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Plan Implementation

Comment:

Date: April 28, 2015

To: Ms. Margaret Nordstrom, Executive Director
New Jersey Highlands Water Protection and Planning Council
100 North Road
Chester, NJ 07930

From: Wilma Frey, Senior Policy Manager, New Jersey Conservation Foundation

RE: Comments re Highlands Scenic Resources Protection for the Highlands.
Council RMP Monitoring Program and Recommendations Report

1. The scenic beauty of the New Jersey Highlands is both a valuable and a fragile resource. The Highlands' scenic resource is highly valued by residents and visitors, as well as artists and landscape planning professionals. In the 1800's, Jasper Cropsey, an important American artist of the Hudson River school, painted Greenwood Lake and other Highlands sites. More recently, the Highlands were recognized as a "landscape of national significance" in the federal USDA/Forest Service 1992 New York-New Jersey Highlands Regional Study, which found that the Highlands delineate "where the pavement ends and nature begins." The report cautioned that the region faced "the immediate prospect of unprecedented urbanization and change," a conclusion reinforced by the Study's 2002 Update.
2. The 2004 New Jersey Highlands Water Protection and Planning Act is clear in its intent to protect scenic and aesthetic resources. The Legislature's "findings and declarations" introducing the Highlands Act conclude: "The Legislature further finds and declares that the protection of the New Jersey Highlands, because of its vital link to the future of the State's drinking water supplies and other key natural resources, is an issue of State level importance that cannot be left to the uncoordinated land use decisions of 88 municipalities, seven counties, and a myriad of private landowners; ... and that all such aforementioned measures should be guided, in heart, mind, and spirit, by an abiding and generously given commitment to protecting the incomparable water resources and natural beauty of the New Jersey Highlands so as to preserve them intact, in trust, forever for the pleasure, enjoyment, and use of future generations..." C.13:20-2

Highlands Act Goals for the Regional Master Plan in the Preservation Area include to "preserve extensive and ...contiguous areas of land in its natural state, thereby ensuring the continuation of a Highlands environment which contains unique and significant natural, scenic and other resources

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

representative of the Highlands Region;... protect the natural, scenic, and other resources of the Highlands Region...; [and] prohibit or limit to the maximum extent possible construction or development which is incompatible with preservation of this unique area.” P.L. 2004, Chapter 120, C.13:20-10.b

Highlands Act Goals for the Regional Master Plan in the Planning Area include “protect and maintain the essential character of the Highlands environment.” C.13:20-10.c.

3. Protection and enhancement of the scenic resources of the Highlands (RMP Goal 4B), will be a major factor in the Region’s success as a tourism and recreation destination, and deserves far more attention than it has received thus far. In addition, the RMP needs to recognize that, for the purposes of scenic protection, natural and cultural resources are interdependent and inseparable. Effective protection of the Highlands’ scenic quality will strongly affect and increase the Region’s ability to attract and sustain agri-tourism, eco-tourism and heritage tourism, as well as a wide range of outdoor and cultural recreational activities that contribute to the Highlands economy in a variety of ways.

4. The Highlands RMP includes a baseline Scenic Resources Inventory of 131 scenic resource areas, which is comprised of publicly-owned federal, State and county open space and recreation lands that “may encompass elements of high scenic quality.” However, Policy 4B1, “to maintain and periodically update the Highlands Scenic Resources Inventory,” has not been implemented.

5. In October 2008, after more than a year of consideration, with several drafts and substantial public input, the Highlands Council passed Resolution 2008-57 by a vote of 10-1 (with 3 Council Members absent). The vote approved a Procedure for local governments and the public to nominate regionally significant scenic resources in the Highlands, as a first step towards their evaluation, potential inclusion in the Scenic Resources Inventory, and protection. Unfortunately, the approved Procedure has not yet been implemented.

The procedure was “an initial step in the development of the Council’s scenic resources program,” and responds to RMP Policy 4B2, “To provide a process whereby regionally significant resources may be nominated, considered and included in the Highlands Scenic Resources Inventory.”

Resolution 2008-57 includes approval of a volunteer seven-member Scenic Design Advisory Board to be convened to assist with the process. The Procedure states that the Highlands Council “may also designate and institute region-wide protection standards for broad categories of regional scenic resources that warrant protection.” In addition, “the Highlands Council will also develop guidelines and ordinances... to assist [local] officials, public agencies and private entities in the fulfillment of these procedures.” The resolution authorized the Executive Director to finalize the procedures and update them as necessary.

6. The RMP’s second major scenic protection goal is Goal 4C, that “conforming municipalities and counties include minimum standards for historic, cultural, archaeological and scenic protection in municipal and county master plans and land development regulations.” Policy 4C1 requires that “conforming municipalities and counties include a Historic, Cultural and Scenic Resource Protection Element in municipal and county master plans and development regulations...” (Emphasis added) However, scenic resource protection elements have not been required in municipal plan conformance submissions, nor has the RMP requirement in Policy 4C3, that conforming

municipalities include in their development regulations minimum standards for the protection and enhancement of scenic resources included in Highlands Scenic Resources Inventory, been implemented. We strongly encourage the Council to include these requirements in municipal plan conformance..

7. We note that the Highlands Council Scenic Resource procedures identify a broad range of regionally significant scenic resources for potential consideration, including:

1. Scenic byway/corridor: Transportation corridors that have outstanding scenic, natural recreational, cultural, historic or archaeological significance. Included are roads, trails, rail-trails, foot trails, bikeways, and waterways. Regionally significant trails in the Highlands include the Appalachian National Scenic Trail and the Highlands Millennium Trail.

2. Panorama and Valley: The Highlands is characterized by steep sided ridges and lower elevation valleys, where scenic panoramas may encompass a combination of scenic resources within a viewshed.

3. Ridgeline, mountainside and geological feature, such as cliffs and rock outcrops: “Because of their prominent elevation and size, ridgeline scenic resources are particularly damaged aesthetically by inappropriate development. The intent of ridgeline protection is to ensure that development near ridges does not rise to the height of the ridge top and does not stand out in contrast to the surrounding area.” Inappropriate development may also detract from the scenic qualities of adjacent mountainsides and geological features.

4. Natural features, including vegetation and water features: The scenic resource procedures contemplate “natural features that include water and vegetation features that meet the designation or criteria of the National Wild and Scenic Rivers Act or the Regional Master Plan Critical Habitat features.”

RMP Critical Habitat includes: 1. Critical Wildlife Habitat (habitat for rare, threatened, and endangered species); 2. Significant Natural Areas (regionally significant ecological communities); and 3. NJDEP certified vernal pools.

5. Cultural landscapes, including community gateways, landmarks, and historic or archaeological features: Included are four types of cultural landscapes recognized by the U.S. Department of the Interior (DOI), including historic sites, historic designed landscapes (e.g. notable parks, campuses and estates); historic vernacular landscapes (i.e. functional – villages, industrial complex, agricultural) and ethnographic landscapes (i.e. heritage resources of associated people, such as settlements or sacred sites).

Thank you for the opportunity to comment.

Submitted by:

Wilma Frey, Senior Policy Manager, New Jersey Conservation Foundation
Master of Landscape Architecture, Harvard Graduate School of Design
Mid-Career Master in Public Administration, Harvard Kennedy School of Government
American Society of Landscape Architects (ASLA) – Past Member
Registered Landscape Architect Massachusetts #242

Response:

The Highlands Council acknowledges and appreciates this comment.

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 78

Commenter Name: WILLIAM HONACHEFSKY JR

Organization:

Municipality: CLINTON

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Plan Implementation

Comment:

The Highlands Act is absolutely necessary to protect our ecological resources and no attempt should be made to weaken , erase or hinder its protections. The quality of our lives is based on the quality of our environment.

Plan Conformance and RMP Implementation

- The RMP is a comprehensive science-based guidance document that responds directly to the requirements of the 2004 Highlands Water Protection and Planning Act, but it is only as effective as its implementation.
- The Plan Conformance Process has always been an intricate process, but changes to core ordinances have made it even more difficult for the public to follow. The Highlands Council should increase its efforts to inform the public of municipal progress, especially when major milestones are reached, as it would be beneficial for the Conformance Process to be more widely understood.

Cultural & Scenic Resources

- The RMP must recognize that natural & cultural resources are interdependent and inseparable. The Council has responsibility to “maintain and update” inventories of these resources. Cultural inventory work should be conducted by a credentialed professional. A fully informed Consistency Determination for any project impact requires complete information about both kinds of resources in the area.
- As per existing guidelines to protect cultural resources, the Council should implement their required inventory, for which the State’s register is an adequate substitute. The RMP should also

include requirements to recognize and protect resources in all contacts with site owners and localities.

- The scenic beauty of the New Jersey Highlands, clearly recognized in the Highlands Act, is both a valuable and a fragile resource. Effective protection of the Highlands' scenic quality will increase the Region's ability to attract and sustain agri-tourism, eco-tourism and heritage tourism, as well as recreational activities that contribute to the Highlands economy in a variety of ways.
- The RMP includes a baseline Scenic Resources Inventory, and the Council approved a procedure for local governments and the public to identify regionally significant scenic resources warranting protection. Now the Council staff needs to convene the Scenic Resources Advisory Board, crowdsource Scenic Resource nominations from the public, and follow through with implementation of the RMP's scenic resource protection goals, policies, and objectives at both the regional and local levels.

Water Quality - Nitrate Dilution Standard

- NJDEP's septic density standards are based on a scientific model with valid assumptions designed specifically for the Highlands Preservation Area. The Highlands Act requires the Department to establish regulations to "ensure that existing water quality shall be maintained, restored, or enhanced."
- It is not the responsibility of the Highlands Council to address nitrate dilution standards through the RMP. Nitrate Dilution for the Preservation Area is directed by the Highlands Act and implemented by NJDEP.

Stream Protections

- Stream resources are highly valued for water supply, ecosystem viability, recreational opportunity, and aesthetic use. Since surface water and ground water are often mixed in the Highlands, the protection of both is necessary.
- The Council should establish, maintain, and make available an inventory of all Highlands Open Waters and their integrity as specified in the RMP, including the Watershed Resource Values of each Highlands HUC14 watershed.

Forest & Critical Habitat

- Though forestry activities with an approved forest management plan are exempt from the Highlands Act, forestry is a critical activity with enormous potential for negative impacts to the region's critical resources, including water and rare species. Forestry activities may be addressed through the RMP Conformance Process, either by the requirement of a model ordinance or resolution developed by the Highlands Council.
- The best method to protect core forests from inappropriate projects is to require that all proposed projects meet Forest Stewardship Council (FSC) certification standards. Many states and other entities have adopted the FSC certification standards with great success.

- The Highlands RMP must maintain, if not increase, the existing 1000 foot buffer for vernal pools. The Highlands Council has already mapped the vernal pools and their buffers, but more needs to be done at the state and municipal levels to ensure their continued protection.
- The Critical Wildlife Habitat overlay in the RMP is incredibly useful, but is too subjective. Although NJDEP has an existing list of identified T&E species, projects are proposed and no mitigation is offered because too few of these species are identified during the planning process. Instead, we strongly recommend that surveys must be conducted by experts for each taxon, using appropriate methods, and must be repeated over at least two full years during all appropriate seasons. Once all occurrences of rare flora and fauna at a proposed development site have been quantified, existing populations of rare flora and fauna must be avoided.

Land Preservation through Acquisition

- The updated RMP should give strong encouragement that the Highlands Council be included as a participant in all inter-agency decisions involving the use of dedicated open space funds made available through public referendum or as a consequence of legal settlements, regulatory fines, mitigation contributions, etc. in the region.
- The Council's primary objectives should be to ensure that (1) there is ample notice and opportunity for public participation in all proposed Highlands Open Space acquisitions where buyer and seller are both public entities; (2) that open space funds are not diverted to non-open space purposes; and (3) such funds are not expended on wasteful or duplicative fee simple acquisitions of open space.

Response:

The Highlands Council acknowledges and appreciates these comments. The Highlands Council is charged with implementation of the Highlands Act and does not have the power, authority, or jurisdiction to change the Highlands Act. Furthermore, the RMP Monitoring and Recommendations Report is directed at the efficacy of the RMP and its implementation programs in achieving the stated goals, policies, and objectives.

The Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. At the conclusion of the RMP Monitoring Program, a Recommendations Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 54232
Commenter Name: David K. Dech
Organization: Warren County Planning Department
Municipality: Belvidere

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Programs of the RMP

Comment:

Historic, Cultural, Archeological and Scenic Resources

Protecting historic, cultural, archeological and scenic resources are worthwhile and important goals. With the identification and protection of these resources it would be equally important to prepare and implement an economic development strategy that could promote these resources.

Question #27. What resources have been solely dedicated for use in the Highlands to allow the Council to fulfill the stated goal?

Question #28. What percentage of the statewide appropriations for these purposes has been dedicated to preserving these resources in the Highlands?

Question #29. Has the Council informed the Legislature of any insufficiency that precludes the Council from achieving its stated goal?

Question #30. While supporting the protection of these resources, how does the Highlands Plan promote policies that will support local economic development strategies?

HCIS/Comment Number: 54702

Commenter Name: Marion Harris

Organization: The Morris County Trust

Municipality: Morristown

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Programs of the RMP

Comment:

Chapter 4. Goals, Policies and Objectives

The introductory paragraph of Chapter 4 (p. 137) provides an overview of the chapter. There is, however, an essential aspect of resources as described in the Highlands Water Protection and Preservation Act (Act) that is not articulated, and is vital to understanding the policies and objectives therein. A paragraph needs to be added stating that natural and cultural resources coexist in the world, and even though we treat them as separate academic subject areas, that is not how they are found in the Highlands Region or most of world.

In our developed part of the world, both resource types are interdependent, interrelated, inseparable. Therefore, actions that impact natural resources can, and most likely will, also impact cultural resources and vice versa.

Not all resources are of equal significance, and very often the protection of one resource type should take precedence over another. But In order to make a fully informed decision regarding an action that will impact resources, we must always have a complete examination of the spectrum of resource types in a project area or municipality.

Water is of primary importance in the Act, but it is also the clearly stated intent of the Act to protect all natural and cultural resource types generally.

The following is copied from the Act, and should be added as Part 11 of Chapter 4.11. The regional master plan shall include, but need not necessarily be limited to:

(1) A resource assessment which:

(a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region; and

(b) includes an assessment of scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region, together with a determination of overall policies required to maintain and enhance such resources;

Chapter 5. Programs Part 4. Historic, Cultural, Archaeological, and Scenic Resources (p. 291)

Goal4A: Protection and Preservation of the Historic, Cultural and Archaeological Resources of the Highlands.

Policy 4A1: To maintain and periodically update the Highlands Region Historic and Cultural Resources Inventory. Several of the objectives under this policy, as currently written, need to be updated. Some additional objectives should be added, if the goal is to be achieved.

Objective 4A1: To encourage municipalities and counties to include a historic, cultural and archaeological survey(s) as part of the Historic Preservation Plan element of their master plans.

This crucial objective needs to require, not simply encourage its implementation.. The costs of such surveys should be eligible for grant funds from the Council. Also, historic and cultural resources age into the program as time passes. Without a current survey, valuable unknown resources can be irrevocably harmed or lost altogether.

Policy 4A2: To provide a process whereby resources may be nominated, considered and included in the Highlands Historic and Cultural Resource Inventory.

In objectives 4A2a and 4A2b, it must be clear who is responsible for identifying these objects, buildings, sites, and districts, and who will evaluate their significance and potential eligibility for nomination to the Highlands Historic and Cultural Resource Inventory – a record that does not yet

exist. It must also be clear what propels the inventory process in areas or at times where no Council actions are under way.

Objective 4A3: All development and redevelopment applications shall include submission of a report identifying potential historic, cultural and/or archaeological resources on the subject property or immediately adjacent properties.

This objective needs to ensure that the person(s) preparing the report have the professional credentials to evaluate these resource types . The plan should specify the use of the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 61). Additionally, the sentence should read and immediately adjacent properties, not or.

DRAFT

Response:

The Highlands Council acknowledges and appreciates these comments. The Highlands Council agrees that protection of historic, cultural, archaeological and scenic resources are important for the continuation of a healthy, vibrant Highlands community. The Highlands Council also recognizes the importance of these resources in ensuring the success of the Highlands Region as an economic entity.

The Regional Master Plan (RMP) Monitoring Program is intended to evaluate the efficacy of the RMP and its implementation programs in achieving the stated goals, policies, and objectives. At the conclusion of the RMP Monitoring Program, a Recommendations Report will synthesize the results of all efforts related to the Monitoring Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP, enhance implementation strategies for the goals, policies and objectives, or recommend further study.

HCIS/Comment Number: 55042

Commenter Name: David Epstein

Organization: The Land Conservancy Of New Jersey

Municipality: Boonton

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Programs of the RMP

Comment:

- 2) We believe that the Council has a responsibility to maintain and update inventories of the cultural and scenic resources of the Highlands. Cultural inventory work should be conducted and overseen by credentialed professionals.
- 3) The Council should implement their required cultural inventories as the State's register is an inadequate substitute. The RMP should include requirements to recognize and protect resources in all contacts with site owners and localities.
- 4) Council staff should convene the Scenic Resources Advisory Board, crowdsource Scenic Resource nominations from the public, and follow through with implementation of the RMP's scenic resource protection goals, policies, and objectives at both the regional and local levels.

Response:

The Highlands Council acknowledges and appreciates these comments. The Regional Master Plan (RMP) Monitoring Program is intended to evaluate the efficacy of the RMP and its implementation programs in achieving the stated goals, policies, and objectives. At the

conclusion of the RMP Monitoring Program, a Recommendations Report will synthesize the results of all efforts related to the Monitoring Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP, enhance implementation strategies for the goals, policies and objectives, or recommend further study.

HCIS/Comment Number: 55128-1

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Programs of the RMP

Comment:

Page 294 – Historic Preservation Education and Outreach – This section proposes that the Highlands Council develop or adapt a historic preservation manual for the use of Highlands municipalities. The Council should focus on its core mission, and instead of creating a new “Highlands” design manual, should provide grants to municipal historic commissions for use in developing community appropriate guidelines.

Response:

The Highlands Council acknowledges the comment. The Highlands Council does provide grants for municipalities to develop historic preservation plans and implementation strategies locally.

HCIS/Comment Number: 55128-2

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Historic, Cultural, Archaeological, and Scenic Resources

Secondary Topic: Programs of the RMP

Comment:

Exempt Municipal and County Lands, Government Facilities

Millions of dollars have been invested in obtaining land to meet regional and local recreation needs of Highlands Region residents. Highland standards, (particularly those related to impervious coverage, stream buffers and linear development) have the potential to make creation of even minimal recreation facilities and related accessory uses on these tracts exceptionally difficult. An exemption should be provided to reinstate the public investment in these areas and allow them to be

used as intended, i.e. to advance the general welfare. Adherence to existing non-Highlands NJDEP regulations offer sufficient environmental protections for these recreational use areas.

Response:

The Highlands Council is not empowered to make amendments to the Highlands Act, which is where the exemptions have been established. However, there are several existing exemptions that may be exercised, which facilitate development of recreational assets. Exemption 4 provides for development/redevelopment within 125% of existing impervious footprints. Exemption 6 provides for improvements to school properties. Exemption 8 provides for construction or extension of trails with non-impervious surfaces. Exemption 10 provides for the construction of bicycle and pedestrian facilities.

DRAFT

Landowner Equity

DRAFT

HCIS/Comment Number: 54949
Commenter Name: Rick Suydam
Organization: New Jersey Farm Bureau
Municipality: Trenton
Primary Topic: Landowner Equity
Secondary Topic: Indicators and Milestones

Comment:

For land owner equity compensation

*Number of landowners paid for the ecological services their preserved property will produce for the public (dollars calculated like similar formula in the Pinelands found on the SADC website).

*Numbers of exemptions 1 and 2 granted and locations: county, town. Number on active farms.

*Number of landowners permitted to subdivide their land in order to qualify for Exemptions 1 or 2 (relief valve for lost equity. Separate lot must be 10 acres or larger to qualify with no development on it.)

Recommendations

**Analyze the loss of equity caused by using the unscientifically derived nitrate dilution model to set septic densities in Preservation and Planning Area communities. Compare to numbers derived from more scientifically supportable numbers in the formula.533

Implement the forest easement purchase program enabled by RMP Policy 1A4 (p. 139) so that forest land owners have a way to recoup their equity.

Response:

The Highlands Council will consider the proposed indicators for use in evaluating the Highlands Regional Master Plan.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

The Highlands Act incorporates legal shields against takings claims that have proven to be durable. Yet in spite of several Court rulings upholding the legality and Constitutionality of the Highlands Act, the misconception that the Act is a taking of private property without just compensation is common.

The Highlands Act is not a “taking” in any legal sense. Police power is granted to the State to regulate land use, as enumerated in the New Jersey Constitution. The threats that compelled the extraordinary intervention that the Highlands Act intended were clearly laid out in the legislative findings in the preamble of the Act. The water-producing resources of the Highlands forests were being “consumed and fragmented” by uncoordinated development that “the existing land use and environmental regulation system” had proven incapable of protecting. A fundamental responsibility of State government is to protect the resources it holds in the public trust. The Highlands Act was the response of the State to this solemn obligation.

The Legislature included several provisions responsive to landowner equity including seventeen exemptions and provisions for waivers. After the Act was enacted the Legislature passed further measures including the dual appraisal method and the expansion of potential Highlands TDR receiving zones to the entire State.

In addition, the Garden State Preservation Trust has prioritized open space and farms in the Highlands for acquisition, further demonstrating the State level commitment towards mitigating the landowner equity impact of the Highlands Act.

That the Highlands Council today endeavors to find mechanisms to address “the issue of landowner compensation” places the Highlands Council at cross purposes with the Highlands Act and further fuels the confusion and misconceptions about the Highlands Act.

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the

Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The Highlands Council has also consistently supported a dedicated source of funding to support protection of the important watershed lands of the Highlands Region (Resolutions 2005-18, 2006-22, 2008-13, 2009-51, 2013-10). Those efforts are ongoing.

HCIS/Comment Number: 88

Commenter Name: Giulia Grotenhuis

Organization:

Municipality: Phillipsburg

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

Highlands Act

This Act was pushed by special interest groups – Keep It Green, Highlands Coalition, Association of New Jersey Environmental Coalitions (ANJEC,) New Jersey Chapter of Sierra Club

In their constant quest for preservation they push to the extreme, causing economic disaster while professing economic savings. In November these same groups misrepresented to taxpayers their diversion of funding from clean water projects and other cleanup projects with the Open Space Ballot question.

Today these special interest groups are now facing opposition among their own, for overreach. The way in which that ballot initiative demonstrates that some people will say whatever they need to in order to get what they want. Hence the hysteria that created the nitrate dilution model that:

- was never before used
 - more restrictive than any other part of the state
 - creating large-lot zoning that fractures farmlands and goes against smart growth concept they push Yet they felt comfortable diverting money from clean up programs that effect urban areas.
- Do not be confused by the Sierra Clubs’ “we were for it before we were against it” campaign. See “Sierra Club Urges Yes Vote on Open Space Ballot Question” at <http://newjersey.sierraclub.org/political/BallotQuestion.asp> prior to election day and the more recent “Open Space Bill Hurts Urban Areas, Parks, and Logs our Forests” at <http://newjersey.sierraclub.org/PressReleases/0565.asp>.

Open space funding is one thing, where everyone is contributing a little bit. But for these groups to push the unjustified nitrate dilution model that stripped value from property owners is another. This nitrate dilution model was the foundation used for the extremely high acreage, or essentially rezoning of an entire area of New Jersey.

This foundation is sand and the Act is like a house built on that sand. It does not make sense to try to repair it now, when its very foundation should be in question.

The simplest way to fix this now is that the DEP change the nitrate dilution rule, which is at the core of the property devaluation. Use a more realistic formula that:

- is in line with other accepted nitrate levels around the state
- takes into account advances in water management since the drought of 1961-66 it is based on.
- Acknowledges devaluation of property will occur and the proposed TDR is no way remotely able to offset the value that has been taken.

False Narratives:

The nitrate dilution model was based on streamflow, or lack there of, based on the worse case scenario – the drought of 1961-66. They present this as if there has been no planning put into place to curtail the effects in the future.

Proponents of the act ignore their own research on better septic designs and claims that septic systems can be the most cost-effective method of wastewater treatment. The Association of New Jersey Environmental Commissions (ANJEC) in 2002 published a 12-page resource paper on Septic System Management. The paper can be downloaded at http://www.anjec.org/pdfs/RP_Septic.pdf This paper discusses nonpoint source (NPS) pollution.

These pollutants include:

- Excess fertilizers, herbicides, and insecticides from agricultural lands and residential areas;
- Oil, grease, and toxic chemicals from urban runoff and energy production;
- Sediment from improperly managed construction sites, crop and forest lands, and eroding streambanks;
- Salt from irrigation practices and acid drainage from abandoned mines;
- Bacteria and nutrients from livestock, pet wastes, and faulty septic systems;

Not simply septic systems, but more specifically, faulty ones.

From this list there is a multitude of remedies that could be implemented that would not affect every landowner in 88 municipalities and 7 counties financially. A few ideas include:

–encouraging more hunting would cut down on the contamination of geese and deer feces going into the rivers

–mandating dog licenses in municipalities to limit the number of dogs per square mile and their feces, which if not disposed of properly, work their way into the public water supply

–outlawing Scotts Miracle Grow from being used on people’s lawns

–continue to phase out faulty septic systems, cesspools etc.

Landowner Compensation

Representatives of ANJEC and the Highlands Coalition will state there was no taking in this act, and discourage any discussion of landowner compensation, because if you entertain compensation, you would have to admit something was taken.

The Highlands Coalition launched an initiative where George Stafford compares home values in areas outside the Highlands and within the Highlands. The issue is not home value as much as it is property value and the devaluation that came about The TDR Bank was supposed to balance this. This will not work for several reasons:

- the pilot program used for the state is an example of the potential corruption that may take place
http://articles.philly.com/2009-03-09/news/24984494_1_transfer-of-development-rights-farm-preservation-programs-land-deals
- recent funding from PSEG mitigation has been diverted from other projects. This money was never intended for farmland preservation

The PSEG mitigation funds were “To mitigate for unavoidable impacts of the power line on federal lands, as required by the National Park Service, PSE&G and PPL Electric Utilities will contribute to a fund administered by a nonprofit group. As directed by the National Park Service, the money will be used to purchase or preserve land for public use, compensate for wetlands impacts, and fund cultural and historic preservation activities.” There is no mention of farmland preservation in this package.

<https://www.pseg.com/info/media/newsreleases/2012/2012-10-02.jsp>

- even the board admits the amount allocated is not near enough
- there is no solution for landowners that don’t have property large enough to be considered for preservation but were still impacted

Not that farmland preservation over more purchase of land for public use is bad, but the practice of taking money from one problem to fix another problem just causes us to ignore our real problem on how to really stimulate the economy.

The financial problems keep growing in New Jersey because we are not focused on stimulating the economy. Therefore tax coffers continue to be depleted when expectations are not met. There is not enough money to compensate property owners. Again, the best way to address this entire Act is to go back to the nitrate dilution model and scale back the acreage in the preservation area, and the conforming towns accordingly.

This Act was eminent domain – regulating property rights – but without the compensation. In a conversation with Bill Wolfe in September or October of 2014, he claimed he was the architect of the nitrate dilution model. He was hired by the Highlands Coalition to push for bigger lot sizes and in his words said he never dreamed he would get his model passed.

In order to do so (again in his words) there was the push for the TDR – the compensation mechanism. The act passed forcing this model on all owners in the preservation area, and as the basis of all acreage determinations in towns that are “conforming.”

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the Water Resources Technical Report – Volume I. The RMP also included a Water Resource and Ecosystem Science Agenda, which outlines additional research into improved ambient nitrate concentration estimates.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to landowner equity, nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54947
Commenter Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Landowner Equity
Secondary Topic: Programs of the RMP

Comment:

Another gaping absence in the RMP is any viable method to compensate landowners whose property values have decreased because of their inability to develop their land due to Highlands restrictions. The existing Transfer of Development Rights (TDR) program is unnecessarily complex and the lack of a planning authority to encourage TDR implementation has made the program ineffective. Fortunately the dual appraisal process has again been extended in the Highlands region, but the total

funds that are allocated for both the state's Green Acres and Farmland Preservation programs are nowhere near the amount needed to adequately address landowner equity. Finally, there has been talk of a water tax. Any further discussion on that topic should focus more on those outside of the Highlands region who are getting the absolute benefit of the water and not those within the region who are already getting the adverse consequence. It can rightly be argued that the end user will not value that which comes at no cost.

HCIS/Comment Number: 54109

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Landowner Equity

Secondary Topic: Programs of the RMP

Comment:

Transfer of Development Rights (TDR) Program

The Highlands Act establishes as a very clear goal that the Council must identify 4% of the Planning Area to be Receiving Areas. Unfortunately, the Council has failed to establish the statutorily mandated TDR program with sufficient receiving zones that was envisioned to be the mechanism to compensate landowners for their lost equity in the land and life savings. Only 11,000 acres, 1.3% of the Highlands Region, is shown in the RMP as a voluntary TDR Rights receiving area.

The NJBA recommends that the Council should designate voluntary receiving zones in the Conservation Zone. No town has adopted zoning to implement a receiving area, while several have accepted TDR feasibility grants to evaluate establishing TDR receiving zones. Experience in other communities and regions outside of the Highlands has shown that developing a workable TDR program that would be appealing to the development community as the buyers of the credits is an extremely complicated and challenging undertaking. While broadening the TDR program to areas outside of the Highlands Region was a necessary step, it has not gone far enough to generate the necessary interest in the program. Additional incentives are necessary to encourage builder participation in the TDR program and impact fees should not be assessed. The Council should use the TDR program as a tool to address the housing needs of the Region and offer incentives to encourage the construction of higher density housing, including multi-family and work force housing.

Overall, NJBA supports the Council's rulemaking approach for the proposed "Land Owner Equity and Land Preservation Program". The draft program description explains how this new program would fit in with the overall mandatory TDR program:

"The TDR Program is designed to be an equitable means of guiding development away from sensitive lands in the Highlands Region and redirecting development to alternate locations, both within the Region as well as other areas of the State. The Highlands RMP recognizes the need to set priorities for acquisition or purchase of conservation easements in those lands within the Region that have the most significant resource values. To this end, the RMP includes numerous policies to address open space acquisition and farmland preservation. The

Highlands Council has devised a Land Owner Equity and Land Preservation Program to implement these preservation goals. This program includes the purchase of Highlands Development Credits (HDCs) by the Highlands Development Credit Bank (HDC Bank) and the creation of an open space matching grant program. Both programs will provide for protection of Highlands resources, compensation for land owners, as well as management of contributions for future mitigation projects.” (See page 1.)

The NJBA looks forward to learning more about the “Land Owner Equity and Land Preservation Program” and how its implementation will support and complement the delayed TDR program. The NJBA appreciates prior opportunities to discuss and offer recommendations for establishing a viable TDR program that would generate interest by the development community. We remain available as a resource to implement a successful program to meet important statutory mandates.

HCIS/Comment Number: 47843

Commenter Name: Richard Sparling

Organization:

Municipality: Oak Ridge

Primary Topic: Landowner Equity

Secondary Topic: Programs of the RMP

Comment:

As a homeowner captured in the rhetoric of bureaucracy ...

I believe the Highlands Act could have been a positive future for water preservation for the greater good upon its inception. Yes, some of the homeowners of the highlands protected lands are the water generators for the multitude of recipients in the lower lands and cities. The water actually comes out of the ground from our land, and we should be compensated to protect that resource via proper tax stabilization and restitution of lost buildable lot revenue. The resulting implementation since 2004 has gone from political to ludicrous ...

Problem (s):

- 1) The currently prescribed science portends that to protect the water - no buildings can happen on top of the ground -?- this is flawed science to the extent of one home per 88 acres? Ludicrous -All ecolog ists should know that one home per three acres has a net zero effect on the water used and returned to the ground.
- 2) Poor Planning for the funding of such an undertaking was and is still not corrected after NINE YEARS? The burden of funding should fall on the recipients of the water, not the protective land owners. This lack of planning has also resulted in a non functioning Highlands Development Credits & HOC Bank in this lousy economy, the Pine Barrens model for the credit system of buildable and protected credit transfer didn't work for them either.
- 3) Paid Officials 2004-present spending millions and getting paid to sit on a boards (but if asked) to decide have no power to intercede.

Political Rhetoric

4) Tax Stabilization as written into the Act has gone unattended and in the opposite direction and is overdue to be reviewed BUT WHEN?

5) Constitutional blasphemy - unending lack of execution from 2004-2013 is a TAKING - see E012630 Sec.3&4 Just Compensation Clause (Executive Order 12630--Governmental actions and interference with constitutionally protected property rights. -- Source: The provisions of Executive Order 12630 of Mar. 15, 1988, appear at 53 FR 8859, 3 CFR, 1988 Comp., p. 554, unless otherwise noted.

6) Exemptions to building rules are in themselves a good thing but if Jefferson Township is not required to recognize its place in the RMP how are they going to accept the other resulting rulings of exempted use and additional requirements of my family as growing and requiring more space or place of business at home on ten acres. WHAT RULES APPLY AND TO WHOM ? see# 3

7) The Highlands Act MANDATES that property appraisals under these programs be assessed on the basis of local zoning, State environmental laws, and NJDEP regulations in effect as of January 1, 2004 and those in effect at the time of the proposed acquisition. - So personally for us that means that as a owner of 9 Qfarm taxed lands and 1 acre residential around our home that was in effect January 2004 - means that no change can happen - there has been no change in use - it should remain preserved as a farm in perpetuity! We did not have a problem until the Township of Jefferson removed our Qfarm status in 2007 unlawfully according to the above Highlands Act Mandate and no Highlands or Agriculture representatives stood by us in court ...

8) We have been paying full residential taxes on 10 acres of land since 2008 that is unusable as residential zoning allows, due to the restrictions of the Act and conservation/preservation rulings, and now have been placed in the Lake Community zone for taxes • yet have not been paid restitution and cannot utilize the Highlands Transfer of Development Rights (TOR) allocation of 5.75 acres of credits recognized by your committee but not yet paid !?!?! Seems they are picking and choosing what they want to adopt for their gain ...

Solution(s):

1) Charge water use tax for residences on the receiving end of the preserved water resource supplied by Newark Watershed and the Jersey City reservoirs and use the funds to upgrade and repair the water distribution infrastructure so this precious resource is not wasted as it is now!

2) Offset the loss of buildable land for homeowners and lower revenue of the Highlands municipalities, towns, and counties that would have reduced tax base revenue due to the proper tax stabilization corrections that are required to compensate the taking of land value from the land owners.

3) Fund the Preservation of the Land and implement permanent and expensive Deeds for Conservation Easements.

4) Correctly apply the rules as were projected and restore my farm rating and allow for commercial water farming in our region and tax the assets at the point of retrieval.

Benefit(s):

Water Farm is what we worked for, and could have been the direction taken in the early farming years, with perennials and gazebos/furniture, a farm stand with parking lot were all planned and squashed. A plan for commercially viable Water Farm with a minimum of 300' safe zone around a Municipal Quality 8 or 10" well is still supportable to Store and Send Water to the town grid only yards away from our location resulting in a lease for use of the municipal zone. The NJ Natural Gas main is present on 120' of frontage on County Rt. 699 we are willing to lease an acre or more property for a local reduction station to supply gas to local homeowners and to provide for a CNG Station on our frontage that could support a CNG refueling of Commercial Trucks and Cars.

We are willing to entertain a long term lease of the property for these types of enterprise. A farm based B&B with a brewery/winery/wedding/event location is possible on the remainder to include Cabins and Main residence that would minimize add to the existing water requirement and septic design. Cabins would have only pumpable short term tanks for septic not released into the ground. Stay at the B&B for Environmental/ Ecological studies and interactions to repair and replace to the proper ecological status can be undertaken for Woodlands, Wetlands, Aquaculture, on this location. Highlands Act finally properly funded so to end its charter Conservation easements a reality for the future of protection of the water resource HOC not required - removal of the costs and layers of government interference Tax Stabilization maintained at the proper levels and offices

Classification: UNCLASSIFIED

HCIS/Comment Number: 53712
Commenter Name: Alberta Piasecki
Organization:
Municipality: Great Meadows
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

Alberta Piasecki
40 Hope Road
Great Meadows, NJ 07838

Re: Highlands Regional Master Plan – Comments

I am writing this letter to express my concerns with the impact the Highlands Act has on my property values and those in similar situations. I have two parcels of land in Liberty Township that I would like to sell to supplement my meager retirement income. The parcels are 2 acres and 17 acres in size. Because of the Highlands Act restrictions these can't be sold to individual home owners as building lots since they would require a septic system and do not meet the minimum lot size specified in the Highlands Act. As a result of this act these parcels have greatly diminished in value and are almost unsellable. I feel the Highlands Act restrictions have greatly damaged my financial security with no means of compensation for the loss of my rights. Additionally how are people supposed to be able to afford to purchase and build a home when the lot size requirements are so large for a septic system. I understand the need to protect groundwater sources but these restrictions on lot size seem

excessive. Surely, for fairness sake, there needs to be a better balance between the needs of the environment and the property rights of home owners.

Alternatively, I would propose that if the state really wants to keep the lot size restrictions so large, then an increase in the Green Acres Open Space Tax, currently in use for farmland preservation, be considered as a funding source to compensate home owners for the loss of value to their property. I know that no one likes tax increases but in this case a good argument could be made for an increase. This proposal would keep the land preserved while addressing the lost rights of individual property owners.

I hope that you will seriously consider this letter and its arguments.

Respectfully,
Alberta Piasecki,
Home owner, Senior Citizen

HCIS/Comment Number: 60
Commenter Name: Michael Grossmann
Organization:
Municipality: Belvidere,
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

Addressing the Highlands Master plan revision, The issue of landowner equity has never been addressed, although in the original legislation passed.

Landowners were stripped of the value of development rights, with no compensation. No so called, Water uses have ever been utilized and as a mandate to any water value ever being utilized in the Highlands, a fee for water, marked to compensate landowners, must be included. Also the 88 acres used as a science for septic development, has no realistic basis, and should be dramatically reduced to meet some development standards.

Stop all mandates on Townships in the Highlands to conform to standards not compensated by the State of NJ. for their implanting.

HCIS/Comment Number: 53
Commenter Name: Hing Lum
Organization: Interverse Enterprises Inc.
Municipality: Denville
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

As a society, more than anything else, we need fairness and justice. Without fairness and justice, we revert to chaos of the jungle where one only acts for one's self-interest. The concept of society is

that when we all work together, we all benefit more than if we are each alone working for our self-interest. Those who are in power to do the governing must strive to be absolutely fair and just because that's that calling they wanted to pursue.

Clearly, the Highlands Act is not fair or just as everyone knows. We can all value clean water and abundant supply of clean water, but to make landowners of the Highlands pay the price for all of society is clearly unfair and unjust. It is equivalent to slavery of the Black citizens of America. One can argue that it is good to have clean and abundant water supply, but that is equivalent to arguing that during slavery, it was good to have food and cotton and tobacco for society. Slavery made the Blacks pay a price and the slave owners benefited.

It is the same here on the Highlands Act, the Highlands landowners became the slave, and they can't use their land for their own interest just as the Blacks were not able to use their labor for their own benefit. The Highlands Act made the Highlands landowner poorer and powerless to do much with their land while those in the Gold Coast along the Hudson River benefit from the water by building higher and denser and pay nothing for the water that comes from the Highlands. The Highlands landowners have been slaves for more than 10 years now and there is no fairness or justice.

Unfortunately, as the Highlands landowners are not beaten or killed, there is no notice of their harm by members of society. There is no horror to waken society's consciousness. Not many people even know about the pain or the suffering these Highlands landowners suffered; as basically, their lives are held suspended for more than 10 years. Everything requires approval and requires money for experts, lawyers to get approval and the landowners' hopes and dreams and everyday lives are stopped by the Highlands Act. Even if you want to farm, you can't get financing to farm. Unfortunately, the Highlands landowners' bills do not stop coming because of the Highlands Act. They still have bills tied to the dead asset, taxes, mortgages, schooling for their children, everyday living expenses, etc.

The so-called "do-gooders" will say, these landowners were speculators and thus should suffer or the landowners are rich and thus should suffer. That's like arguing that the Blacks should be slaves because they were hunting for food in Africa or that they had lots of strong muscles.

"Do-Gooders" should not do bad to achieve good. That is just bad. To be fair and just, the modern slaves need to be freed: Either the Highlands Act need to be repealed or the benefits gained by the user of the Highlands water need to be transferred to or shared by the slaves, the Highlands landowners. There are many ways to do that, one can charge for the water and pay the Highland landowners or even easier, under the existing Highlands Act, give the TDRs to the Highlands landowners and allow them to use the TDRs wherever the Highlands waters are used. In this manner, the building rights in western NJ are transferred to eastern NJ just like the water.

Since the eastern NJ buildings are going higher and denser anyway every day (just look across the Hudson over the years), it is not a problem to make them go a bit higher or denser over time. It is unlikely that this will happen all of the sudden if the TDRs are allowed to have indefinite time frame just like the right to build in the Highlands before the Highlands Act.

If the governing bodies really are interested in fairness and justice and want to keep their promise to "show them (the Highlands landowners) the money" then, this is a simple way to do it when the

legislators do not have the money to show the landowners or do not have the courage to legislate the money to cure this injustice and unfairness.

HCIS/Comment Number: 52

Commenter Name: Melissa Zikas

Organization:

Municipality: Belvidere

Primary Topic: Landowner Equity

Secondary Topic: Plan Implementation

Comment:

I believe the Highlands Act of 2004 is putting a severe financial hardship on my family of four. We bought our property in 2001 and slowly began restoring the present house and cleaning up the land after it was foreclosed upon. Not having a lot of money, we built our house slowly with the intention of selling at least one property lot off to pay for an addition if needed when we had our children. Before we hardly were settled in, the Highlands Act went through and we lost the right to subdivide anything. Apparently only huge landowners have retained the right to sell off any property under the Highlands Act. I have looked into selling our entire property and leaving NJ only to be told that our land value is all but worthless as far as real estate is concerned. Although I have applied and have been allocated for HDC credits, the program seems to be going nowhere. This act has stolen our property value and it has NEVER been addressed. I do not know how long we can stay in this house which is too small for our family. SO shameful to think I will need to leave an area which my family has been for the last three generations.

I agree with protecting NJ's absolute beautiful natural assets. I agree with preserving woodlands and farmlands. Without some protection, they would slowly succumb to urban sprawl which is far more financially profitable than saving natural resources in short term. The Highlands properties are full of wildlife, reptiles and trees that are hundreds of years old. The streams that run through these lands are full of life that need our protection. However, I cannot be the one left alone to financially support another area of the state that is benefitting from our clean resources since already soiling their own. This is the garden state with soil that can support agriculture for generations to come. But, in many areas, that is too late. I actually hope the Highlands Act keeps seriously protecting resources but HAS to be subsidized somehow.

The politicians in this area apparently caught wind of this act being passed before us general public people since a couple of them immediately subdivided property before 2004 and got a lot of it on the market. I find this whole thing a bit hard to swallow after living this nightmare for 10 years. I am bitter because my family is crammed into this house and scraping by since loans are hard to come by in this recession and our plan to just sell one lot to keep us financially stable fell apart so fast. I am just one opinion but I am hoping that someone can see that although the intentions are honorable, the way value was stolen without concern is questionable.

Thank you.

Melissa Zikas

HCIS/Comment Number: 27

Commenter Name: Dennis Loh
Organization: Geo-Technology Associates, Inc.
Municipality: Ringoes
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

The regional master plan severely limits development potential and therefore reduces the value of property in the region. There is no mechanism in place to compensate landowners for the lost value in their property. The act required that a TDR program be in place before the RMP was adopted. That never happened. Therefore, the RMP should not be in effect until a real TDR program is up and running.

HCIS/Comment Number: 10
Commenter Name: George Marchant
Organization: Private citizen
Municipality: Sparta
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

Add a "Preface" as follows: " Landowners will be fairly compensated for the impact of the Highlands Act and its implementations within 1 year of this revision. If, within such 1 year revision ,such landowner(s) do not receive such fair compensation, within said period, the landowner(s) may sue in the NJ court system, at no cost to the Landowner(s). Legal and the other court/legal fees/costs shall be paid by the State Of New Jersey. Suits may demand the courts render an immediate judgement on the amount of compensation. The State shall pay the compensation (subject to appeal) within 30 days of a final court decision. In a similar manner, the landowner(s) may sue the State over the fairness of any prior or future compensation, within one year prior to such compensation being received by the Landowner(s),and at no cost to the landowner(s) as per the above. In the event the State does not comply with the above, the landowners shall not be subject to, nor forced to comply with, said Act/implementations.

HCIS/Comment Number: 12
Commenter Name: William Pinkerston
Organization: Hunterdon County Homeowners Association
Municipality: Flemington
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

Has the Highlands Water Protection and Planning Council considered repaying property owners for losses in property value from the Highlands RMP as similar plans in other states (i.e., CA, FL, PA, NY) have been required to do by the courts?

HCIS/Comment Number: 16

Commenter Name: JOHN OCCHIPINTI

Organization:

Municipality: Great Meadows

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

I would like to know if the state has received the \$10,000,000 dollars per year for ten years from the federal gov and if so has that money been paid to the landowners that had there property rights and land values taken away.How and when do we receive payment.It has been 10 years now I want the possess of getting paid to be as Fast and Easy as it was when you took our property rights.

HCIS/Comment Number: 28

Commenter Name: Peter Kohut

Organization: Century 21 Worden & Green

Municipality: Hillsborough

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

I have always believed that water resources could be protected without seizing property rights from individual landowners. This puts all the responsibility on individual landowners for the purpose of limiting development. If the Council wants to take away people's rights, then they should pay them fairly for their property. Just like when the county purchases development rights, they pay the landowner for that purpose. One way to do this is to develop the TDR program

HCIS/Comment Number: 43

Commenter Name: Matthew DeLany

Organization:

Municipality: Hackettstown

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

In my opinion it is a disgrace that the Highlands Council allows the land in it's region to be devalued in order to preserve the value of businesses and property in the lower sections of the state. Why aren't the property owners in the Highlands compensated for their decreased property values? We pay high property taxes just like everyone else in the state. That gives me an idea. Why don't you reduce our property taxes and subsidize us by increasing the taxes on those who benefit from the Highlands Act?

HCIS/Comment Number: 50

Commenter Name: Susan Buck

Organization:

Municipality: Oxford

Primary Topic: Landowner Equity

Secondary Topic: Other

Comment:

I will refer you to the comments I made along with busloads of other people before the law was passed as well as those made to the DEP when their rules were proposed and the comments we made on a monthly basis at the Highlands Council Meetings that I attended for years. You can also take a look at the lawsuit filed initially by Warren County, then followed through by several private individuals. And, of course, feel free to read the constitution of the United States and you will realize that the Highlands Act is clearly unconstitutional. Despite the promises, absolutely nothing has been done to provide just compensation to landowners whose property rights have been taken by the government. None of the issues in all of these comments have been addressed, yet the fears the landowners had turned out to be well founded. The value of our land has been almost completely taken away resulting in financial devastation for many of us. The average age of a farmer at the time the Highlands Act was passed was well known, yet nothing was ever done to compensate middle aged and elderly farmers for the loss of 90% of their wealth. We feared for the economic futures of our towns, and those fears were well founded too. We have lost population and businesses. More heartbreaking, we have lost elderly landowners who died after losing their land equity to the government. Property taxes are sky high and unmanageable, so ever year we see an increase in taxes and decreases in services. There is little to attract new business since population and disposable income are both declining in most of the rural towns where the preservation area dominates. The land that the state owns continues to be ignored with invasive species and underbrush choking out the trees - something that the state does not tolerate from landowners applying for farmland assessment. And, of course, the rules for farmland assessment and forest stewardship have gotten even more onerous, further discouraging private property ownership.

For the most part, there's nothing to be said that hasn't been said already by hundreds of landowners who have commented over the years. Luckily it is easy for you to find it all thanks to things like Google, which was in its embryonic stage when the Highlands Act was passed. And all you folks probably have smart phones, which were invented after the Highlands act was passed. Or even fiber optic or 4 G internet access. I don't have any of that because the capacity for building the infrastructure is forbidden by the DEP Highlands regs. I still don't have reliable cell phone service where I am and never will since it is illegal to build a cell phone tower in the area. So, although we predicted being left in the dark ages so to speak, you should know that we were right. If only I could go to a Starbucks for internet access, but there are no Starbucks out where I live because we're all too dirt poor to drop three bucks on a cup of coffee so even if Starbucks could find a nice brownfield lot to build on, there will never be any demand for their pricey coffee. So I tolerate my second class citizen lifestyle out here in the Highlands Preservation area with poor cell phone service, spotty internet service, and abandoned state owned land all around me ready to go up in smoke at the next lightening strike. But I'm not going to waste my time commenting yet again on the RMP. As I said - go back to the original hearings before the Highlands Act was passed and the comments made at the Highlands Council meetings and the lawsuits. You'll find that not one of our concerns has been addressed, so feel free to pick something and fix it.

HCIS/Comment Number: 54

Commenter Name: William Young

Organization:

Municipality: Glenwood
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

When will the Highlands put in place a process for water users to start paying landowners for the water? I propose a quarterly or annual dollar amount to be paid on-going. My property was stolen by the Highlands and now lost value and I can't even subdivide off acreage for my kids to build next to me.

Just as the water users pay their quarterly or monthly water bills to their water provider, an amount should be passed back to landowners that provided that water and suffered land loss. Determine a dollar amount per acre for the number of gallons added to the water supply followed by a reimbursement check on a regular basis.

Landowners have been cheated all this time since the Highlands Act was put in place while water users wash cars and water lawns at our expense.

We have 80 acres and I'm sure we provide a lot of water.

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to landowner equity, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54946
Commenter Name: none none
Organization: Mansfield Township Land Use Board

Municipality: Port Murray
Primary Topic: Landowner Equity
Secondary Topic: Programs of the RMP

Comment:

5 .Determine appropriate tax offset for Highlands communities to recognize value of the Highlands product (water) to non-Highlands act communities.

Mansfield Township has suffered significant negative economic impact as a result of the Highlands Act.If our sacrifice Is necessary to ensure the water quality for those communities outside of the Highlands,we should be appropriately compensated for that sacrifice. Economic development in our community has come to a virtual halt. The Highlands Act has curtailed any potential for economic growth related to construction and further stymied migration Into our community from other parts of the state. While communities in Eastern Pennsylvania that border the Highlands have flourished, we continue to suffer negative economic growth. It Is only right and fair that the precious commodity we are protecting,water, be treated as a product that our community produces for the rest of the state and that we be appropriately compensated for it.

HCIS/Comment Number: 87
Commenter Name: Dena Hrebenak
Organization: Township of Mansfield Committee and Planning Board
Municipality: Port Murray
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

Determine appropriate tax offset for Highlands communities to recognize value of the Highlands product (water) to non-Highlands act communities.

Mansfield Township has suffered significant negative economic impact as a result of the Highlands Act. If our sacrifice is necessary to ensure the water quality for those communities outside of the Highlands, we should be appropriately compensated for that sacrifice. Economic development in our community has come to a virtual halt. The Highlands Act has curtailed any potential for economic growth related to construction and further stymied migration into our community from other parts of the state. While communities in Eastern Pennsylvania that border the Highlands have flourished, we continue to suffer negative economic growth. It is only right and fair that the precious commodity we are protecting, water, be treated as a product that our community produces for the rest of the state and that we be appropriately compensated for it.

HCIS/Comment Number: 53142
Commenter Name: Frances Cornett
Organization:
Municipality: Pohatcong
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

The Highlands Act has severely and dramatically curtailed development in the Highlands Region as intended. The unintended consequences of this Act, has been to condemn the residents of the affected areas to government imposed poverty. By barring development, economic activity has ground to a halt, and the price paid by the affected residents has been exorbitant.

Please consider opening specific corridors for development and establish a more realistic balance between economic growth and preservation .

Response:

The Highlands Council acknowledges that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2).

To that end, the Highlands Act provided 17 exemptions and three (3) waivers to allow for certain types of development in the Region. (A fourth waiver was included in the NJDEP Highlands Rules). In addition, the Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. The RMP’s Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to economic development in the Highlands, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54131
Committer Name: Robert L. Dennis
Organization:
Municipality: Andover
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

With the 2008 Highlands Regional Master Plan currently under review for possible revisions, I submit the following comments for your consideration for incorporation into a revised plan .

My area of concern questions the reasoning by which certain similarly developed lakes are designated as being in either the preservation or planning area under the Highlands Act . Specifically ,Lake Hopatcong , the state 's largest , and Lake Musconetcong are in the planning area while

Cranberry Lake in Byram Township is in the preservation area. All three lakes have similar histories having been water supply sources for the Morris Canal . Outflow waters from all three flow into the Musconetcong River and ultimately into the upper Delaware River . All three experienced their predominantly residential development during the third and fourth decades of the twentieth century. All three are now fully built up and are considered state lakes . This occurred when the State of New Jersey took over the physical assets of the defunct Morris Canal in the 1920s .

It seems logical that Lake Hopatcong and Lake Musconetcong should be in the planning area since they are already fully developed lake communities leaving little to be preserved . But so is Cranberry Lake . In fact, state owned lands virtually surround and include Cranberry Lake - no need for Highlands protection . Most private land at Cranberry Lake was subdivided in the 1920s by the Cranberry Lake Development Company into hundreds of small dwelling lots (by today 's standards) and which included a network of new roads . Two large tracts of land which were not subdivided were owned by the State of New Jersey and a privately owned 120 acre tract known as the Rose Property or Rose Farm . However, in a portion of both of these two unsubdivided tracts, land lease sites were created for vacation cottages . Therefore ,Byram Township 's tax maps may not indicate a true count of the actual number of dwelling sites since lease sites have no lot lines to be shown. Nevertheless , the shoreline of Cranberry Lake is completely built-out as are the remaining non-lakefront lots created by the Cranberry Lake Development Company .

The Highlands Act notwithstanding , if the subdivisions at Cranberry Lake were created today rather than some 80 years ago, the lot sizes would be much larger. Thus the housing density would be far less due to the township 's modern zoning laws. For example , any at fronting on a body of water must be at least one acre in area .

Moreover, all septic system tanks at Cranberry Lake must be pumped at least every three years . I live at Cranberry Lake on a one acre plus lot formerly a part of the Rose Property tract. So do the families of my three married daughters, but on separate lots which were subsequently created from the same Rose family tract.

In order to understand my concern over why the Highlands Act designates Cranberry Lake as being in the preservation area while the companion lakes, Hopatcong and Musconetcong, with similar developmental histories and with the outflow of all three lakes blending into the same Musconetcong River are treated differently , allow me to offer a brief history of the Rose Property.

In 1834 my great-great grandfather, Benjamin Rose, bought a 120 acre tract of land in Byram Township for a family farm. This happened prior to the creation of Cranberry Reservoir by the Morris Canal and Banking Company. His land was part of a large basin of land containing the confluence of streams originating in the surrounding hills. Much of the tract's forest had served as a fuel source for the iron furnace in Andover. Mr. Rose established his dwelling on the property and farmed it with crops and livestock for his families sustenance.

Shortly thereafter, the Morris Canal Company acquired land adjoining Rose's for the purpose of erecting a dam for the flooding of the basin to create a reservoir to supply water for its canal. This meant flooding Rose's land too. The canal company offered to buy Rose's land, but he declined. The result was that Rose, in 1836, entered into an agreement with the canal company whereby, for a consideration, he granted it a permanent easement to overflow a part of his land up to a specified

height. This turned out to cover a land area of about 41 acres. Hence, the 200 acre Cranberry Reservoir was built.

Ever since 1834 descendants of Benjamin Rose have owned and occupied the land, myself being the fifth generation. Agricultural activity on the land lasted until the late 1950s.

It became family policy not to subdivide or sell the land, but to save it for the children. This has worked well for the past 180 years. However, to be able to afford to keep the property (taxes) and derive some income, since the 1920s the family has leased parcels of land to others for vacation home sites. Leasing out land became feasible back then since the rest of Cranberry Lake was being subdivided and the land developed into a resort community.

In the 1930s my parents subdivided their lot out of the original family tract. I did likewise in the 1960s, and my children have subsequently done the same. Subdividing a lot is much more complex today due to modern zoning ordinances. With the Highlands Act, subdividing in the preservation is virtually impossible. We were prepared to meet zoning requirements before the Act. In fact, in the 1990s I completed a ten lot major subdivision of a section of the property containing existing homes on leased land. Thus the lessee's were able to purchase the leased land under the house they own, and I was able to down-size the land leasing operation. It should be noted that the lots I subdivided are considerably larger than the former lease sites and allow room for replacement of existing septic systems should it become necessary. The lots are also larger than most of the hundreds of lots created at Cranberry Lake pre-zoning development era some 90 years ago.

In 2004 the Highlands Act was passed which, in part, was intended to presumably "preserve" an already developed Cranberry Lake. Essentially, all that was left to preserve was the undeveloped portion of my family homestead land which did not involve lakefront property. My first experience with the Highlands Act was when a neighbor, whose small lot and dwelling, well away from the lake but which adjoins my property, asked if he could buy a small piece of my vacant land to enlarge his lot. I agreed as long as the remainder of my land would constitute a lot conforming to zoning requirements. It did. Thus the subdivision and lot line adjustment process began. The Byram Township Planning Board approved my application contingent upon the Highlands Council's granting a required exemption to the Act. The council denied my application, therefore the planning board declined to sign off on the deeds - end of story after much expense and disappointment.

I currently receive 10 tax bills for the remaining Rose Property land. This is because, many years ago, the township administratively subdivided the land for taxing purposes. It considered as lot lines wherever a public road or lake shoreline occurred within the tract. These bills pertain to property ranging in area from a 0.30 acre rock island, 41 acres for the lakebottom itself, to around 50 acres of vacant land. The balance of the land is occupied by lease sites.

With the lakefront land already built out, my intent was for others, including my descendants, if they so wish, to live on the remaining vacant land which is well away from the lake. But now, with that land being in the preservation area of the Highlands Act, negates that intent. My land, in effect, has been seized by the state through the Highlands Act without any compensation. If my land is so essential as a part of the water source for the welfare of over half of the population of northern New Jersey, why is it not condemned and taken under eminent domain? At least we would receive some compensation for the loss of our historic Rose family homestead. The real estate tax assessments show it still has substantial value.

I apologize for this lengthy letter, but I want to provide you sufficient background information that you can see the merit in my concerns . Why the assignment to Cranberry Lake as a preservation area under the Highlands Act? As I have pointed out, the similarities of Cranberry Lake, Lake Hopatcong and Lake Musconetcong historically, developmentally and physically as a future water source should require that all three should be treated the same under the Act . Even neighboring Lake Mohawk, which is also fully developed and partly in Byram Township, is recognized as not in a Highlands preservation area. It occurred to me that, because Lake Mohawk's outflow is the Wallkill River which flows into New York State and in the opposite direction from the Musconetcong River, perhaps that relieves the Highlands Act from responsibility for its water quality. I hope politics plays no role in all of this.

Please feel free to contact me for additional information at this letterhead's address. You may also telephone me on (973) 347-2910.

Sincerely yours,
Robert L. Dennis

Response:

The Highlands Council is charged with implementation of the Highlands Act (P.L. 2004, c.120). The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to landowner equity, the Report will include the appropriate recommendations.

HCIS/Comment Number: 57
Commenter Name: Brian Maffia
Organization: General Plumbing Supply

Municipality: Easton
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

The council has failed to establish the statutorily mandated TDR program with sufficient receiving zones that was envisioned to compensate landowners for their lost equity in the land and life savings. With only 11,000 acres, 1.3% of the highlands region, is shown in the RPM as a Voluntary TDR rights receiving area.

Response:

The Highlands Act required the creation of a Transfer of Development Rights (TDR) program, which was addressed by the development of a TDR Program and the establishment of the Highlands Development Credit Bank (HDC Bank) in the Regional Master Plan (RMP) in 2008. As of 2015, the HDC Bank had provided nearly \$9 million to property owners in the Region through the TDR program, securing Highlands Development Credits, which represent lost development potential.

The Highlands Council and the HDC Bank continue to pursue methods to implement voluntary receiving zones for the program where the purchased credits may be sold, while also seeking alternate means of funding the bank, including the use of mitigation funds among other sources.

It has been determined that the Highlands Council's identification of potential receiving zones in the Regional Master Plan complied with the requirements of the Highlands Act regarding the establishment of TDR Receiving Areas (In re Highlands Regional Master Plan, 24 A. 3d 314 - NJ: Appellate Div. 2011).

HCIS/Comment Number: 54232
Commenter Name: David K. Dech
Organization: Warren County Planning Department
Municipality: Belvidere
Primary Topic: Landowner Equity
Secondary Topic: Programs of the RMP

Comment:

Land Owner Equity

Transfer of Development Rights

The Highlands Council website states that a new Highlands Development Credit Program will be rolled

out in 2015. This could be an acknowledgement of how the current TOR program has not been entirely successful. Since its inception, 98 applications have been submitted to the HOC program and 18 have

actually been funded. According to the website, 518.25 credits have been purchased, for \$8.292 million, preserving 603.14 acres of land. This equates to \$13,748 per acre. It is unclear if this program

preserves the land from future development. There appears to be no discussion stating that the property would carry a development restriction in exchange for selling the HDC's.

Out of the 98 applications submitted for HOC, 25 were deemed eligible for HOC purchase. 18 were funded and for the others it appears that either the land owner declined the offer or the HOC Board withdrew the offer. The Highlands website offers no explanation why the other 73 applications were not eligible for the program.

Furthermore, there appears to be no market for the HOC s when they are purchased. No information is provided for where the credits may have been used.

Problems with the TDR system could be 1. lack of adequate funding, 2. lack of interest in voluntary zone

property owners, 3 lack of interest in establishing viable receiving zones, 4. no market to use HDC's.

Question #42. A better system needs to be put in place to establish receiving zones and market the HDC's so that the program can be successful. What indicators are in place to measure the TOR program's effectiveness?

The lack of an effective TDR and unusual and unique septic density regulation has severely limited the

ability of the farming community to use their land as business collateral. The zoning densities that were

in place at the time the Highlands Act was adopted were based on rational assumptions vested with municipal authority.

Question #43. Landowners who had their land downzoned to 25 or 88 acres by regulatory mandate have not been compensated for their loss in value. What has been done to address this inequity? The Legislature must be advised by the Council of its responsibility to provide adequate funding.

Equity for other landowners

Not every farmer or landowner will wish to enroll in a government sponsored preservation program. And not all land areas, small or large, farm or forest, will qualify under existing farmland preservation or

open space type programs. The landowners of these properties cannot realize the benefits of a government program that are thought to help protect a landowner's equity. The Highlands Council must develop, promote, and demand a program that will compensate landowners that realize a loss in

equity/value and do not qualify for existing preservation programs.

Question #44. Has the Council advised the Legislature of such insufficiencies and the Council's inability to address this component?

Response:

The Highlands Act required the creation of a Transfer of Development Rights (TDR) program, which was addressed by the development of a TDR Program and the establishment of the Highlands Development Credit Bank (HDC Bank) in the Regional Master Plan (RMP) in 2008. RMP Policy 7B7 speaks to the need to deed restrictions on sending zone parcels. As of 2015, the HDC Bank had provided nearly \$9 million to property owners in the Region through the TDR program, securing Highlands Development Credits, which represent lost development potential. Eligibility for purchase under the program was established by the HDC Bank.

The Highlands Council and the HDC Bank continue to pursue methods to implement voluntary receiving zones for the program where the purchased credits may be sold, while also seeking alternate means of funding the bank, including the use of mitigation funds among other means.

HCIS/Comment Number: 62
Commenter Name: Rick Sparling
Organization:
Municipality: Oak Ridge
Primary Topic: Landowner Equity
Secondary Topic: Plan Implementation

Comment:

HDC credits as defined no longer apply to conservation of entire deed conservation restrictions and should not be applied in the restitution of a landowners equity.

Response:

This topic is discussed in Policy 7B7 of the Regional Master Plan (RMP). The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to the issuance of HDC's, the Report will include the appropriate recommendations.

HCIS/Comment Number: 53364
Commenter Name: Deborah Post
Organization: NJ Highlands Council
Municipality: Chester
Primary Topic: Landowner Equity
Secondary Topic: Other

Comment:

Mr. Steve Gunnels
Placeworks, Chief Economist
3 MacArthur Place
Suite 1100
Santa Ana, California 92707

122 Oakdale Road
Chester, N.J. 07930

Re New Jersey Highlands Fiscal Impact Project

Dear Mr.Gunnels:

September 18, 2014

I heard your comments before the Highlands Council today and trust your sincerity in letting the numbers speak for themselves.

Some comments regarding those numbers:

1. Real estate values. The environmentalist lobby has recently spun real estate numbers erroneously in a disinformation campaign to discredit harmed landowner property value losses. These groups seek to deny that the regulatory taking of the Highlands Act harmed Highlands open space landowners. It is estimated that the Act resulted in an aggregate \$6 billion of property value losses. 1

The pricing curve dictates that the value of existing houses would be expected to rise in most scenarios where supply has been cut off and demand continues to rise. Affordable housing in high cost NJ has been a political issue for years. Even during the recent economic downturn, the demand for housing did not drop in NJ as dramatically as elsewhere. Please take these facts into consideration as you evaluate fiscal impacts related to the Highlands Act using residential home prices.

Also, residential home prices are distinguished from undeveloped open space land prices.
2. Assessment data. It is easy to misconstrue NJ ratables. New Jersey's constitution provides for special tax assessment of farmland. Farm structures and the land underlying farm residences are taxed as all other structures and homes with no special treatment. However, the open space farm fields are taxed at a farmland assessed rate per acre (less than \$1 ,000) determined annually by the NJ Farmland Evaluation Advisory Committee.

Virtually all open space land in the Highlands qualified (both pre-2004 and today) for farmland assessment; exceptions are few.

1 In the decade since passage of the Act, no one, including the Highlands Council, has prepared a careful analysis of total property losses. The \$6 billion cited here is an approximate mid-point/median of many estimates ranging from \$2 billion to \$15 billion.

Consequently, real land fair market values (in an open and competitive marketplace) are statistically invisible/non-existent in the overall NJ tax assessment data. While ratables may be useful as a measurement of municipal financial health, tax assessment data is not useful in considering fiscal impacts on the value of open space land. Please take these facts into consideration as you evaluate the fiscal impact of the Highlands Act on open space property values.

3. Regarding the value of water and its preservation as posed to you by council members Carluccio and Visioli, please consider mentioning how the value of underlying water would be treated in a state such as California where water rights run with property rights. In such a context the losses suffered by landowners are greater than just the loss of their development rights. The water preservation values belong to the landowners! Your assignment is complicated by the economic downturn that followed shortly after the Highlands Act passage. Much of the harm of the Highlands Act was disguised or not noticed due to other financial stresses. If your analysis was contracted to start in 2006 and not 2004, any conclusions regarding impact will be distorted and not fairly represent. Also, please look carefully at the selected industry sectors that have never "come back".

Much ado is made over the faux "tourism opportunities" of the Highlands as a replacement for sectors that have died due to the Highlands Act. Please evaluate tourism with your reality hat on.

The Highlands Act has created a public park in which only the rich may live. I look forward to seeing whether the numbers can reflect this truth.

cc: Highlands Council
enclosures
Sincerely,
Deborah Post
Highlands landowner

Response:

The Highlands Council appreciates the commenter's input on Land Owner Equity and the Fiscal Impact Assessment. The Highlands Council will consider each indicator proposed for use in evaluating the Highlands Regional Master Plan.

Natural Resources

DRAFT

HCIS/Comment Number: 17

Commenter Name: Carol Vreeland

Organization:

Municipality: Kinnelon

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

Dear Highlands Council Members,

The Highlands Regional Master Plan has been very successful in implementing the Highlands Water Protection and Planning Act. New Jersey residents are fortunate to live in a state where the protection of natural resources and water conservation are a high priority. The Preservation and Planning areas have helped to define and protect the valuable water resources which New Jersey residents rely on. The rampant development of previous years has been slowed, which is necessary in the most densely populated state in our country. We have only to look at the current water crisis in California to realize that without the RMP, New Jersey could be headed in the same direction of dwindling and non-existent water resources.

I have heard some folks say they feel they have been shortchanged financially due to the RMP, but please consider the fact that since the 2007 recession, the property value bubble has burst for all New Jersey residents and we have all been affected. It is not practical to make restitution to all.

The important thing to remember is that in continuing the RMP restrictions we meet goal of preserving our water and other natural resources for current and future generations. Thank you for all your hard work and please keep the standards high.

Respectfully submitted,
Carol M. Vreeland

HCIS/Comment Number: 18

Commenter Name: Nicholas Homyak

Organization: NJ Highlands

Municipality: Lake Hiawatha

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Other

Comment:

The matter of the Parsippany Waterview Rezone Attempt Fiasco RD Developer Slaps Parsippany Around Citizens Fight Back. Parsippany, NJ has been engaged in an effort along with citizens of Mountain Lakes to prevent an unneeded speculation development on the last undeveloped landscape along Route 46 known as the "waterview tract"; 26.5 acres. This is no ordinary landscape but a hardwood upland forest, with well drained high chroma, non hydric soils. The land borders on the Troy Brook and contains a wetland transition zone.(Harbors a cemetery) The area has also been mentioned in a Rutgers Study of the Troy Brook Regional Stormwater Management Plan, Drainage Area Specific Water Quality Quantity and Recharge Objectives. One most important aspect of this report mentions the importance of maintaining bio-diversity in the area for obvious reasons explicit

in the reports title. This landscape characteristics qualify it as a "natural resource" or a natural resource asset already working for us, harboring trees, ground water recharge and community enhancement acting as a threshold to an older traditional Parsippany neighborhood. However because it exists in the Planning Zone of the Highlands none of its assets or character was recognized and its value was market real estate only, zoned for office space. Do to the lack of need and the over development of office buildings in the area the property owner and a developer tried to have the property re-zoned in order to proceed with an unneeded market development scheme. The Administration of Parsippany at the time went along and tried everything they could to promote this development scheme, misleading the public with false premises like tax rateables, jobs and the threat of public housing development if it was not developed now this would happen later.

From a local Letter to the editor by me sums it up:

Because we (Parsippany) are in the Planning Zone of the NJ Highlands Waterview landscape is not seen for it's inherit natural resource value, as our Master Plan should. Waterview landscape is like an innocent person being sentenced to prison. It has been deemed real estate not land or resource despite a Rutgers Study, our own master plan and evidence discovered by the Group Citizens 4 Health, Safety, and Welfare. Citizen's argument is supported by the preponderance of substantial, reliable, and probative evidence because the parcel was evaluated for its "natural resource geologic and hydraulic nature and characteristics, in addition to being harmonious with the neighborhood. This unique landscape is so unique it has cause itself to be advocated through the human agency for its defense, simply because it is a provable natural resource in its character, ground water recharge, trees, habitat for other life forms and aesthetic qualities.

Landscapes such as the waterview Block Lot although in the Highlands Region Planning Zone in a Municipality not conforming to the Regional Master Plan and having a water deficient would of complicated their situation by allowing the loss of this important landscape for no just cause or sound reason. Without the formation of the Citizens 4 Health Safety and Welfare this loss would have occurred. The accumulative impacts and cost avoidance scenarios were not part of the Planning Process, nor considered by the administration at that time. Flooding; which does occur in the area, water quality, air pollution, trash/litter, stormwater pollution were all matters to be passed on to the NJDEP, not for the municipal authorities to be concerned. The developer was given more rights and considerations than the citizens themselves. The developer actually attempting to legally loot county open space money for a buffer zone he would of had to provide anyway after the Council voted No to the project the developer sued the Township. (Why it was not thrown out of court is another curious matter).(Perhaps we need special courts and qualified judges to present land use cases based on land science not corporate economic development rights of ownership).

In conclusion unique landscapes that still remain "everywhere" in the region,(planning zone or not), need to be found and reassessed for their natural resource value. From the Office of the President of the United States, Enhancing the Climate Resilience of America's Natural Resources ..Council on Climate Preparedness and Resilience. "the landscape is not defined by the size of the area, but rather by the interacting elements that are meaningful to the management objectives. In addition, for the purposes of this report, the term "landscape" encompasses watersheds and marine environments that match the above description. The term "cumulative impacts" refers to the combined, incremental effects of human activity on a resource ecosystem , or human community.

This in addition to the regional Master Plan of the Highlands should enforce its position of reason and legality in intervene in such circumstances as what happened in Parsippany, NJ.

Science must replace personal favoritism and political deals favoring rewards for municipal officials that allow unneeded development over objections from the populace or an apathetic populace. Much of what we call the private sector must be made to comply with the best management practices in all circumstance, including energy efficiency and waste curtailment. Higher qualifications for Planning Board Members in land-use must occur. All 88 municipalities should be made to have Highlands officials or representatives attend or be appointed to regular Planning Boards as consultants and overseers.

We call ourselves the United States is is not true any longer without coherent regional planning we stand to slowly but surely ruin what nature has given us to be its stewards. From: Christian Parenti, a teacher at New York University, Reading Hamilton from the Left..

As the waters rise and the storms grow more intense, the state and the public sector will be called forth. What the state can or will become as it “returns” is an open question — or rather, open to being reshaped by pressure from social movements.

Unfortunately, American society is very far from facing the crisis. And a huge part of the problem is the Jeffersonian notion that “the government that governs best is the one that governs least.” While that is true as regards individual liberty, it is absolutely dangerous to think that way as regards the economy.

Regional Master Plans must become the stay of the land....

To the Delaware Indians, land was an element, a medium of existence, like the air and the sunlight and the rivers. To him “ownership” of land meant, not exclusive personal title to the soil itself, but occupation of a certain position of responsibility in the social unit which exploited the soil. The sale of land might to the Delaware, be almost mutually satisfactory change in the relationship of two groups of persons subsisting on the land. In the earliest sales the Indians seem to have intended only to give the Christians freedom to use the land in conjunction with the native population. This was very similar to our own early European Land tenure conceptions. It is also relevant to the present state of affairs here in Parsippany. The Land must be recognized for it’s inherit natural resource and characteristics, not fall to a corporate developers plan that erases this element of its actual life force. The same society that advanced on the notion of individual rights above all else is the same society that robbed others of their lands and rights, its transformation into market systems will do the same to us all in the end.

Waterview Landscape in Parsippany was like an innocent victim being sentenced to prison because of political, not just cause. Its actual character totally ignored because it's location in the Planning Zone. To Parsippany officials; "no problem exist with water at all, and what is good for the region, may not be good for Parsippany" quote of a present Councilman & former Planning Board member..

HCIS/Comment Number: 5

Commenter Name: Avery Hart

Organization: Kinnelon Conserved

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Municipality: Kinnelon

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

There is little in life more important than the protection of water. Water is vital for life, not just for humans, but all living entities. Water is wealth as can be plainly seen by comparing water rich places to water poor ones. Therefore, to loosen the regulatory Highlands law that helps New Jersey preserve its natural resources, especially, fresh, clean water, is to degrade the true wealth of our area, with its rich natural resources. A highly populated state like NJ needs fresh, clean water for survival. Wise planners will keep the Highland law strong into the future, and in the act of water protection will strengthen the health of our state. Please take correct action to protect our lives and protect our state's last remaining natural resources, now and into the future.

HCIS/Comment Number: 7

Commenter Name: Eugene Pumphrey

Organization: Mr.

Municipality: Barnegat Light

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

I am strong advocate of the current plan, which has been producing positive gains for all New Jersey residents. By protecting our critical water supplies, reducing flooding, and preserving wildlife habitat through sensible limits on development, the Act is promoting the healthy future of our state. In fact, the Act works so well, we believe similar restrictions would be beneficial statewide.

The only complaints we have heard are from the kind of landowners who have been making money hand over fist for decades by developing properties with no regard for our resources or how they degrade our quality of life. And occasionally those government officials that seek to blame the Highlands Act for the high taxes that are really their own doing, often from failing to control the overdevelopment of their own communities.

We hope the state government will not use this comment period as an excuse to weaken a law that has been working so well. You can help by supporting these values with your comments.

HCIS/Comment Number: 93

Commenter Name: Carleton Montgomery

Organization: Pinelands Preservation Alliance

Municipality: Southampton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

Pinelands Preservation Alliance (PPA) wishes to endorse the detailed comments submitted by the NJ Highlands Coalition and to emphasize ___ basic themes for the Council's consideration. PPA has been working to support and improve the Pinelands regional planning program for more than 25

years and has gained unique experience in understanding both the opportunities and the pitfalls in regional planning for natural resource conservation in New Jersey.

1. Keep your eye trained on protecting the forests. The most important outcome the Highlands RMP can achieve is to protect all of the region's surviving forests, because the forests are the unifying thread that sustains the water supply, the critical habitats of the region's plants and wildlife, and the recreational and scenic values for which the Highlands Council exists. Every acre of forest lost is a blow to each of these values, no matter how well-designed is the development takes its place.
2. Complete and reliable data is essential to implementing the RMP's standards and policies. It is impossible to rationally implement development standards and regional policies without good data on factors like the presence and needs of rare species, dynamics of wetlands and streams in response to climate change and land use change, and changes in the level of contaminants like nutrients in water bodies. Most of this data must be collected by applicants and other state and local agencies, rather than the Council. It is essential that the Council have an integrated program that ensures needed data will be collected and reported on an application-by-application basis and a regional-wide basis.
3. Transfer of development rights program. The Pinelands Development Credit program has been successful over its long term because the Pinelands Comprehensive Management Plan provides for mandatory receiving areas and development situations that require the purchase of rights in order to win approval, which municipalities cannot override. If the Highlands program is ever to work in providing value to landowners and preserving land in sending areas, it cannot rely on municipal governing bodies to take the lead or unilaterally agreeing to create receiving areas and required uses of credits. Most municipal governments will be intimidated by the complexities of these programs or will not have the continuity of leadership over time to make them work.
4. Transparency of the Council's operation is critical: The Pinelands Commission has gotten itself into trouble with the law and the public because it has gradually eroded the transparency for which it historically was known. The Commission does more and more of its work through deals negotiated outside the procedures established by the CMP, keeps key communications out of the public files, and discourages public participation. These actions only lead to embarrassment for the agency and unnecessary legal entanglements for applicants. The Highlands Council should not take this course, but should increase its transparency and respect for public comment and participation.

HCIS/Comment Number: 94-1

Commenter Name: Wilma Frey

Organization: New Jersey Conservation Foundation

Municipality: Far Hills

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

To: Margaret Nordstrom, Executive Director
New Jersey Highlands Water Protection and Planning Council

From: New Jersey Conservation Foundation

Re: Comments re Highlands Natural Resources Protection – Critical Habitat
For the Highlands RMP Monitoring Program and Recommendations Report

Critical Habitat:

Re Policy 1F1.3: Vernal pools cannot function in isolation, a fact supported by the state initiative, Connecting Habitat Across NJ (CHANJ), which recognizes the importance of contiguous and interconnected habitats. The Highlands RMP needs to maintain, if not increase, the existing 1000 foot buffer for vernal pools. The Highlands Council has already mapped vernal pools and their respective buffers, but much more needs to be done at the state and municipal levels to ensure their continued protection.

Re Policies 1F2 – 1F9: The Highlands is home to 75 Federal and State Rare, Threatened and Endangered animal species, including amphibians, birds, Lepidoptera (butterflies), mammals, freshwater mussels, Odonates (dragonflies) and reptiles, plus 137 Rare and Endangered plant species. The number of rare species is larger than those species listed as Threatened and Endangered. Rare plants include all those determined by the NJ DEP Natural Heritage Program to show a degree of imperilment of S3 or greater (“rare in New Jersey”), with the Highlands home to at least 58 species of plants that are Endangered in the state, all but two with a State Heritage Rank of S1, signifying “critically imperiled in New Jersey because of extreme rarity.” Swamp Pink, *Helonias bullata*, has the distinction of being a federal Threatened species.

Despite recognition by the State and protection in the DEP Highlands rules, rare species are frequently ignored in the planning and development approval process, if they are not listed as Threatened or Endangered. In addition, on site survey work is frequently either insufficient or nonexistent. To improve the protection of rare species in the Highlands, better surveys must be required in areas where any Special Concern or Rare plant or animal species may exist, based on the Natural Heritage database. Such surveys must be conducted by appropriate and fully qualified experts for each taxon, using appropriate methods, and must be repeated over at least two full years during all appropriate seasons. Once all occurrences of rare flora and fauna at a proposed site have been quantified, existing populations of rare flora and fauna must be avoided.

Although not something that is currently included in the 2008 RMP, “No Net Loss of Habitat Value” guidelines are being developed by NJDEP and may in the near future be applied to the Highlands Region. Faced with this potential, we stress that existing critical habitat must not be exchanged until a fact-based result showing positive increased value to a habitat is established. While recovery of rare plant and animal populations through habitat restoration is a laudable goal, and in general, ecological restoration should be encouraged as a long-term public policy, long-term restoration is not mitigation for destruction of local populations of rare species. Restoration projects take decades, and are fraught with uncertainty. It is impossible for restoration projects to provide population benefits in time to mitigate for a habitat loss that quickly destroys or subtly pushes a local population to extinction. If long-term restoration is to be allowed to mitigate for known impacts to a suite of declining and/or rare species, the restoration must be conducted, completed, and show quantifiable expansion greater than the anticipated losses of the population of the species in question, before permitting a habitat loss to occur.

Submitted by:

Emile Devito, PhD, Manager of Science and Stewardship, New Jersey Conservation Foundation
Wilma Frey, Senior Policy Manager, New Jersey Conservation Foundation

HCIS/Comment Number: 54948-3

Commenter Name: none none

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

We respectfully submit the following comments in response to the New Jersey Highlands Council call for input on the Regional Master Plan review. The undersigned individuals and organizations represent a wide variety of interests and opinions yet we are collectively bound by a desire to see a healthy and functioning forest system throughout the Highlands region that provides habitat for wildlife, a clean and plentiful source of water, enhances recreational opportunities for landowners and the public, and supports the economy of the region and beyond. While the Highlands Council and Regional Master Plan play a supportive role in forest stewardship and conservation there are certain principles that we feel could be better represented in the Highlands Council Regional Master Plan and associated Technical Reports.

Our shared perspective on a healthy forest in the highlands region includes several grounding principles.

First, we understand that the oak-dominated forests of the New Jersey Highlands are dynamic, disturbance-dependent ecosystems. These forests are critical reservoirs of biodiversity that must be maintained through prudent disturbances that either mimic the natural disturbances that caused these forests to develop over time, or allow the proper functioning of ecological processes in a changing world. Through the maintenance, stewardship and conservation of the forests of the New Jersey Highlands we will maintain and enhance the water resources of the region, providing filtration and ground water recharge, among other water benefits.

Second, private forest landowners own a significant portion of the total forested land area of the Highlands (most ownership less than 35 acres). Particularly when guided by experts through USDA Natural Resources Conservation Service programs, or other programs administered by conservation agencies, organizations and professionals, these landowners have been good stewards of their healthy forests.

Third, we consistently seek a path forward for keeping our forests healthy and green. The vast majority of on-the-ground work is accomplished in accordance with written management plans prepared by natural resources professionals, and are approved by the NJ Department of Environmental Protection's (DEP) State Forestry Services. So long as such a plan is based on the best available science, we seek to

promote examples of good stewardship to the general public and to policymakers.
We offer the following comments in regards to the monitoring program for the Regional Master Plan:

1. Land use change is the most important regulatory focus of the: Highlands Council and should remain so into the future. Conversion of land out of forested and agricultural use to developed land cover (i.e., impervious surfaces, buildings and structures) causes significant impacts to water quality, ecosystem function, agricultural viability, recreation opportunities, historic and cultural resources, wildlife habitat and aesthetics. We ask the Council to continue its focus on land use planning and leverage existing conservation programs and resources to ensure the conservation of the forest lands of the region.

HCIS/Comment Number: 54948-4

Commenter Name: none none

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: RMP Format and Communications

Comment:

5. Section 30(a)7 of the Highlands Water Protection and Planning Act exempts forestry practices conducted in accordance with a forest management plan approved by the DEP State Forester from "...the act, the regional master plan, any rules or regulations adopted by DEP pursuant to the act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan." With this provision, the authors of the Act reaffirmed that NJ DEP State Forestry Services is the sole regulator of forestry activities and plans. Forestry remains regulated by the NJ Freshwater Wetlands Protection Act and the NJ Flood Hazard Area. Control Act, in addition to the Farmland Assessment Act and the NJ Forest Stewardship Act. Activities found to be outside of an approved forest management plan could - and, more often than not, should – result in penalties under each of those acts as well as the Highlands Act. The Council has an opportunity and role in promoting and communicating NJ State Forestry Services as a resource for landowners to maintain and steward the forest lands of the Highlands Region. Outreach conducted by the Council could specifically include promoting efforts to maintain healthy forests (particularly in developing resiliency and adaptation to global climate change), advocating management of overabundant deer, providing habitat for imperiled species and other habit specialists, control of exotic invasive species and improve forest understory conditions, maintain functioning markets for forest products, and maintain a variety of forest stand age classes across the landscape to keep common species common.

HCIS/Comment Number: 80

Commenter Name: Wayne Najduch

Organization:

Municipality: Hackettstown

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

Wayne M. Najduch
& Andrea L Najduch



April 22, 2015

Ms. Margaret Nordstrom, Executive Director
NJ Highlands Council
100 North Road
Chester, NJ 07930
Re: Highlands Regional Master Plan

Dear Ms. Nordstrom,

Please accept the following in response to the Highlands Council request for public input regarding Highlands Regional Master Plan as part of its 2014 RMP Monitoring Program.

My wife and I live in Independence Township within the Highlands Preservation Area. We have been actively opposing an environmentally unsound development within our Township since 1987. We have spoken several times before the Highlands Council regarding this development and the general demeanor of Independence Township Officials. Our current Mayor has focused on this development, "Liberty Square", with such a laser like manner, he gives rise to specters of his motivation. This property has an active sink hole that receives large amounts of surface water which immediately disappears from a small basin. In the past this water would drain down the mountain in major storm events. Since the town allowed, even encouraged, the developer begin construction without an approved Site Plan or even an approved Stormwater Management Plan, he cleared most of the forest that existed on the site and stripped the topsoil. Since that time minor storms now funnel water from the site, that use to be absorbed in the forest floor, into the basin and sinkhole. There is a standing order from the NJDEP, issued on Oct. 12, 2007, to stop the work and restore the property both in topography as well as plantings. A pond that in the past formed after a rain storm and remained full for weeks was destroyed and obliterated by heavy equipment. I had provided pictures of this pond including local waterfowl to NJDEP as well as the Highlands Council. The property remains to this date as a stripped construction site where a forest once stood and has now existed eight years without action. This sink hole is in close proximity to County Route 517 and within the Wellhead Protection Area of a municipal well for Hackettstown, NJ. Even though a escrow fund is under the control of Independence Township for restoration of this site should the developer fail to achieve a Highlands Exemption, the local officials refuse to take action. Independence Township and the developer remain in defiance of the NJDEP order to restore the topography and plantings that have been destroyed by the seemingly illegal action of the Township and developer. We and other concerned citizens provided testimony and a litany of expert witnesses including the developers own engineering report regarding this sink hole, to bring our environmental and safety concerns to the local planning board, without any response to our concerns. They listened to our expert witnesses and testimony and make no response. Our Mayor has publicly proclaimed that Independence Township is a "poster child" for the Highlands Act. He is right but for the wrong reason. Independence Township exemplifies why the many local authorities that control the environment and water protection that exists within the Highlands Area need a central and unified plan that the Highlands Act has provided. They are currently

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maneuvering to claim the before mentioned site as a reconstruction site. Please maintain the intent of the Act and protect our water and environment and avoid yielding to pressures generated by local municipal politicians and their special interests.

We would very much add our support that the Regional Master Plan be expanded to map existing Karst areas and features that create watersheds that drain to Karst areas. It is clear to me that local municipal officials have little or no knowledge of water runoff effects to carbonate rock formations and the environmental issues and those of public safety that could arise. To my knowledge there is no inventory of karst features or watershed areas that drain directly to carbonate rock formations. It is also very clear to me that depending on engineering reports from developers to guide local authorities is foolish. Mapping for these conditions and an expertly developed set of rules and guidelines should be developed and instituted.

The current owner and developer of the “Liberty Square Project” has recently under the current forestry rules has taken trees from the site described above, even though he is under an order from NJDEP, since 2007, to restore the plantings on this site, and even though this property had over 80% of the trees removed and destroyed by construction work completed without a “Site Plan Approval” or a “Stormwater Management Approval”. Clearly the right hand does not know what the left hand is doing. I believe that this was done strictly to impose punitive action to myself and the other neighbors that opposed his development of the site. There has been no effort to replant anything on the site and the few trees that remain on the 8 acre site can not represent a viable forestry endeavor. I would recommend and support the requests of others to require the inclusion of certification standards from the Forest Stewardship Council for forestry activities within the Highlands Preservation Area. It is my understanding that this is a highly regarded certification that has rendered great success in many locations. It is clear to us that the overall health of the forests and ecosystems within the Highlands Protection Area are key to quality and quantity of the water supply for New Jersey. Because of their importance we should employ the best practices to continue a sustainable forest system. This extends beyond the trees to the ecosystem and habitat that is provided.

There is a myriad of proposals that have been put forth on compensation to land owners for loss in equity and value for development rights. Some landowners, particularly farmers feel they have been hard hit. Others who were simply speculating on land values deserve less consideration. Never the less there are programs such as the Transfer of Development Rights program and land acquisition programs that could provide some relief in this area. These programs seem to be languishing in both methodology and funding. If some improvements could be made in this area the resistance from local people would be tremendously mitigated. I would urge the Highlands Council to press the State to seek funding and simplification of these processes.

I would urge the Highlands Council to improve its communication of their efforts and the content of the Regional Master Plan to the general public. Local politicians in our town and other influential people have been systematically misinforming the general public. They are very vocal and public, regarding the Highlands Act and the Highlands Council. They are telling people that the Act will prevent them from adding minor additions to their homes. They claim there is not water problem now or in the future and that the Act is just a invented device to steal land and offset political power in the Highlands Area. They are frightening the general public claiming reduction in property value, reduced rates, and increases in taxes as a direct result of the Highlands Act. This is simply not true. The general public is not going out of their way to understand the Act or its provisions.

But they hear perpetrated misconceptions engineered by local politicians and delivered on the radio and public meetings. I would urge to Highlands Council to create a strong public relations effort to educate the general public about the real issues and rules under the Highlands Act. Many of the local politicians are large land holders with interests outside that of the general public, but use their influence to generate what may appear to be a ground swell of discontent with the Highlands Act. I think a strong public relations effort on the part of the Highlands Council would be the most effective way in reducing public fears and misconceptions and thus go far in achieving the results intended by the Highlands Act.

Sincerely yours,
Wayne M. Najduch
Andrea L. Najduch

cc: via mail

HCIS/Comment Number: 8

Commenter Name: Ross Kushner

Organization: Pequannock River Coalition

Municipality: Newfoundland

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: RMP Format and Communications

Comment:

The Pequannock River Coalition (PRC) has been working in the Pequannock River Watershed and Wanaque River Watershed area since 1994. PRC is a vocal advocate of the current Highlands plan, which has been producing positive gains for all New Jersey residents. By protecting our critical lands and waterways, and preserving wildlife habitat through sensible limits on development, the Act is promoting the healthy future of our state. In fact, the Act works so well, we believe similar restrictions would be beneficial statewide.

Before the Act, PRC devoted much time to commenting on inappropriate development, and educating the public on the damage this caused. Since the Act, the need for this has largely been eliminated, especially in the Preservation Area.

PRC strongly recommends that the Highlands Regional Master Plan maintain the current level of protection and current restrictions.

HCIS/Comment Number: 55042

Commenter Name: David Epstein

Organization: The Land Conservancy Of New Jersey

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

The updated RMP should give strong encouragement that the Highlands Council be included as a participant in all inter-agency decisions involving the use of dedicated open space funds or as a

consequence of legal settlements, regulatory fines, mitigation contributions, etc. in the region. The Council's primary objectives should be to ensure that open space funds are used to purchase high resource value properties and not diverted to non-open space purposes.

Thank you for the opportunity to comment.

Response:

The Highlands Council acknowledges and appreciates these comments.

HCIS/Comment Number: 89

Committer Name: Emile DeVito

Organization: New Jersey Conservation Foundation

Municipality: FarHills

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

Date: April 29, 2015

To: Ms. Margaret Nordstrom, Executive Director
New Jersey Highlands Water Protection and Planning Council

From: Emile DeVito, PhD, Manager of Science and Stewardship
New Jersey Conservation Foundation

Re: Comments re Highlands Natural Resources Protection – Forest Resources
For the Highlands RMP Monitoring Program and Recommendations Report

Forest Resources:

Question: Is there an actual public benefit accruing as a result of the management of private forest lands supposedly for public benefits and thus receiving Woodland Tax Assessment (property tax reduction) under New Jersey's Farmland Assessment Program? Though the Highlands Act exempts forestry activities with an approved Forest Management Plan, forestry is a significant activity with enormous potential for negative impacts to the region's critical water and other natural resources.

Current forestry guidelines for management plans are insufficient at best, and non-existent at worst; guidelines are outdated and essentially ignore modern problems of forest management in New Jersey. Indicators of forest problems that are being ignored include: over browsing by deer, lack of native species regeneration, soil impairment (enrichment) from air pollution, and destruction by invasive alien earthworms of the organic humus layer that nurtures native plant reestablishment.

These factors conspire to make forest soils less permeable. Resulting impacts include increased surface rainwater sheet flow with erosion and degradation of surface water quality, plus reduced natural infiltration of the rainwater required to recharge critical Highlands aquifers that supply both wells and stream flow during droughts. Forest management practices on both private and public lands need to be modernized by the inclusion of the science of ecology relative to these contemporary forest stressors that, ignored, make New Jersey's current standard forestry practices obsolete.

The Highlands Council should promote the inclusion of modern scientific forestry principles to protect Highlands surface and groundwater in numerous ways. For one, activities may be addressed through the RMP Conformance Process, either by the requirement of a municipal ordinance or resolution. The best method to protect Highlands' core forests from inappropriate projects is to require the inclusion of certification standards from the Forest Stewardship Council (FSC) for any work done under a forestry plan. Many states and other entities have adopted the FSC certification standards with great success; other substandard and industry-supported certification programs must be ignored. The Forest Stewardship Council certification is the premier program and the only one endorsed by reputable national and international environmental NGOs, including the New Jersey Highlands Coalition, and with the potential to protect forests in the Highlands. The health of the entire forest ecosystem – not just the trees -- in the Highlands is critically important to both biodiversity and the quality and quantity of the State's water supply, and thus demands the highest level of sustainable forestry practices.

As the lead agency in the New Jersey Highlands, it is the Highlands Council's responsibility to work with other state entities and stakeholders to ensure that forestry practices on both private and public lands do not degrade the quality of Highlands forests. All landowners, both private and public, should be required to incorporate FSC standards as part of any waiver or approval requirements for forestry work.

“Historic Forests” Protection: Proposed Natural Resource Quality Indicator

In New Jersey, there remain numerous patches of historically forested lands which have never been exposed to the agricultural practices of plowing or heavy pasturing. These historically forested lands usually have been utilized repeatedly for the harvest of wood products, but the forest was never converted to non-forest. Richard Lathrop, of the Rutgers Remote Sensing Lab, prepared a GIS layer for the Highlands Council depicting the historic topographic manuscript maps developed by C.C. Vermeule in the late 19th century. The Vermeule survey maps show the forests that were still present on the landscape at the height of the agricultural clearing during the 19th century; they were lands that had never been converted to agriculture.

These “Historic Forests” still retain intact, native soil structure with undisturbed soil horizons, native soil invertebrate communities, native understory herbaceous and woody shrub communities with vigorous root structure in the upper soil horizons, and high native plant and animal biological diversity. These “Historic Forests” correlate with the most intact ecological communities with little presence of invasive species.

In contrast, there are also an abundance of post-agricultural forests, where 19th century agricultural lands have reverted to middle-aged successional forests on post-agricultural soils. These forests are

often heavily invaded by non-native alien species, and are no longer dominated by native herbaceous woody and herbaceous understory plant species.

These “Historic Forest” areas should be afforded special protection by the Regional Master Plan, through acquisition and the most stringent regulations. On public lands, they should also be protected from any activities which threaten to increase invasive species, such as opening the canopy through large-scale forestry operations. Small projects to benefit rare, threatened or endangered species, if permitted, must be carefully developed so as not to degrade these forests with unintended consequences. On private lands, these “Historic Forest” areas were delineated so that proposed impacts to unique forest communities with exemplary conservation values could be evaluated. Incorporating these maps in the RMP would be beneficial in the general planning process as well as open space preservation efforts.

Critical differences exist between these two types of forest. A recent study by New Jersey Conservation Foundation shows that historically forested lands are significantly higher in native species richness, dominance, and Floristic Quality Index (FQI) (see <http://universalfqa.org/>) than post-agricultural forest (See Figure 1, below).

Figure 1- Summer 2014 field research by New Jersey Conservation Foundation, showing that historic forest lands have significantly higher Floristic Quality Index FQI than post-agricultural forest lands.

The mechanism by which “Historic Forests” retained their native floristic quality, in comparison to successional forests that have recolonized former agricultural lands, is simply that the upper soil horizons have never been severely disturbed by plows or other mechanized equipment, and they never experienced severe grazing pressure, erosion, or compaction by long-periods of intense exposure to domestic animals.

Maintenance of native soil integrity allows a natural community to maintain historic ecological functions and provide valuable ecological services, such as:

- Resistance to alien species invasion and loss of native species;
- Maintenance of carbon sequestered in an organic litter and root layer;
- Nutrient transfer by soil invertebrates, especially native ant communities;
- Maintenance of diverse and abundant soil invertebrate populations, which are at the base of the food chain, giving rise to an ecological web that supports all forest vertebrate populations, from salamanders to understory birds, reptiles, small mammals, and even large mammalian and avian predators.
- Resistance to alien earthworm invasion and their eventual dominance, which results in the loss of soil organic layer and sequestered carbon, erosion due to the loss of native deep-rooted perennials and replacement by alien, weedy, shallow-rooted annual plants such as Japanese Stiltgrass; and
- Maintenance of aquifer recharge and flood prevention attributes, through maintained health of the sponge-like organic soil horizon with intact, deep-rooted perennials.

In contrast, disturbance to this thin but essential organic soil horizon results in soil compaction, increased surface runoff during storms, harmful sedimentation in streams, scouring of stream channels, and other cascading degradations that not only ruin downstream ecological quality, but also result in expensive siltation, flooding, and water supply problems that are either expensive or impossible to cure.

HCIS/Comment Number: 90

Commenter Name: Emile DeVito

Organization: New Jersey Conservation Foundation

Municipality: Far Hills

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

Date: April 29, 2015

To: Ms. Margaret Nordstrom, Executive Director
New Jersey Highlands Water Protection and Planning Council

From: Emile DeVito, PhD, Manager of Science and Stewardship
New Jersey Conservation Foundation

Re: Comments re Highlands Natural Resources Protection – Forest Resources
For the Highlands RMP Monitoring Program and Recommendations Report

Forest Resources:

Question: Is there an actual public benefit accruing as a result of the management of private forest lands supposedly for public benefits and thus receiving Woodland Tax Assessment (property tax reduction) under New Jersey's Farmland Assessment Program? Though the Highlands Act exempts forestry activities with an approved Forest Management Plan, forestry is a significant activity with enormous potential for negative impacts to the region's critical water and other natural resources.

Current forestry guidelines for management plans are insufficient at best, and non-existent at worst; guidelines are outdated and essentially ignore modern problems of forest management in New Jersey. Indicators of forest problems that are being ignored include: over browsing by deer, lack of native species regeneration, soil impairment (enrichment) from air pollution, and destruction by invasive alien earthworms of the organic humus layer that nurtures native plant reestablishment. These factors conspire to make forest soils less permeable. Resulting impacts include increased surface rainwater sheet flow with erosion and degradation of surface water quality, plus reduced natural infiltration of the rainwater required to recharge critical Highlands aquifers that supply both wells and stream flow during droughts. Forest management practices on both private and public lands need to be modernized by the inclusion of the science of ecology relative to these contemporary forest stressors that, ignored, make New Jersey's current standard forestry practices obsolete.

The Highlands Council should promote the inclusion of modern scientific forestry principles to protect Highlands surface and groundwater in numerous ways. For one, activities may be addressed through the RMP Conformance Process, either by the requirement of a municipal ordinance or resolution. The best method to protect Highlands' core forests from inappropriate projects is to require the inclusion of certification standards from the Forest Stewardship Council (FSC) for any

work done under a forestry plan. Many states and other entities have adopted the FSC certification standards with great success; other substandard and industry-supported certification programs must be ignored. The Forest Stewardship Council certification is the premier program and the only one endorsed by reputable national and international environmental NGOs, including the New Jersey Highlands Coalition, and with the potential to protect forests in the Highlands. The health of the entire forest ecosystem – not just the trees -- in the Highlands is critically important to both biodiversity and the quality and quantity of the State’s water supply, and thus demands the highest level of sustainable forestry practices.

As the lead agency in the New Jersey Highlands, it is the Highlands Council’s responsibility to work with other state entities and stakeholders to ensure that forestry practices on both private and public lands do not degrade the quality of Highlands forests. All landowners, both private and public, should be required to incorporate FSC standards as part of any waiver or approval requirements for forestry work.

“Historic Forests” Protection: Proposed Natural Resource Quality Indicator

In New Jersey, there remain numerous patches of historically forested lands which have never been exposed to the agricultural practices of plowing or heavy pasturing. These historically forested lands usually have been utilized repeatedly for the harvest of wood products, but the forest was never converted to non-forest. Richard Lathrop, of the Rutgers Remote Sensing Lab, prepared a GIS layer for the Highlands Council depicting the historic topographic manuscript maps developed by C.C. Vermeule in the late 19th century. The Vermeule survey maps show the forests that were still present on the landscape at the height of the agricultural clearing during the 19th century; they were lands that had never been converted to agriculture.

These “Historic Forests” still retain intact, native soil structure with undisturbed soil horizons, native soil invertebrate communities, native understory herbaceous and woody shrub communities with vigorous root structure in the upper soil horizons, and high native plant and animal biological diversity. These “Historic Forests” correlate with the most intact ecological communities with little presence of invasive species.

In contrast, there are also an abundance of post-agricultural forests, where 19th century agricultural lands have reverted to middle-aged successional forests on post-agricultural soils. These forests are often heavily invaded by non-native alien species, and are no longer dominated by native herbaceous woody and herbaceous understory plant species.

These “Historic Forest” areas should be afforded special protection by the Regional Master Plan, through acquisition and the most stringent regulations. On public lands, they should also be protected from any activities which threaten to increase invasive species, such as opening the canopy through large-scale forestry operations. Small projects to benefit rare, threatened or endangered species, if permitted, must be carefully developed so as not to degrade these forests with unintended consequences. On private lands, these “Historic Forest” areas were delineated so that proposed impacts to unique forest communities with exemplary conservation values could be evaluated. Incorporating these maps in the RMP would be beneficial in the general planning process as well as open space preservation efforts.

Critical differences exist between these two types of forest. A recent study by New Jersey Conservation Foundation shows that historically forested lands are significantly higher in native species richness, dominance, and Floristic Quality Index (FQI) (see <http://universalfqa.org/>) than post-agricultural forest (See Figure 1, below).

Figure 1- Summer 2014 field research by New Jersey Conservation Foundation, showing that historic forest lands have significantly higher Floristic Quality Index FQI than post-agricultural forest lands.

The mechanism by which “Historic Forests” retained their native floristic quality, in comparison to successional forests that have recolonized former agricultural lands, is simply that the upper soil horizons have never been severely disturbed by plows or other mechanized equipment, and they never experienced severe grazing pressure, erosion, or compaction by long-periods of intense exposure to domestic animals.

Maintenance of native soil integrity allows a natural community to maintain historic ecological functions and provide valuable ecological services, such as:

- Resistance to alien species invasion and loss of native species;
- Maintenance of carbon sequestered in an organic litter and root layer;
- Nutrient transfer by soil invertebrates, especially native ant communities;
- Maintenance of diverse and abundant soil invertebrate populations, which are at the base of the food chain, giving rise to an ecological web that supports all forest vertebrate populations, from salamanders to understory birds, reptiles, small mammals, and even large mammalian and avian predators.
- Resistance to alien earthworm invasion and their eventual dominance, which results in the loss of soil organic layer and sequestered carbon, erosion due to the loss of native deep-rooted perennials and replacement by alien, weedy, shallow-rooted annual plants such as Japanese Stiltgrass; and
- Maintenance of aquifer recharge and flood prevention attributes, through maintained health of the sponge-like organic soil horizon with intact, deep-rooted perennials.

In contrast, disturbance to this thin but essential organic soil horizon results in soil compaction, increased surface runoff during storms, harmful sedimentation in streams, scouring of stream channels, and other cascading degradations that not only ruin downstream ecological quality, but also result in expensive siltation, flooding, and water supply problems that are either expensive or impossible to cure.

HCIS/Comment Number: 44749

Commenter Name: Patrick Moffitt

Organization:

Municipality: Peapack

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

Forest question - clarification of the Act's mandate to preserve land in its "natural state." What does that mean? Are there any areas currently w/in the Highlands boundaries considered to be in a natural state & if so where? See attached email for more info.

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

I hope you may be able to clarify for me the Highlands Act's mandate to preserve land in its "natural state". What is the "natural state" and what representative time period, if any, is used for this analog (pre-human contact, pre-European contact, 1900-1930 etc.)?

Are there any areas currently within the Highlands Act's boundaries considered to be in a "natural state" and if so where?

Has NJDEP or the Highlands Council adopted, by policy or regulation, metrics defining a "natural forest" (beyond the integrity metric outlined in the 2008 Ecosystem Management Report) including:

- • Fire return cycle
- • % of forest in each stage of succession
- • nitrogen fixation, assimilation and denitrification rates
- • fauna and flora assemblages
- • forest duff and soil chemistry
- • soil moisture
- • board feet/acre and other tree density measures

I thank you for your time and attention.

Response:

The technical reports that support the Regional Master Plan (RMP) contain detailed and objective scientific background and supporting data. While this information is generally described in the RMP, detailed information is contained in the publicly available Ecosystem Management Technical Report, which was adopted with the 2008 RMP.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to forest management systems, historic forests and deer management, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54948

Committer Name: none none

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

2. Throughout the planning process for the current Regional Master Plan, the assembled Technical Advisory Committees of the Council clearly stated that the Highlands was and is a dynamic ecosystem and landscape - not wilderness - and should be managed accordingly. This view was established by way of consensus of the assembled Technical Advisory :Committees called together

by the Council on March 28-29, 2006 for a charrette. That vision remains unfulfilled nine years later, and any updates to the Regional Master Plan should reflect a view of Highlands forests as dynamic, disturbance-dependent ecosystems - at least when considering sustainable forest management and wildlife habitat management.

3. Some of our organizations were members of the Sustainable Forestry Technical Advisory Committee, which worked diligently to create a technical report for the Council.' The Council attempted to merge the findings of the Sustainable Forestry Technical Advisory Committee into the Ecosystem Management Technical Report that was part of the original Regional Master Plan. As this was done a document was published that was inconsistent with aspects of the Sustainable Forestry report. (While many of our concerns in the Sustainable Forestry Technical Report have been addressed by DEP in the ensuing years, many issues remain outstanding.) It is essential that these issues be clarified and that a single Technical Report is issued.

4. Our understanding of the interactions between sustainable forest management and wildlife habitat and populations (including rare, nongame, and game) has increased since the development of the current Regional Master Plan. While much of this is the result of new research in the fields of forest ecology and wildlife management – both in fundamental research and in applied research such as publication of best management practices and habitat management guidelines - much of this understanding is a direct result of increased collaboration between foresters, wildlife biologists, and agricultural resource specialists. We believe that monitoring of the goals and indicators of the Regional Master Plan should be informed with the best available science. Our organizations stand ready to assist in that respect.

HCIS/Comment Number: 63

Committer Name: Alan Hunt

Organization:

Municipality: Hampton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Other

Comment:

Forest Resource Area - Obj.1A2a p. 138 of the RMP; Obj. 1A2e, p. 138 of the RMP

The RMP is primarily concerned with land uses that have resulted in forest loss: “Land use change within the Highlands Region has resulted in forest loss and reduction in important forest ecosystem functions and societal benefits” (p. 55). In many cases there has been an addition to forested areas in the highlands as agricultural land has gone fallow and trees have grown up on it. The RMP does not complete the expansion of agricultural uses to forests within a single tract/lot, and may in fact prohibit it. (Policy 1B4 [p140. Of the RMP] could state that it also encourages forestry practices that allow agricultural uses.)

How the RMP defines a “Forest Resource Area (pp. 55-58) directly affects the potential productive land area available to my family’s small farm, which over two lots is about 28.5 acres. Of this area, about 6.5 acres is within the Highlands Preservation Zone and about 2 acres in the Highlands Protection Zone.

Further, the hedgerows on our farm, and an entire 5 acre field is classed by the Highlands Commission's Interactive web mapping tool as "Forest Resource Area." This is a relatively unusual occurrence because our farm is surround by forested areas on three sides, and this specific five acre field has trees on all four sides. Also, several parts of our hedgerows are defined as "Total Forest Area." The buffer applied to forest areas is too wide. While agricultural land use is an exempted activity, a buffer designed to be so wide that a five acre field would be considered a "Forest Resource Area" seems unreasonable and introduces regulatory uncertainty.

For example, in NJSA 7.38-3.9 provides 2 ways for a forest to be determined. The first (b) is by laying out a 142' by 142' whereby 33% of that square, when placed anywhere on that lots contains frosts, is deemed an "Uplands Forested Area." On our property, this would result in much of our open field area being classed as "forest." The second method (c), is to use 25' by 25' plots, through which a Diameter Breast Height of trees equal to 16" inches in total results in a "forest" classification. An area with 16 1" saplings would constitute forest. Such a determination could limit our ability to maintain the boundary of our current hedgerows and result in a loss of open field space. Further paragraph (d) identified that the edge of the forest cover is the edge of the canopy. A well maintained hedgerow with mature trees will have a tree crown extending perhaps 30-50' form the trunk – the land underneath this canopy should not be considered a "forest" if in agricultural use (e.g. field, pasture).

While the RMP may not be able to address issues of a statutory nature, the RMP could provide clear guidance in its section on agricultural uses that maintenance of existing hedgerows is an allowed agricultural land use. This would address our concerns about current or future regulatory uncertainty on enforcement of Forest Resource Area on our fields.

Further, the Interactive mapping tool should by programmed to limit the application of forest buffer areas on tracts/lots that have been deemed in agricultural use. This would reduce landowner confusion. In effect, this might me creating an "Agricultural Land-use Forest Area" layer and a "Development-protected Forest Resource Layer."

Because our farm is small, it has little income in its current uses. While we are not required to have a forestry management plan, to be required to have one would impose a financial burden. We have applied to USDA NRCS for funding for a plan and their payment levels reflect only 50% of plan costs. And requirements within a revised RMP, such as those contemplated in the Highlands Ecosystem Technical Manual Report (p. 50), should impose no additional cost or time burden on landowners who can demonstrate a low agricultural sales level (e.g. less than \$100,000 per year). If there additional burdens, these should be compensated fully by NRCS or by the Highlands Commission. Funding Assistance, discussed on page 52 of the same report, may be inadequate to meet demands and there may be limited land owner awareness of these resources. Specifically, Policy 1B1 should explicitly state that it will provide resources to agricultural land owners applying for Forest Management Plan Funding from NRCS, that the Highlands Commission will provide the remaining balance of the landowner's cost-share for an awarded NRCS grant.

Related to the above, a specific concern to our farm's viability is the provision of an on-farm location for farm worker housing. As an agricultural use, the new construction of farm worker housing would be best suited within forested areas. Developing fields for housing would result in a low of productive land area. If we proposed farm worker housing in a forest cover area in the

Preservation Zone, would this need to go to the Highlands Commission for approval? Or would this be considered a normal agricultural use?

Wetlands - Policy 1D1, p. 141 of the RMP

Maintaining an inventory of wetlands by remote sensing is useful at the landscape level, but problematic at the tract level. In the Highlands Interactive mapping tool the satellite imagery identifies areas of our fields as wetlands which are mostly dry while missing areas that are occasionally wet. Further, at certain times of year (e.g. spring with snow melt, after prolonged or heavy rain) some dry areas are temporarily wet. The Highlands Commission may need to update the NJDEP's Land Use Cover Map more frequently than the NJDEP updates this map. The wetlands mapping should be conducted at different times of year and over multiple years. Also, if a landowner questions the Highlands Commission's wetlands map, when they are developed through remote means, the burden of proof should be upon the Highlands Commission to identify the area as a wetland. Satellite imagery may be fine to give a sense of areas that can be wet, but the methods are prone to error based upon the limited time frame observed by the remote imaging technology.

It should be noted that on Page 10 of the Highlands Ecosystem Management Report (referred to in the RMP), the NJ DEP does not consider remote sensing an appropriate determination for a wetlands. And that on Page 15 of the same report: "It should be noted that there are numerous situations where an accurate identification and mapping of wetlands can not be made through visual interpretation of aerial imagery alone. In those cases, supplemental field surveys are necessary to accurately map the full extent of wetlands."

While remote imaging is much cheaper than field assessment, when on-the-ground certification is needed about a wetland, the Commission should be responsible for those costs especially when legitimate grounds for questioning the remote imaging (e.g. lack of open water, lack of wetlands plants, agricultural land use, etc.). A landowner should not need to pay or hire anyone to disprove a wetlands identified by remote sensing.

Steep Slopes – Policy 1E1, p. 146 of the RMP

Using remote sensing to maintain an inventory of steep slopes can be problematic. Part of our land has been classed as "steep slopes" and "constrained slopes" by remote imaging in the Highlands Interactive Map. The areas that were classed as a steep slope are stone hedgerow dividing our fields, and in another area, a raised bed of a former railroad spur. While we are not planning on moving those stones or the old rail bed any time soon, this designation of these small areas as "slopes" seems unnecessary and I think affects the credibility of what the steep slope protection is designed to protect. The calibration of the steep slope layer should be adjusted to have a minimum surface area requirement.

HCIS/Comment Number: 97

Commenter Name: Ellen Cronan

Organization:

Municipality: New Milford

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Other

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Comment:

As a human I am a water drinker. As a resident of Bergen County I rely on the State of NJ to protect the resources that allow me to drink clean water every day, as well as use water for other purposes. Our state is lucky to have a large amount of annual rainfall, especially in the Highlands area. The Highlands Act helps to keep our water resources at the necessary quantity and quality for life in NJ.

The ecosystem of the Highlands is interdependent and inseparable. This comment process required me to categorize my comments. While this may help your organization in assessment, it ignores the fact that issues addressed by the Highland Act are interdependent. Further, they will be effected by climate change and the Highlands Council needs to consider climate effects in their work.

- The Highlands Act requires the Department of Environmental Protection to establish regulations to "ensure that existing water quality shall be maintained, restored, or enhanced." The Council needs to ensure the DEP follows through with this requirement but not do it for them.
- Surface water and ground water are interconnected systems. Protection of streams, lakes, and the land areas that keep these water resources viable is imperative.
- The Council should establish, maintain, and make available an inventory of all Highlands Open Waters and their integrity as specified in the RMP, including the Watershed Resource Values of each Highlands HUC14 watershed. This inventory should reflect whether waters listed by the Clean Water Act are restored.
- Forestry is a critical activity and should be addressed through the RMP Conformance Process, either by the requirement of a model ordinance or resolution developed by the Highlands Council.
- The best method to protect core forests from inappropriate projects is to require that all proposed projects meet Forest Stewardship Council (FSC) certification standards.
- The Highlands RMP must maintain, if not increase, the existing 1000 foot buffer for vernal pools. The Highlands Council has already mapped the vernal pools and their buffers, but more needs to be done at the state and municipal levels to ensure their continued protection.
- The Critical Wildlife Habitat overlay in the RMP is incredibly useful, but is subjective. Although DEP has an existing list of identified T&E species, projects are proposed and no mitigation is offered because too few of these species are identified during the planning process. Surveys should be conducted by experts for each taxon and should be repeated over at least two full years during all appropriate seasons. Once all occurrences of rare flora and fauna at a proposed development site have been quantified, existing populations of rare flora and fauna must be avoided.
- Protection of large tracts of contiguous forests in the Highlands is directly related to mitigating the effects of climate change. Recent research has revealed that more mature forests with larger trees sequester greater amounts of carbon.

- The Council should address the effects of Climate Change by lessening the impacts to the region's core forests. In addition to prioritizing forest land preservation, using the Forest Stewardship Council's third-party certification guidelines to regulate forestry and linear development projects is the best way to ensure that core forests remain intact.
- An Energy section should be added to the RMP to better address climate change concerns.
- Linear development projects and existing linear resources have a major detrimental effect on the Highlands ecosystems. More stringent requirements should be implemented in the RMP for linear projects.
- The updated RMP should give strong encouragement that the Highlands Council be included as a participant in all inter-agency decisions involving the use of dedicated open space funds made available through public referendum or as a consequence of legal settlements, regulatory fines, mitigation contributions, etc. in the region.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

The protection of water resources in the Highlands is a primary focus of the Highlands Act and the RMP. Surface water resources are highly valued for water supply, ecosystem viability, recreational opportunity, and aesthetic value. Degradation of Highlands's surface waters would have a severe impact on the Region as well as elsewhere in the state. Since surface water and ground water are part of the same hydrologic system, the protection of both is necessary. Contamination and over development can severely impact both water quality and supply and must be prevented through appropriate land use practices.

It is an established fact that once impervious cover (roads, buildings, paving, etc.) in an area exceeds 8% - 10%, surface water quality in waterways becomes degraded as a result. Forests and vegetated riparian areas protect surface water and ground water and are therefore essential to maintaining the quantity and quality of our water resources.

We support the strong protections for Highlands Open Waters (HOW) in the 2008 RMP and urge that the processes to ensure the protections delineated in the plan be implemented by the Council. Changes in the Highlands Land Use Ordinance have removed many of the protections for water resources and have yet to be replaced elsewhere. We request that they be restored in full to safeguard all HOW and riparian areas.

We ask the Council to establish, maintain, and make available an inventory of all HOW and their integrity as is specified in the RMP, including the Watershed Resource Values of each Highlands HUC14 watershed. The Functional Value Assessment Methodology (FVAM) in the Council's Stream Corridor Guidance document provides an excellent framework for planning and science

professionals within a municipality to assess the integrity of Highlands streams, rivers and riparian areas within a jurisdiction. We encourage the Council to provide grant funding in the conformance process for this purpose for all Highlands municipalities.

The protection buffer of 300 feet for all HOW must be maintained, and where land uses have reduced or impaired the functional values of the buffers, the Council should encourage restoration activities to restore these buffers and their functions. When land is converted to non-agricultural land uses, the 300 foot buffer must be reinstated. Enforcement of such cases should be documented.

Preservation Area buffers for HOW should be maintained and linear development should be excluded unless no feasible alternative for it exists outside the Highlands. This exemption may become increasingly problematic with the influx of linear development that is threatening HOW and other valuable Highlands resources.

We strongly urge the Council to facilitate restoration and enhancement of HOW buffers in both the Preservation and Planning Areas. Streams and rivers that flow through both Preservation and Planning Areas suffer from the lack of protections provided in the Planning Area.

Stream Corridor Protection and Restoration Plans that are developed through the Plan Conformance Process should be evaluated, including a process for their implementation. We support the principles, strategies and methods outlined within the Council's Stream Corridor Protection and Restoration Planning document. It provides a valuable framework for identifying, prioritizing and implementing protection and restoration projects for either general planning purposes or mitigation planning related to a specific proposed project. We urge the Council to provide grant funding in the conformance process for municipalities to employ this technical guidance to protect and preserve natural functions where appropriate, and to mitigate waterway impairments in degraded areas. This document builds on the FVAM to ensure that there will be no net loss of functional value on any proposed project.

Stream Corridor ordinances in conforming municipalities should be inventoried. The Council should develop and maintain a list of riparian areas with high priority for land preservation/acquisition and development restrictions for lands within High Source Value Watersheds and High Integrity Riparian Areas.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

The RMP's goals, policies and objectives are presented in Subpart F (p.154). We suggest the following changes:

Policy 1K2: Rather than wait for individual development review to assess the land area that contributes run-off to carbonate rock, provide this mapping as part of the interactive map data.

Policy 1K3: We have seen no inventories either of karst features or watershed areas that drain directly to carbonate rock. A process to allow their development should be instituted.

Objective 1K4: Expand the required review to include foundations and provide sample development review ordinances.

Objective 1K4b: A better description of the “multi-phased geotechnical site investigation” must be provided as a guidance document.

Objective 1K4c: This objective is broad enough to include consideration of agricultural impacts and should say so. See: <http://www2.ca.uky.edu/agc/pubs/aen/aen109/aen109.pdf> and NRCS Conservation Practice Standard No. 527: http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_025714.pdf

Additional guidance, particularly relating to forestry on karst:
<https://www.for.gov.bc.ca/hfp/publications/00189/Karst-Mgmt-Handbook-web.pdf>

Objective 1K4e: Add new petroleum pipelines to this list

Objective 1K4f: Add petroleum pipelines to this list

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

Forests: Though forestry activities with an approved Forest Management Plan are exempt from the Highlands Act, forest management is a critical activity with the potential for negative impacts to the region’s critical resources. Current forestry guidelines are insufficient at best and non-existent at worst, but sustainable forestry practices can be bolstered by the Highlands Council in numerous ways. For one, activities may be addressed through the RMP Conformance Process, either by the requirement of a municipal ordinance or resolution. The best method to protect Highlands’ core forests from inappropriate projects is to require the inclusion of certification standards from the Forest Stewardship Council (FSC) for any work done under a forestry plan. Many states and other entities have adopted the FSC certification standards with great success. Though there are other certification programs, the Forest Stewardship Council certification is the premier program and the only one endorsed by long-standing national and international environmental NGOs. It is the only one the Coalition recommends to protect forests in the Highlands. The health of the entire forest ecosystem – not just the trees -- in the Highlands is critically important to both biodiversity and the quality and quantity of the State’s water supply and thus demands the highest level of sustainable forestry practices.

As the lead agency in the Highlands, it is the Council's responsibility to work with other state entities and stakeholders to ensure that forestry practices on both private and public lands do not degrade the quality of Highlands forests. Landowners, such as the Department of Environmental Protection (NJDEP), should be required to incorporate FSC standards as part of waiver/approval requirements for forestry work.

We request that the historical topographic manuscript maps developed by C.C. Vermeule be included as an overlay both as a standalone map in the RMP and as a layer in the Highlands Interactive Map. The Vermeule maps, which depict historic forest soils, clearly assist in identifying currently intact ecological communities with little presence of invasive species. Historically forested areas are delineated so that impacts to unique forest communities with exemplary conservation values can be evaluated. Including these maps in the RMP would be beneficial in the general planning process as well as open space preservation efforts.

Critical Habitats: Vernal pools cannot function in isolation, while the state initiative, Connecting Habitat Across NJ (CHANJ), recognizes the importance of contiguous habitats. The Highlands RMP absolutely needs to maintain, if not increase, the existing 1000 foot buffer for vernal pools. Bethlehem Township in Hunterdon County is a model for vernal pool protections – having mapped and certified all within their town, and added them to their Environmental Resource Inventory as part of the Conformance Process. The Highlands Council has already mapped the vernal pools and respective buffers, but more needs to be done at the state and municipal levels to ensure their continued protection.

The RMP frequently references “rare, threatened, endangered” species but does not seem to define the terms. The most comprehensive definition available for ‘rare’ is found in the NJDEP Heritage Program, which was defined along with ‘species of special concern (SSC).’ Otherwise, the Green Acres Program’s rules (N.J.A.C. 7:36) were the only proper definition of ‘rare’ that we could find. The aggregate list of rare species designated by the NJ Department of Environmental Protection includes well over 1000 species statewide, and many are known to occur in the Highlands region. The list of rare species is far larger than the species listed as Threatened and Endangered in NJ, and includes special concern animal species listed by the NJ Endangered and Non-Game Species program, as well as all plants determined by the NJ DEP Natural Heritage Program to show a degree of imperilment of S3 or greater. Much of the work has already been done, but protection of rare, threatened, and endangered species needs to be made much clearer and easier to implement for development projects and conforming municipalities.

Despite identification, rare species are frequently ignored in the planning process, if they are not specifically listed as threatened or endangered. Likewise, the Critical Wildlife Habitat overlay in the RMP is incredibly useful, but is too subjective. NJDEP has an existing list of identified T&E species, but no mitigation is offered because too few of these species are identified during the planning process. Therefore, we strongly recommend that surveys must be conducted by experts for each taxon, using appropriate methods, and must be repeated over at least two full years during all appropriate seasons. Once all occurrences of rare flora and fauna at a proposed site have been quantified, existing populations of rare flora and fauna must be avoided.

The Coalition stresses that critical habitat must not be exchanged until a fact-based result of increased value to a habitat is established. Recovery of rare plant and animal populations through

habitat restoration is a laudable goal; in general, ecological restoration should be encouraged as a long-term public policy. But long-term restoration is not mitigation for destruction of local populations of rare species. Restoration projects take decades, and are fraught with uncertainty. It is impossible for restoration projects to provide population benefits in time to mitigate for a habitat loss that quickly destroys or subtly pushes a local population to extinction. If long-term restoration is to be allowed to mitigate for known impacts to a suite of declining and/or rare species, the restoration must be conducted, completed, and show quantifiable expansion greater than the anticipated losses of the population of the species in question, before permitting a habitat loss to occur.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Other

Comment:

1. In its final report on the current RMP update, the Highlands Council should include the following statement from Chapter 4, Part 7 Highlands Regional Master Plan:

“The Highlands Act recognizes that the implementation of the RMP, which directs and guides future development, inevitably has an impact on reasonable landowner expectations regarding future land use potential. The Act provides several mechanisms that seek to mitigate such impacts, including a TDR Program, land acquisition, exemptions, and waivers.

2. In its final report on the current RMP update, the Highlands Council should include the following language from the Resolution 2008-27 adopting the Highlands Regional Master Plan:

“..... the Highlands Council calls upon the Executive and Legislative branches to provide a “strong and significant commitment by the State”... ..to provide for the acquisition, by fee or easement, of exceptional natural resource value lands and farmlands consistent with the goals, requirements, and provisions of the Regional Master Plan and the Highlands Act; ...”

3. The updated RMP should acknowledge the Highland Council’s pending open space matching grant program, to be established through the administrative rulemaking process, as a source of potential open space funding.

4. The updated RMP should give the strongest possible encouragement to employing the administrative rulemaking process to include the Highlands Council as a participant in all inter-agency decisions involving the use of dedicated open space funds made available through public referendum or as a consequence of legal settlements, regulatory fines and mitigation contributions, etc., in the Highlands region. As a participant in Highlands open-space funding decisions, the Council’s primary objectives should be to ensure that (1) Special Environmental Zone properties, “core” and “Heritage” Forest and Critical Habitat are deemed highest priority for acquisition; (2) there is ample notice and opportunity for public participation in all proposed Highlands Open Space

acquisitions where buyer and seller are both public entities; (3) that open space funds are not diverted to non-open space purposes.

In addition to continuing to support land acquisition in the Highland region, the Highlands Council must implement a more timely and thorough monitoring system. The Council's "Land Preservation in the Highlands" report has not been updated since August 2010. This report should be released each year as having the most up-to-date data is critical. In addition to the information already contained in the report, the annual edition should include the following:

- How much land has been preserved in the region in the past year, and the overall total
- How many of those landowners opted for appraisals based on pre-Act zoning versus the current appraisal
- What is the cost of land being preserved for in the Preservation and Planning Areas and how does this compare to previous acquisitions?
- How many Highlands landowners have approached the Green Acres, SADC or TDR programs to discuss acquisition? Of those landowners, how many finalized an agreement, how many are working to finalize an agreement, and how many have been turned away by the state? How long does the process take on average from the time a Highlands landowner expresses interest in selling or putting an easement on his land until the deal is finalized?

HCIS/Comment Number: 101

Commenter Name: Doug O'Malley

Organization: Environment New Jersey

Municipality: New Brunswick

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

The Highlands RMP is a document that doesn't address our state's energy needs and the creeping impact of climate change. This failure is not just of planning for future threats, but for dealing with the crisis at our doorstep. From the myriad of pipeline proposals and transmission line projects to the very real need to protect our forests for climate mitigation, the RMP needs to address the following points, which the NJ Highlands Coalition fully explores in their comments:

Climate Change & Renewable Energy

- Climate change is not currently addressed in the Regional Master Plan, but protection of the large tracts of contiguous forests in the Highlands is directly related to mitigating the effects of climate change. Recent research has revealed that more mature forests with larger trees sequester greater amounts of carbon.
- The Council should address the effects of Climate Change by lessening the impacts to the region's core forests. In addition to prioritizing forest land preservation, using the Forest Stewardship Council's third-party certification guidelines to regulate forestry and linear development projects is the best way to ensure that core forests remain intact.

- The Highlands Act at Section 11(6) authorizes the Council to include energy considerations in the RMP, specifically in the Smart Growth section. The RMP does not include an energy section; we strongly recommend its inclusion.
- Goals, policies and objectives should be developed that harmonize with the State Energy Master Plan, facilitate the improvement of energy efficiency in all sectors, encourage load management, and facilitate and regulate the development of renewable sources (solar, wind, geothermal and small scale hydro).

Linear Development

- The Highlands region is traversed by a number of linear projects (highways, transmission lines, pipelines, etc.) that have significant environmental consequences, especially if existing projects are expanded and new projects proposed. The RMP should ensure that Highlands resources receive a higher priority than is currently employed in the facility siting process. The Council should take a firm advocacy role to protect resources in the current regulatory framework (e.g. FERC, NJDEP, BPU, etc.)
- The RMP should include policies related to mitigation that require a thorough alternatives analysis (including the “no build” alternative) and require avoidance first, minimization second and mitigation last, when addressing consistency determination requirements. Similar requirements are found in National Environmental Policy Act (NEPA) rules.

The promise of the RMP really is the promise of the Highlands Act --- to preserve the watershed lands for more than half of New Jersey's residents. The RMP is critical to ensure the Highlands Act was not just an empty promise BUT would protect our valuable streams, use scientific standards for nitrate dilution, protect our vernal pools and our threatened habitat in the preservation AND planning areas.

Stream Protections

- Stream resources are highly valued for water supply, ecosystem viability, recreational opportunity, and aesthetic use. Since surface water and ground water are often mixed in the Highlands, the protection of both is necessary.
- The Council should establish, maintain, and make available an inventory of all Highlands Open Waters and their integrity as specified in the RMP, including the Watershed Resource Values of each Highlands HUC14 watershed.

Water Quality - Nitrate Dilution Standard

- NJDEP's septic density standards are based on a scientific model with valid assumptions designed specifically for the Highlands Preservation Area. The Highlands Act requires the Department to establish regulations to "ensure that existing water quality shall be maintained, restored, or enhanced."
- It is not the responsibility of the Highlands Council to address nitrate dilution standards through the RMP. Nitrate Dilution for the Preservation Area is directed by the Highlands Act and implemented by NJDEP.

Forest & Critical Habitat

- Though forestry activities with an approved forest management plan are exempt from the Highlands Act, forestry is a critical activity with enormous potential for negative impacts to the region's critical resources, including water and rare species. Forestry activities may be addressed through the RMP Conformance Process, either by the requirement of a model ordinance or resolution developed by the Highlands Council.

- The best method to protect core forests from inappropriate projects is to require that all proposed projects meet Forest Stewardship Council (FSC) certification standards. Many states and other entities have adopted the FSC certification standards with great success.
- The Highlands RMP must maintain, if not increase, the existing 1000 foot buffer for vernal pools. The Highlands Council has already mapped the vernal pools and their buffers, but more needs to be done at the state and municipal levels to ensure their continued protection.
- The Critical Wildlife Habitat overlay in the RMP is incredibly useful, but is too subjective. Although NJDEP has an existing list of identified T&E species, projects are proposed and no mitigation is offered because too few of these species are identified during the planning process. Instead, we strongly recommend that surveys must be conducted by experts for each taxon, using appropriate methods, and must be repeated over at least two full years during all appropriate seasons. Once all occurrences of rare flora and fauna at a proposed development site have been quantified, existing populations of rare flora and fauna must be avoided.

HCIS/Comment Number: 81

Commenter Name: David Peifer

Organization: Association of New Jersey Environmental Commissions

Municipality: Mendham

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

These comments deal with the relationship between groundwater quality, surface water quality, carbonate rock (karst), geology and agriculture. Substantial and rapid transport of surface pollutants generated by agriculture can and does take place in karst areas. Pollutants of concern include sediment, phosphorous, nitrogen (nitrates), pesticides, metals, herbicides, and pathogens. These pollutants can move rapidly through voids and sinkholes reaching the underlying aquifers. These aquifers, in turn, discharge rapidly to surface water. The RMP should address potential ground and surface water contamination from agricultural practices in karst areas. A comparison of the RMP Figure 3.20, Agricultural Resource Area (P.92) and Figure 3.19 Median nitrate concentrations (p.90) shows a striking association between agricultural uses and nitrate levels above .73mg/l. The RMP correctly states that Conservation Zone subwatersheds (dominated by agricultural land uses) "generally have the highest median nitrate concentrations..."(p.91). ANJEC recommends a combination of educational efforts and administrative responses to these conditions. The RMP's application of the nitrate dilution model does not include any response to potential agricultural nitrate contributions. Examples of educational resources are found at :

http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs142p2_020218.pdf (brochure) and a more extensive guidance found at

http://www.dcr.virginia.gov/natural_heritage/lokhomeland.shtml. The Council should produce and distribute similar documents to the carbonate rock areas and provide technical advice to farmers working potential karst areas. Farm Conservation plans in carbonate rock areas where sinkholes are anticipated should be required to include NATURAL RESOURCES CONSERVATION SERVICE CONSERVATION PRACTICE STANDARD KARST SINKHOLE TREATMENT (No.) CODE 527 in farm conservation plans. Indicator: Ground and surface water monitoring should be directed specifically at the carbonate rock areas of the Conservation Zone to establish agricultural pollutant baselines (especially nitrate) and should be repeated over time to establish trends to determine the impact of the educational and administrative efforts mentioned above.

HCIS/Comment Number: 91

Commenter Name: Laura Oltman

Organization: Eco Action Initiatives of Warren County, Inc.

Municipality: Phillipsburg

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

Eco Action Initiatives of Warren County, Inc.

319 River Road, Phillipsburg, NJ 08865

908.213.0101

Ms. Margaret Nordstrom, Executive Director

New Jersey Highlands Water Protection and Planning Council

100 North Road

Chester, NJ 07930

April 29, 2014

Re: Comments on the Monitoring Program and Recommendation Report

Eco Action Initiatives would like to provide comments on one specific subject that is not well addressed in the Highlands RMP, which is the subject of karst limestone and development in areas of karst limestone.

While we don't have the technical expertise to recommend detailed policy, we have had experience commenting to NJDEP on development proposals in areas of carbonate rock in the western Highlands and are familiar with the peculiarities of this geology. The Highlands Council should pay special attention to improving the quantity and quality of information available to municipalities about carbonate rock and its impact on the built environment.

It is our experience that it is almost impossible to fully assess conditions of carbonate rock. There are no testing regimens available that can determine with a high degree of confidence what is underground. Carbonate rock is also ever changing, meaning that there is never certainty that the built environment will not be damaged or water contaminated by sinkhole collapses.

The best course would be to limit development in these conditions to avoid property loss and groundwater contamination. To date there are no special restrictions or limitations on development on carbonate rock. However, there is the possibility of sensibly limiting impervious cover under stormwater rules governing recharge. Eco Action Initiatives successfully argued to the NJDEP that a different method of calculating stormwater runoff and recharge was required in karst conditions in order to meet the requirement of stormwater rules so that no significant increase in run-off is created by limiting recharge. This was in the case of a specific development proposal in Pohatcong Township, Warren County.

In the case of carbonate rock, recharge is much greater than in other types of geology because of the abundance of holes in the rock into which stormwater can readily drain. The standard methods of calculating run-off and recharge to comply with stormwater rules do not model karst conditions. In the case of karst, if recharge is very great, run-off will also be very great once impervious cover limits recharge. The standard models of recharge do not reflect the very high recharge values in karst and therefore also do not model the very high amount of run-off that would result from the elimination of that recharge. There are methods of modeling karst conditions that should be required when planning development in karst to more accurately determine how much impervious cover is too much. It is almost certain that impervious cover would need to be less than would be possible in other conditions. This is especially important in planning for increased densities for centers, TDR receiving areas or affordable housing developments.

Another problem of development on karst is the belief that voids can be located by geologic studies, filled or smashed and eliminated. This is only a temporary fix. As existing voids are filled, stormwater runoff is shunted from one sinkhole to another, causing new sinkhole collapses in different locations. An excellent object lesson is the construction of Route 78 near Phillipsburg. It is a famous engineering debacle with technical papers written about it as a cautionary tale about highway construction in karst conditions and the difficulty of knowing what is underground. In the case of Rt. 78, it turned out to be caverns. As soon as the highway was complete it began collapsing into sinkholes. In the recent past the Delaware River Bridge and Toll Commission spent tens of millions and about two years trying to fill voids and make underground bridges to span the caverns beneath the road. Right now the exit ramp to Phillipsburg is once again beginning to collapse. It is a very expensive proposition to fix structures that are going down into a hole.

Karst is very good at recharging stormwater and therefore highly susceptible to contamination, as groundwater recharge is not filtered through layers of dirt and rock. It is also easy for contaminated water to migrate very far from the source of contamination through underground communications in rocks. Sinkhole collapses have been known to break septic lines and cause wastewater to enter groundwater resources. Imagine what could happen to energy pipelines in the case of collapsed sinkholes. The Council needs to consider the potential harms caused by linear development in karst.

Overall, Eco Action Initiatives recommends that the Highlands Council create more detailed and specific policies regarding development in areas of karst. We encourage the Council to think more in terms of limiting development in these areas rather than looking for ways to remediate the geology because these methods have proven to be very expensive and not necessarily effective. By limiting development in these areas the Council would not only be protecting water, but also property that may ultimately be severely damaged by these unpredictable conditions.

Laura Oltman, Director
Eco Action Initiatives of Warren County, Inc.

HCIS/Comment Number: 55042

Commenter Name: David Epstein

Organization: The Land Conservancy Of New Jersey

Municipality: Boonton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Comment:

7) Though forestry activities with an approved forest management plan are The RMP should require that all proposed projects meet Forest Stewardship Council certification standards.

8) The Council should address the effects of Climate Change by lessening the impacts to the region's core forests. In addition to prioritizing forest land preservation, using the Forest Stewardship Council's third-party certification guidelines to regulate forestry and linear development projects is the best way to ensure that core forests remain intact.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Programs of the RMP

Comment:

PROGRAMS

Page 242 - Scenic Resources Tier, items 1-6 attempt to define appropriate "scenic" design characteristics for all lake communities in the Highlands. These one-size-fits all requirements may conflict with actual community character. Scenic standards for these areas need to be developed by municipal governments to address the unique character of each lake community; the Highlands Council should not be establishing these standards independently.

HCIS/Comment Number: 54232

Commenter Name: David K. Dech

Organization: Warren County Planning Department

Municipality: Belvidere

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: RMP Format and Communications

Comment:

The following are comments on the Highlands Regional Master Plan as part of the 2014 Monitoring Program as prepared by the Warren County Planning Department and endorsed by the Warren County Board of Chosen Freeholders, Resolution attached. They are arranged by major topic area as they were presented in the Stakeholder Meeting Briefing Book released October 2014, and are presented in the spirit of the stated goal to update the science and research agenda for the RMP.

cc. Warren County Board of Chosen Freeholders
Steve Marvin, County Administrator
Warren County Planning Board

Sincerely,
David K. Dech, Planning Director

THE WARREN COUNTY BOARD OF CHOSEN FREEHOLDERS
WAYNE DUMONT JR. ADMINISTRATION BUILDING
BELVIDERE, NEW JERSEY 07823

RESOLUTION 125-15

On a motion by Mr. Sarnoski, seconded by Mr. Gardner, the following resolution was adopted by the Board of Chosen Freeholders of the County of Warren at a meeting held on February 25, 2015.

RESOLUTION TO TRANSMIT WRITTEN COMMENTS TO THE NEW JERSEY HIGHLANDS COUNCIL AS PART OF THE 2014-2015 REGIONAL MASTER PLAN MONITORING PROGRAM

WHEREAS, the Highlands Council is currently seeking comments from the public regarding the Highlands Regional Master Plan as part of its 2014-2015 RMP Monitoring Program, and

WHEREAS, the monitoring program will evaluate the RMP's effectiveness in fulfilling the goals and objectives of the Highlands Water Planning and Protection Act, and

WHEREAS, the monitoring program will assess the progress made toward achieving the Highlands Act goals and objectives, the relevance of the RMP's policies and programs in addressing the intents and purposes of the Highlands Act, and the overall impact of the RMP on the environmental and economic health of the Region, and

WHEREAS, written comments are due by February 27, 2015, and

WHEREAS, comments have been prepared by the Warren County Planning Department and dated February 25, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders of the County of Warren that the comments as prepared by the Warren County Planning Department and dated February 25, 2015 are to be transmitted to the New Jersey Highlands Council.

BE IT FURTHER RESOLVED, that the Planning Director is hereby directed to transmit said comments on behalf of the Board of Chosen Freeholders.

ROLL CALL: Mr. Gardner yes, Mr. Sarnoski yes, Mr. Smith yes

I hereby certify the above to be a true copy of a resolution adopted by the Warren County Board of Chosen Freeholders on the date above mentioned.

Steve Marvin

Comments on Highlands Regional Master Plan as part of the 2014-2015 Monitoring Program
Prepared by the Warren County Planning Department, February 25, 2015

Natural Resources

There appears to be inconsistency and overlap of maps and figures. For example, Figures 3.2, Forest Resource Area, and 3.3 Forest Integrity Indicators by HUC 14 should be consistent with each other. However some HUC 14 watersheds are depicted as being high in forest integrity yet have no forest resource area. A good example is the Town of Hackettstown. It is not within a forest resource area, yet the HUC 14 watershed that it is located within, is ranked as a high integrity. The mapping is confusing, and the explanation for the mapping is even more confusing.

The same can be said for the Agricultural maps. Alpha Borough is shown as being in an Agricultural Resource Area. This calls into question the accuracy of the Plan's mapping. The buffer distances established for natural features such as vernal pools (1,000 feet), lake management areas, etc. seem to be arbitrary and are measured with no consideration of existing conditions.

Question #1. To what extent has the RMP been reviewed for internal consistency with its data and assumptions?

Question #2. What is the scientific basis for establishing the blanket buffers and standards?

Response:

The Highlands Council acknowledges and appreciates these comments. The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

The RMP Monitoring Program is also intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to sustainable forestry, habitat management, and best management practices the Report will include the appropriate recommendations.

HCIS/Comment Number: 54948

Commenter Name: none none

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

6. We believe that the following indicators are crucial when evaluating the effectiveness of the Regional Master Plan:

- Total forested and agricultural acreage
- Forest stand age class distribution, where concentration among any one age class at the expense of creating young forest over time is undesirable
- Forest cover types over time, where conversion - even through benign neglect - of oak-dominated forests to northern hardwood forests is undesirable
- State and federal estimates of populations of threatened and endangered species segregated by habitat specialization, and their trajectory over time
- Average forest patch size, where young forests are included in the forest patch but not utility rights-of-way 150' wide or wider
- Number of forest patches that include core forest, defined as interior forest at least 300' from the nearest edge
- Acres of forest mortality, including areas where more than 50% of the forest canopy has been killed by pests such as gypsy moth, emerald ash borer, and hemlock wooly adelgid or fire
- Localized, accurate measures of deer abundance
- Estimated number of acres capable of growing advance oak regeneration, given light conditions and understory quality
- Estimated percentage of the above acreage with oak regeneration greater than 3' in height or ~ 10,000 ft/acre of aggregate oak regeneration height, thus serving as a proxy for deer damage to forested ecosystems
- Number of local governments with approved Community Forest Management Plans
- Urban and community forest cover within such municipalities
- Total numbers of trees planted, pruned, and hazard trees removed under those Community Forest Management Plans

We thank the Highlands Council for the opportunity to provide comment on the Regional Master Plan and would welcome the opportunity to engage directly with Council staff in order to advance our shared goal of maintaining a healthy and functioning forest system throughout the Highlands region.

Yours in Conservation,
 New Jersey Division of the Allegheny Society of American Foresters•
 New Jersey Chapter of The Wildlife Society
 National Wild Turkey Federation

Greg Daly, Chair, NJ Tree Farm Committee
John Cecil, Vice President for Stewardship, NJ Audubon
Brian Cowden, State Council Conservation Chair, NJ State Council of Trout Unlimited
Richard Conley, President, NJ Forestry Association
Anthony Mauro, President, NJ Outdoor Alliance
Jim Desaye, Chair, NJ Chapter of the Ruffed Grouse Society
Miriam Dunne, Regional Director, Forest Guild
Ryck Suydam, President, NJ Farm Bureau
John Rogalo, Chairman, NJ State Federation of Sportsmen's Clubs
Mike D'Errico, Executive Secretary, NJ Arborists, Chapter of the International Society of Arboriculture

HCIS/Comment Number: 54949

Commenter Name: Rick Suydam

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

For Forest Resources

Information from Woodland Management Plans developed for eligibility for Farmland Assessment tax relief and approved by the NJ State Forester.

**Number of acres managed Number of plans Acres being harvested for lumber Acres being harvested for firewood

*Acres where invasive species are being removed Acres where trees are being planted

*Information from forest managers of Highlands watershed (water company) lands about their forest resource management actions

* Acres of forest land preserved since 2008 through Green Acres, farmland preservation. Acres preserved mapped in the Forest Priority Area. Acres preserved in the Highlands mapped by the county Agriculture Development Area (ADA) mapping.

Recommendations

**Update US Forest Service assessment of Highlands forest health, their ability to provide ecological services including: effects of recent storms, number of acres affected by insect damage, erosion, takeover by invasive species cover. (Use GIS power to identify vegetation in detail.)

** Implement the land equity tool enabled by the RMP (Policy 1A4 p. 139): easement purchase based on ecological values, not development values. As a model use formula developed to compensate Pinelands landowners - see SADC website. Keep forest land in private ownership, require management or stewardship plan.

HCIS/Comment Number: 54949

Commenter Name: Rick Suydam

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

For wildlife habitat

**Number of conforming highlands communities that have a wildlife management plan including deer population reduction as part of their Natural Resource Management Plans required for conformance. Number of such plans completed and being implemented.

*With data from NJ Fish and Wildlife Deer Management Program:

*2008-2014 deer population in each Deer Management Zone in the Highlands; reduction? Increase?

*Deer harvest numbers from 2008 through 2014. Change in number of Community Deer Management programs, municipal and county hunts, change in deer population as a result.

*Number of Highlands towns that prohibit firearm discharge, hunting. Number of Highlands communities that conduct a deer hunt during the season, Number of Highlands communities with a deer management plan especially for municipally owned properties. Number of Highlands towns coordinating wildlife management with adjacent towns and the state. Changes in the numbers and species of birds counted in Christmas counts 2008-2014 in both Preservation Area and Planning Area. "Core" forests

**Changes in the numbers of birds dependent upon early successional forests, edge forests counted in Christmas counts 2008-2014. Changes in acreage of habitat other than core forests: changes in populations of wildlife dependent upon edge not core.

Response:

The Highlands Council recognizes that the commenter suggested specific "initial indicators" for the Council's consideration. The Highlands Council will consider each proposed indicator for use in evaluating the Highlands Regional Master Plan.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to forest resource indicators provided, the Report will include the appropriate recommendations.

HCIS/Comment Number: 87

Commenter Name: Dena Hrebenak

Organization: Township of Mansfield Committee and Planning Board

Municipality: Port Murray

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Plan Implementation

Comment:

Adjust minimum acceptable nitrate levels to align with state standards. Highlands standards are set at .17 vs. state standards of 2.5.

In terms of groundwater quality, there seems to be a misconception that limiting future development of individual septic systems to extremely low densities, 25 acres and 88 acres, will actually improve water quality. The basis for the lot sizes are based on an NJDEP report titled Basis and Background of the Septic Standard of the Highlands Water Protection and Planning Act Rule at NJAC 7:38-3.4 that used 45 samples throughout the region in mixed use areas. The median ambient nitrate level was .76 mg/L. For pristine areas 7 locations were selected as a representation of “pristine” forested areas. It appears that most of these samples were taken from State Parkland Areas. Therefore, nitrate levels included in the modeling reflect “pristine” conditions, with average value of .21 mg/L. So the values selected are to maintain the existing groundwater quality despite the commonly used target of 2 mg/L in the non-Highlands area of the State. The federal drinking water public health standard is 10mg/L.

Response:

The Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the *Water Resources Technical Report – Volume I*. The RMP also included a Water Resource and Ecosystem Science Agenda, which outlines additional research into improved ambient nitrate concentration estimates.

Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 51765

Commenter Name: William Honachefsky, P.P., P.L.S.

Organization:

Municipality: Clinton

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Indicators and Milestones

Comment:

I understand that you will, or have been, receiving public comment on the ongoing re-examination of the 2008 Highlands Regional Master Plan. Consequently I am forwarding the attached 25 page Comments and Report for your perusal, in hopes that it is timely enough for consideration by your consultant(s). Should you or your consultant(s) have any questions please feel free to contact me at any time.

LOOKING FOR THE HIGHLAND'S INDICATORS IN ALL THE RIGHT PLACES

The "reconstituted" Highlands Council, has issued a contract to the Regional Plan Association (RPA) to essentially see what the 2004 Highlands Act, and particularly the 2008 Highlands Regional Master Plan (HRMP), may have wrought in the Highlands over the last 6 to 10 years, including the primary objective to; "... .. develop indicators and milestones ...", for the evaluation of regional conditions in the Highlands, and to identify potential new or emerging issues, and to identify potential Regional Master Plan (HRMP) priorities. Where they look to acquire those indicators and milestones however, will dictate whether the RMP will remain true to its core objective of protecting some of the most critical waters of the state. This core objective may be at risk at the outset, by an obvious lukewarm support of the RMP and even the RMP's progenitor, the 2004 Highlands Act, by some of the newest Council appointees. A mindset abetted by a small minority of RMP critics who have forged a frenzied barrage of vacuous sound byte generalizations proclaiming widespread unconstitutional property takings. ("See Landowner Equity and Protecting the Commons") www.planetizen.com/node/88.

In any event, there can be no better place to seek indicators and measure what has been forged upon, and ultimately shed from the Highlands landscape than within the ultimate indicators of the Highlands, its waterways, (See Figures to follow) albeit not so much by the Highlands RMP in the relatively short, last 6 years, but more so by the multiple Municipal Master Plans and zoning ordinances in place not only for the past 6 years, but in the many decades prior. All of which, by the way, the Highlands RMP was designed to collectively muster, support, and assist. These local MMPs to become the initial building blocks and the Highlands HRMP the mortar. It is in these receiving waterways that the final product of all of this land use planning, and resculpting of the Highlands landscape will be truly revealed, evaluated and measured, and the results, I can assure you, are both unsettling and sobering. There is considerable naivete as to how land use planning and environmental protection really work in New Jersey, as well as nationally. We may think that State and Federal governments have overall control over protection of the environment. However, long before the respective State and Federal environmental protection agencies sit down to review projects and issue regulatory permits, municipal land planners will have been out there, well ahead of them, prescribing, mostly through zoning ordinances, where residential subdivisions should be placed and at what densities. They will also have determined where and how factories, commercial and office buildings are to be located, how much impervious parking lot and roadway asphalt is to be allowed, and where stormwater and sewage collection systems will be placed and discharged. They will also have determined what water supplies are to be used for all this new development, and

where the new local roadways to accommodate these new landscape changes are to be placed. By the time Federal and State regulators arrive on scene to fulfill their obligations to protect the environment, the character of the resulting landscape will already have been determined. The problem with this schema is that this local land use planning occurs mostly on an independent, uncoordinated, fragmented, site by site basis, producing unintentional landscapes collectively destructive, to the structural configuration of stream channels and the character of the water that flows within them, thereby robbing them of their ability to treat, calm, hold, and especially control floodwaters. If you do not believe this, ask those living along the Raritan, Passaic and Pequannock rivers. Too add further insult to injury, on their journey through this maze of incongruent, site by site designs we repeatedly inoculate these same waterways with a collection of pollutants, some so harmful, that they threaten the lives of both man and beast.

As someone, who for the last 38 years has collected thousands of water, storm water, soil, sewage, sediment, fish and other biological samples throughout the state, including at some of the state's most toxic and contaminated sites, and walked hundreds of miles of streams from Sussex to Cape May County, I do know this, Regional planning in the Highlands is an absolute must if we are to avoid adding to the \$200 billion in environmental damages left to us by our predecessors. So we invite the Highlands Council and their newest consultant to join us as we explore the State's landscape looking for the best and ultimate indicators of what our land use planning efforts have wrought thus far, absent a regional Master Plan.

OUR WATERWAYS ARE CRYING OUT FOR HELP

Figure 1 - This Highlands stream is already in serious trouble, exhibiting severe channel erosion, decreasing depth, widening, and tree collapse. Mulhockaway Creek - Circa 2014.

Figure 2 - This headwall once stood at the foot of the receding stream bank shown in background - Elizabeth River .

Figure 3 - Stream bank erosion and last resort erosion control - Mahwah Brook .

Figure 4 - Continuing development and increasing storm water runoff will require more expensive attempts at mitigation - Clove Brook .

Figure 5 - Eventually even more drastic structural stream bank replacement becomes necessary - Beaver Dam Brook .

Figure 6 - Even primarily agricultural land is not immune to ever increasing quantities of storm water runoff – Neshanic River . Stressor Indicator Site - AN0324 '

Figure 7 - This Highlands Category 1 tributary to the South Branch of the Raritan River has over 50 storm water outfall pipes discharging into it , over a distance of less than 2 . 5 miles - Beaver Brook.

TRYING TO STEM THE FLOW

Figure 8 - The installation of storm water retention and detention basins was supposed to ameliorate the peak flows of storm water runoff from each development site . No one has looked to see if such unsynchronized discharges are additive, thereby producing the damaged stream corridors seen in

Figures 1 through 7.

Figure 9 - Typical dry extended detention basin with concrete low flow channel - a frequently used Best Management Practice upstream of outfall pipe shown in previous Figure 10.

Figure 12 Is it any wonder our stream channels are being washed away. **STREAM CHANNEL DESTRUCTION IS NOT THE ONLY INDICATOR TO BE HEEDED**

Figure 13 - Nutrients and other dissolved chemicals flushed from all the surrounding asphalt pavement end up here, producing oxygen robbing algal blooms soon to exit to nearby waterways.

Figure 14 - Careless salt storage flows off the pavement and directly into the nearest waterway . Who's watching after approved site plans are put away and archived.

Figure 15 See Figure 16 for sediment sampling results **CHEMICAL SAMPLING RESULTS AT THE OUTFALL OF MALL**

- **SEDIMENT ACUTELY TOXIC**
- **SEDIMENT PETROLEUM HYROCARBONS = 1,430 MG/KG**
- **FOUND ANTHRACENE, PYRE NE, CHRYSENE AMONG OTHER PAHs**

Figure 16 - The gift that keeps on giving. **LANDOWNERS STRUGGLE TO SAVE THEIR LAND**

Figure 17 - The continuing onslaught of out of control Channel erosion forces homeowners to take drastic protective measures-See Figure 18.

Figure 18 - Sometimes exasperated homeowners have to take drastic measures to try to stop the unrelenting channel erosion. Individual landowners however, cannot do it alone, nor can individual municipalities operating independently.

DIFFICULT CHOICES LIE AHEAD, BUT THEY MUST BE MADE

Lyle (1994) correctly opined, "The problem lies partly in our 20th century habit of thinking of development as a matter of economics or what Daly and Cobb(1989) call the "focus on mathematics in place of empirical attention to physical reality.n That physical reality is upon us, and we simply cannot afford to carry the status quo of current local land use patterns, into the Highlands. The same land use patterns that ripped apart and fouled the state's waterways, that dropped groundwater levels and depleted aquifers, and left us with a trillion dollar cleanup bill for damaged and polluted waterways, stream sediments, aquifers and soils.

SOME GOOD,INITIAL INDICATORS WE HOPE THE COUNCIL'S CONSULTANT WILL CONSIDER EXAMINING

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

- POUNDS OF BOD5 LOADING TO EACH SURFACE WATERWAY FROM NJPDES PERMITTED DISCHARGERS
- NUMBER OF STORMWATER DISCHARGE PIPES ALONG EACH STREAM REACH
- HISTORICAL MAPPING, BY PERCENT, OF IMPERVIOUS COVER AND LAND USE CHANGES OVER TIME IN EACH WATERSHED
- NJDEP'S STRESSOR IDENTIFICATION PROJECT, DESIGNED TO IDENTIFY PRINCIPAL STRESSORS TO THE STATE'S WATERWAYS

CLOSING COMMENTS

I want to assure the Highlands Council that even big industry gets the importance of safeguarding our precious waters, and for that fact, our whole ecological infrastructure. Here are a few of their observations:

Willem Buiter, Chief Economist at Citigroup "Water as an asset class will, in my view, become eventually, the single, most important, physical commodity based asset class, dwarfing oil, copper, agricultural commodities, and precious metals.

Ray Anderson, CEO, Interface Corp " I'm part of an endemic process that is going on at a frightening still accelerating rate, worldwide to rob our children, their children, theirs, and theirs of their futures. There is not an industrial company on Earth, and I feel pretty safe in saying, not a company or institution or firm of any kind, not even an architectural firm or an interior design practice, that is sustainable in the sense of meeting its needs without some measure depriving future generations of the means of meeting their needs. When Earth runs out of exhaustible resources, when ecosystems collapse, our descendants will be left holding the bag. And some day people like me may be put in jail."

To the Highlands Council members I say, it cannot be all about economics. Without a sufficient quantity and quality of water, there can be no industry, no business, no farming, and no quality of life, despite how much we irrigate the land with dollars.

Figures 2 thru 7 courtesy Monitoring, J. Abatemarco.
NJDEP staff, 2012.
of NJDEP Bureau of Freshwater and Biological
Figures 8 thru 16 from public presentation by

Response:

The Highlands Council acknowledges and appreciates these comments. These topics are discussed in Chapter(s) 3, Parts 1 & 2; of the Regional Master Plan (RMP). Supporting information can also be found in the corresponding technical report: *Ecosystem Management Technical Report, Water Resource Assessment Technical Reports Vol 1 & 2.*

The Highlands Council recognizes that the commenter suggested specific “initial indicators” for the Council’s consideration including 1) pounds of BOD5 loading to each stream reach from NJDEP permitted discharges (note: the Highlands Council is considering the use of TMLDs as a water quality indicator); 2) number of storm water discharge pipes along a stream reach (note: the Highlands Council is providing grant funding and a mobile storm water app to conforming municipalities to map stormwater infrastructure facilities including discharge pipes. Thus, the Highlands Council can utilize this data as an indicator over time); 3) impervious cover mapping and land use changes over time in each subwatershed (note: the Highlands Council is in the process of updating impervious cover mapping as well as land use/land cover); and 4) NJDEP’s Stressor Identification project (the Highlands Council is familiar with the project and specifically the first study done by NJDEP – the Drake’s Brook Stressor Identification study – not enough data to serve as an indicator in near future, but the Highlands Council may consider moving forward). The Highlands Council will consider each proposed indicator for use in evaluating the Highlands Regional Master Plan.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to water quality, quantity and stream degradation, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54887

Commenter Name: Wayne M. and Andrea L. Najduch

Organization:

Municipality: Hackettstown

Primary Topic: Natural Resources (Forests, Wetlands, Streams, Lakes, Etc)

Secondary Topic: Other

Comment:

The current owner and developer of the "Liberty Square Project" has recently under the current forestry rules has taken trees from the site described above, even though he is under an order from NJDEP, since 2007, to restore the plantings on this site, and even though this property had over 80% of the trees removed and destroyed by construction work completed without a "Site Plan Approval" or a "Stormwater Management Approval". Clearly the right hand does not know what the left hand is doing. I believe that this was done strictly to impose punitive action to myself and the other neighbors that opposed his development of the site. There has been no effort to replant anything on the site and the few trees that remain on the 8 acre site can not represent a viable forestry endeavor. I would recommend and support the requests of others to require the inclusion of certification standards from the Forest Stewardship Council for forestry activities within the Highlands Preservation Area. It is my understanding that this is a highly regarded certification that has rendered great success in many locations. It is clear to us that the overall health of the forests and ecosystems within the Highlands Protection Area are key to quality and quantity of the water supply for New Jersey. Because of there importance we should employ the best practices to

continue a sustainable forest system. This extends beyond the trees to the ecosystem and habitat that is provided. There is a myriad of proposals that have been put forth on compensation to land owners for loss in equity and value for development rights. Some landowners, particularly farmers feel they have been hard hit. Others who were simply speculating on land values deserve less consideration. Never the less there are programs such as the Transfer of Development Rights program and land acquisition programs that could provide some relief in this area. These programs seem to be languishing in both methodology and funding. If some improvements could be made in this area the resistance from local people would be tremendously mitigated. I would urge the Highlands Council to press the State to seek funding and simplification of these processes.

Response:

The Highlands Council acknowledges and appreciates these comments. The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to sustainable forestry, and forest health, the Report will include the appropriate recommendations.

The Highlands Act required the creation of a Transfer of Development Rights (TDR) program, which was addressed by the development of a TDR Program and the establishment of the Highlands Development Credit Bank (HDC Bank) in the Regional Master Plan (RMP) in 2008. As of 2015, the HDC Bank had provided nearly \$9 million to property owners in the Region through the TDR program, securing Highlands Development Credits, which represent lost development potential.

The Highlands Council and the HDC Bank continue to pursue methods to implement voluntary receiving zones for the program where the purchased credits may be sold, while also seeking alternate means of funding the bank, including the use of mitigation funds among other sources.

Sustainable Economic Development

DRAFT

HCIS/Comment Number: 20

Commenter Name: Nicholas Homyak

Organization: NJ Highlands, National Park Service Volunteer

Municipality: Lake Hiawatha

Primary Topic: Sustainable Economic Development

Secondary Topic: Indicators and Milestones

Comment:

End Market Speculation Real Estate Construction/ Redevelopment only Speculation market development should not be allowed anywhere with not only the NJ Highlands including the Planning ones but the entire United States. Necessity only with definite purpose and contract for long periods of time for occupancy. If we look at our landscapes they are littered with abandoned, office buildings, malls and other constructions; most being build in an atmosphere of market probabilities one location competing with another for a client occupier. In the end one demises the other and leaves the landscapes scared. Parsippany, NJ for example has many such "properties".

Car dealerships are another problem and seem to expand despite many already abandoned lots. Redevelopment only should apply to this element of the society; automobile dealerships. Take a ride from Dover, Denville, Mountain Lakes, Parsippany all the way to North Caldwell & beyond along Route 46 and Bloomfield Ave. It is littered with car lots many abandoned. Right now in Parsippany across from waterview Block 421 Lot 29 you see another development of a large dealership right in a known flood area and transition zone to the Troy Brook. These dealerships have too much power over land-use. We all know the negative impacts of life by auto, please add the dealerships to the list of bad land use.

New Terminology to be used; "landscape"

The term 'landscape' be applied and used by all zoning & planning boards and agencies, this may or will allow the actual character and natural resource assets to be revealed and explained not ignored by developers and municipal agencies. I resubmit the following definition to be used from the Federal Agency.

Chaper II: Foster Climate-Resilient Lands and Waters Protect important landscapes and develop the science,planning tools, and practices to sustain and enhance the resilience of the Nation's natural resources.

From: the Office of the President of the United States, Enhancing the Climate Resilience of America's Natural Resources, Council on Climate Preparedness and Resilience. May 21, 2014 "the landscape is not defined by the size of the area, but rather by the interacting elements that are meaningful to the management objectives. In addition, for the purposes of this report, the term "landscape" encompasses watersheds and marine environments that match the above description. The term "cumulative impacts" refers to the combined, incremental effects of human activity on a resource ecosystem, or human community. So for example instead or along with Block Lot the term Landscape will also apply.

HCIS/Comment Number: 30
Commenter Name: David Bossart
Organization: Property Research Appraisers
Municipality: Flanders
Primary Topic: Sustainable Economic Development
Secondary Topic: Indicators and Milestones

Comment:

Dramatic erosion of the real estate tax base due to the devaluation of marketability and market values of land that was downgraded in its zoning and highest best use. This put tremendous burdens on municipal budgets. From an appraiser's perspective, numerous tax appeals have occurred in those towns, which are caught in the Highlands. The legislators should have done an economic impact study before passing this legislation.

HCIS/Comment Number: 21
Commenter Name: Nicholas Homyak
Organization: NJ Highlands
Municipality: Lake Hiawatha
Primary Topic: Sustainable Economic Development
Secondary Topic: Plan Implementation

Comment:

Recently found about about a FEMA program concerning reduced flood insurance premiums through a CRS; Citizens rating System. The more points the more overall reduction in insurance payments. Asking the question would adoption of the regional Master Plan qualify a municipality for more points in the CRS rating system; received this reply: my expert replied that the answer is no unless there are specific actions that qualify under the CRS. There would be no automatic insurance reduction.

The NJ Highlands Coalition should work to make this a definite yes in the CRS rating system in places like Parsippany and other flood prone regions of the Highlands. This may help advance voluntary compliance in demonstrating reduced rates for all in flood insurance. A Municipality would simply have to do the work in acquiring the credits and or promoting Regional Conformance leading to these benefits..See The Great Swamp Watershed Association Across the Watershed Spring Summer 2014 publication.page 20 Deciphering Flood Insurance; for complete details of program.

HCIS/Comment Number: 66
Commenter Name: Timothy Matthews
Organization:
Municipality: BELVIDERE
Primary Topic: Sustainable Economic Development
Secondary Topic: Plan Implementation

Comment:

I am a consulting forester in Warren County, NJ and have over 350 landowners that I assist in managing their properties for its forest resources. One of the most common complaints that I hear regarding the Highlands Preservation Area is the 1/4 acre impervious coverage limitation. There are landowners that have well over 50 acres that would like to build a home near the center of the property but due to the 1/4 acre impervious coverage limitation they are required to build near the paved road. If gravel driveways were not included in the impervious coverage calculation then these landowners could build where they want on the property. 1/4 acre on a 50 acre property is 0.5 percent impervious coverage for the entire parcel. The impervious coverage restriction needs to be addressed.

Response:

The Highlands Council acknowledges and appreciates these comments. The definitions of impervious coverage are defined in the Highlands Act as are the Exemptions and limitation of impervious coverage to ¼ acre. The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 58
Commenter Name: Greg Gorman
Organization: Conservation Chair, NJ Sierra Club Chapter
Municipality: Hamburg
Primary Topic: Sustainable Economic Development
Secondary Topic: Indicators and Milestones

Comment:

The suggested metrics or indicators are tailored from Sustainability Communities Catalog-
<http://www.sustainablecommunities.gov/indicators>)

- Economic growth in previously-developed areas in terms of income, changes in property value, and number of new businesses.
- Access: Percentage of people within walking distance of key destinations: jobs and schools, Safe Parks & Recreation Areas, and/or transit service

- Commuting distances to place of employment in terms of miles, distance, and mode (auto, bus, train) Percentage of population served by transit
- Travel Time to Work
- Vehicle Miles Traveled Per Capita
- Fuel Consumption/Energy Use by land use and vehicles.
- Renewable energy generation: Solar, wind, geothermal, and micro hydroelectric.
- Access to Healthy Food Options
- Redeveloped/Remediated Acreage: Brownfields, forests,
- Residential Energy Use
- Residential Unit Vacancy Rate
- Number of New Residential Units Permitted
- Number of existing Home Improvements permitted
- Acres of Parks and Protected Open Space per Capita
- Bike Infrastructure: Bike Land and Trail Mileage
- Bike Parking per Capita
- Arterial Roads with bike lanes
- Pedestrian Infrastructure
- Percent of population that lives within ¼ miles of a bike lane/trail

HCIS/Comment Number: 54109

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Sustainable Economic Development

Secondary Topic: Indicators and Milestones

Comment:

The RMP discusses in “Subpart C Baseline Economic Indicators” that baseline “traditional” indicators would track population, employment, households, income, property taxes, equalized property values, land transaction, and building permits. (Page 128). These indicators should be tracked closely, reported publicly on an ongoing basis, and expanded to capture more specific data,

such as supply and pricing of housing units, salary ranges and types of occupations. The fiscal analysis that is being completed as part of the Monitoring Program will be critical to understanding the full impact of the Act and the RMP over the past ten years, even accounting for the effect of the economic recession. The NJBA urges that the analysis be fully disclosed and proactively addressed to enhance the Region's economic strengths and vitality.

HCIS/Comment Number: 54949

Commenter Name: Rick Suydam

Organization: New Jersey Farm Bureau

Municipality: Trenton

Primary Topic: Sustainable Economic Development

Secondary Topic: Indicators and Milestones

Comment:

For economic development

**Number of Farm Credit loans since 2008 for business development, expansion etc.

**Number of established industries or businesses lost to other locations since 2008; number of jobs lost.

*Number of county economic development plans that include agricultural businesses, and include as members farm operators, agricultural agencies/organizations.

*Number of county or municipal workforce development programs that include farm labor needs. Recommendations

Municipal and county Plan Conformance must include development and implementation of economic development plans, or master plan elements that include agricultural businesses.

Response:

The Highlands Council appreciates the comment and will consider the proposed indicators for use in evaluating the Highlands Regional Master Plan.

HCIS/Comment Number: 82

Commenter Name: Erica VanAuken

Organization: New Jersey Highlands Coalition

Municipality: Boonton

Primary Topic: Sustainable Economic Development

Secondary Topic: Other

Comment:

By definition the single most important economic factor concerning the Highlands Region is its water. The Highlands provides water to the majority of the population of the State. That being said, the economy inside the Highlands Region is of vital importance, not only to the residents of the Highlands but also to the State's overall economy.

However, the Highlands Region is not a single economic entity. The eastern Highlands, (from Mahwah south to Bernards Township and as far west as Sparta and Hackettstown), may be characterized as largely suburban this portion of the region is composed mostly of bedroom communities with mixed light industrial areas, large retail centers and corporate business areas. The western and southern Highlands are more rural in nature with parkland, agriculture and mining, mixed with small town centers. While not a homogenous economic area, the region is a geological and hydrological unit defined by its critical water resource.

Consider for example Parsippany-Troy Hills Township (Morris County) and Mansfield Township (Warren County). Both are large municipalities. Mansfield is slightly larger at just under 30 square miles; Parsippany smaller at just over 25 square miles. Both are in the Highlands. There the similarity ends. Parsippany ranks 31st in population in the State; Mansfield is 488th. Parsippany's population density is 2,259 persons per square mile. In Mansfield the density is 26 persons per square mile. Parsippany is served by three Interstate Highways, Interstates 80, 280 and 287 and three major State highways, Rts. 10, 46 and 202. Mansfield is served by State Rts. 57 and 31. Parsippany's average family income is \$102,601, Mansfield's is \$74,063. Round trip to Manhattan from Parsippany is 56 miles, from Mansfield it's 115 miles.

Clearly, these two Highlands communities have very different economic challenges and potentials. The same is true for communities with small town centers. Consider Morris County's Butler Borough and Hunterdon County's Hampton Borough. Similar in size, Butler is 2 miles square and Hampton 1.5 miles square. A round trip to Manhattan from Butler is roughly 65 miles; from Hampton some 117. Butler's population is 7,539 while Hampton comes in at 1,401. Median family income for Butler is \$102,435, in Hampton the figure is \$82,396. Here again, both communities are in the Highlands, yet their economic situations are quite different.

Clearly, economic impacts differ from community to community and area to area within the Highlands. Just as clearly, planning for economic development within the Highlands requires localized solutions. There can be no "one size fits all" plan. This, however, does not mean that there are not common resources within the Highlands. Tourism and recreation can thrive anywhere in the Highlands. While areas in the western Highlands make for a challenging commute they are easy day trips. Cultural, historical, recreational and tourist sites, even wineries and breweries, exist in the Highlands at every turn. Lakes, forests and parklands have been retreats for urban dwellers for more than 150 years. Alstede's, Chester Township, Nolan's Point, Hopatcong, Mayo Performing Arts Center, Morristown, Valley Shepherd Creamery, Long Valley, and downtown Chester Borough are examples of what creative thinking and investing can do.

The Highlands Council can be of great service in this arena. Rather than acting as a mere "Planning Board" the Council could take proactive steps to develop water resource friendly and market appropriate approaches to the areas in the Highlands that need redevelopment. The housing market has changed radically since the real estate bubble of ten years ago. Town centers and rental developments are the rule rather than the exception in New Jersey. Morristown within the Highlands is a prime example. Once a regional shopping destination with small, mid-sized shops

surrounded by large, single family homes, Morristown has adapted to the new reality. With a retail center that became obsolete in the era of brick and mortar malls, Morristown has re-created itself in the style of nearby urban centers like Hoboken. Morristown has become a walkable town center having all the advantages of city neighborhood life in a smaller, suburban setting. This is an example that can be successfully emulated in many Highlands town centers.

There are many new approaches that the Highlands Council should be encouraging; for instance, incubator business centers that cater to start-ups. Truck farming in the western Highlands should be supported to adapt to the new trend of local food sourcing (Manhattan and Philadelphia can always use more kale!). Small scale, specialty manufacturing in areas like mill working and stone working ought to be encouraged in the Highlands. We certainly have the history with old mills and mines to support this. Several communities are using the arts to rehabilitate town centers and neighborhoods. Bed and Breakfast lodgings in the many areas adjacent to superb parks, historic sites and hiking trails in the Highlands can be modeled on places such as Massachusetts, where local economies depend on the beauty of an area and its accompanying tourism. There are dozens of other examples of redevelopment that can be economic engines going forward.

The key word here is “forward.” Lamenting the disappearance of old economic models is counter-productive. The Highlands Council is a planning organization. In order to anticipate the future we must face the realities of the present. The Highlands are not the empty rolling hills and amber waves of grain of our collective imagination. The Highlands are and will remain the critical water source for a State of nearly 9 million people living adjacent to the greater New York metropolitan region. Without water, the jobs, investments and institutions that are the heart and life blood of our State cannot exist.

That said, the Highlands are also very valuable as residential, recreational and resource areas for the Metropolis. More than the residents of the Highlands need to be served by the State, as all our citizens are, and their rights deserve the attention and protection of our government and their fellow citizens. It is therefore the duty of the Highlands Council to do two things: preserve the water resources of the state and protect and improve the lot of those who live within the Highlands at the same time.

HCIS/Comment Number: 47

Commenter Name: Sean Eve

Organization:

Municipality: Ogdensburg

Primary Topic: Sustainable Economic Development

Secondary Topic: Plan Implementation

Comment:

1/13/2015

To the Highlands Commission, my name is Sean Eve, and I live in the Highlands Preservation area, at 144 Edison Ave, Ogdensburg NJ. I am a strong supporter of the restrictions imposed by the Highlands Act, and in fact moved to the area in 2011 in large part because of the limited development the act promised for much of the region. I commute to NYC for work, so I suffer the

inconvenience of a long commute every week. I choose to accept the trade off because of the quality of life open space and abundant natural resources at my doorstep afford me.

There is a false dichotomy at work in many of the discussions surrounding the Highlands Act. On the one hand is the public good afforded by preserving water and natural resources, on the other is the economic cost to regions affected by the act with regard to limitations on future development. In the case of Sussex County, the majority of slow down in development is not a result of the Act, but due to changes in consumer tastes. Exurban areas are simply less desirable to millennials and don't offer the types of housing or the pedestrian lifestyle preferred by many retirees. As a result of this, Sussex County has seen less suburban development, a reduction in population, and a slow down in economic activity.

The Highlands Commission has done a fine job in cataloguing and prioritizing the natural resources that need to be preserved in the region. The Commission does not need to revisit these issues. Instead, the Commission needs to broaden its purview, and like comparable organizations working in the New York City watershed areas, to focus more attention and resources on how targeted economic development can help Sussex County retain and enhance its prosperity. Both through its own resources and through working with other state organizations, the Highlands Commission needs over the next few years to help Sussex County realize the vital objectives of town center regeneration, the production of market rate rental housing that is attractive to millennials and retirees, and assist in the longer-term goals related to transportation, including an expansion of mass-transit along existing tracks through Sparta, Ogdensburg, and Franklin, and the development of additional road capacity on the Route 15 corridor beyond Sparta. These are complementary objectives, in that town redevelopment, increased housing density in those areas, and the focusing of transportation enhancements on existing areas of development in the county will allow the county to prosper while directing development away from those areas in the county most in need of conservation.

A focus on the costs to private individuals of zoning changes implemented a decade ago is self-defeating, in that it draws resources away from town center investment, where development needs to take place and where public expenditure is a vital part of the equation, and at the same time promotes development beyond the cores that is less attractive in the current market. It also makes land acquisition in preservation areas more costly. While I respect that certain individuals may have seen their assets decline in value, that has been true for every property owner in the county, and is a result of large scale economic factors and the relative decline in the desirability of exurban locations such as Sussex County. Farming is the most subsidized industry in the country. So the claim that market forces should predominate is spurious coming from the very people whose livelihoods are supported by public subsidies. Likewise, suburban development imposes a heavy cost on the community, via road enhancements and school expansions, that are not paid by the developers themselves. These implicit, 'subsidies', and their impact on state and local finances in New Jersey is part of what the Highlands Act helps to redress.

I pay very high property taxes. In fact, Ogdensburg has one of the highest marginal rates in the county. The best way for this problem to be mitigated, other than a revenue sharing process the State would doubtless be loathe to support, is for increased retail business in the town center. Ogdensburg has very old buildings in the center of town, which could be a historic resource, but which require more investment than the private sector can justify. Efforts have been made to enhance the streetscape on main street just this year, but without a coordinated effort on the part of local, county, and state organizations, it is unlikely Ogdensburg will achieve the kind of main street

redevelopment it badly needs. Retail is particularly important in this regard, as sales taxes are the most stable source of revenue available to both the state and municipalities. Such redevelopment would also increase housing values, and promote the renovation of the substandard housing units in town. Improving the social conditions, the schools system, the stresses on fire and police services, and allowing for an eventual reduction in marginal rates over time.

Ogdensburg is a small town. Much wider effects and much greater economic and social improvements would be achieved by target investment in the larger communities, particularly Newton, Sussex and Sparta. Sparta is affluent, but lacks the commercial streetscapes needed. Newton and Sussex are economically deprived in some areas, and are thus unable to attract sufficient private capital investment to achieve their potential. In terms of Sussex County, assistance provided by the Highlands Council in these priority areas would have the greatest net benefits to the county, both in terms of enhanced desirability for the county and increased revenue from sales tax and property taxes linked to new, denser development in and near the town centers. Sussex County can be attractive to a new generation of individuals looking for places to call home. And the Highlands Commission can be an even more active part of that process going forward. Already, as a result of the Highland Act and other state initiatives such as Green Acres, the area has an increasing inventory of natural resources and entertainment options that appeal to the young and educated. From rail trails to kayaking and boating opportunities, from farmer's markets to hunting and fishing options, the county has many of the outdoors activities available to its residents that the market currently demands. These should be further enhanced, through more land acquisition, and also by better maintenance. The State has not done as good a job as it should in maintaining the hiking trails on much of the state land here. What we lack are the active town centers that millennials, retirees, and many others view as essential when selecting a place to live. The Highlands Commission needs to do more to help foster this kind of development throughout the county, both through technical and planning assistance, and through direct investment in main streets and pedestrian-friendly infrastructure. It is there that the money and energy needs to be spent. Everyone will benefit as a result; homeowners, farmers, even developers, who will see additional opportunities in the county in those sectors of the market where they are increasingly focusing their efforts.

The municipalities cannot achieve this regeneration on their own. And if we look regionally, particularly in New York where such efforts have been made, in the Hudson Valley, Catskills, and Adirondaks, we see that successful economic development has been achieved in the midst of areas where large amounts of land have also been conserved. Just beyond our own borders, we have Milford PA. and Warwick NY., towns that are no less distant from urban centers and interstate, but where targeted investment has had economically and socially transformative results. Across the West and in parts of New England, areas have boomed specifically because of the large amounts of public land that make them desirable. There is no reason and no excuse for New Jersey failing to achieve similar results to its neighbors. Instead of continually debating the past, we need to harness our resources, by increasing them and by focusing investment on the creation of lively town centers which are the necessary complement to those natural spaces and preserved viewsheds. Without both, the region cannot hope to achieve its full potential.

Yours Sincerely,
Sean Eve

HCIS/Comment Number: 58

Commenter Name: Greg Gorman

Organization: Conservation Chair, NJ Sierra Club Chapter

Municipality: Hamburg

Primary Topic: Sustainable Economic Development

Secondary Topic: Plan Implementation

Comment:

At the Highlands Regional Master Plan Workshop in Sparta, Senator Oroho observed, “The issue of sustainable economic development has not been addressed” If you look at the list of Technical Stakeholder Meeting held in the Fall 2014, “Sustainable Economic Development” is not listed. Both the “Land Use” and “Real Estate and Housing” meetings addressed “uncertainties” affecting the ability to obtain bank loans. Other Targeted Stakeholders meeting summaries contained numerous comments regarding economic development:

“RMP policies do not sufficiently support woodland owners and woodland management”

“One challenge of ecotourism is transportation. The existing network facilitates travel from the suburbs to New York City and back out, but not necessarily from NYC to the outskirts and back”

“The discussion then turned to agricultural economic development. While the Highlands RMP refers to this as a prospect for the Highlands Region, it does not convey the entirety of agriculture economic development opportunities”

“Further, the RMP lacks sufficient recognition of the value of cultural resources.”

“Regarding State Parks Service, many parks and campsites in the Highlands Region contain gaining infrastructure that needs to be replaced. There is concern that larger capital projects cannot be completed within the confines of the Highlands regulations.”

Given the primary purpose of the Highlands Act is to assure the environmental integrity of region to preserve water supply; I offer the following recommendations regarding “Sustainable Economic Development”.

Recommendation 1: Develop valuation for natural resources and ecosystem services provided by the Highlands Region.

The Highlands Conservation Act of 2004 recognizes “the importance of the water, forest, agricultural, wildlife, recreational, and cultural resources of the Highlands region, and the national significance of the Highlands region to the United States”. The contribution the Highlands Region includes value of goods and services exchanged in the market plus the value of ecosystem services such as water purification, carbon sequestration, and habitat for species, seed dispersion, and other contributions that are not readily accounted. This metric could serve as a basis for decision making, and measuring health of the region. Development of this metric improves “engagement and dialogue between the Highlands Council and users of Highlands water who are located outside of the region”.

Recommendation 2: Adopt Sustainable Economic Development Goals and Objectives. The Highlands Act Section 10.c.(9) encourages “economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts thereof;”. The traditional strategies for economic growth rely on “consumerism” and unlimited consumption models depleting resources over a period of time. The demise of Highlands iron industry is a prime example. Sustainable Economic Development Goals support ways for people to create wealth without harming natural systems. The following Sustainable Economic goals are suggested:

- A. Promote economic instruments for efficiency, and commit to promoting energy efficiency for buildings, devices, motors, transportation systems and in the energy sector itself.
- B. Sustainable buildings: Around 27 % of final energy is consumed by private households, and much could be done with existing technologies to improve the energy performance of buildings. The energy demands of buildings can be covered to a significant extent by using renewable energies. Industry in the Highlands previously relied in part on “water wheels”. Consideration of policy to promote “micro-hydroelectric generation” is recommended as well as “community” solar projects.
- C. Efficient transport and alternative fuels: Within the next 50 years, technology will likely develop innovative engine concepts with energy efficiency standards, alternative fuels and integrated transport systems. Communities should begin to plan ways to incorporate this technology. Growth centers within the region need to consider ways to reduce congestion as they increase land use intensities.
- D. Promote understanding of climate issues and encourage necessary changes within the Highlands to improve resiliency. Inventory and redesign of bridges particularly on rural roads need assessment. (Reference Reports prepared on behalf of the New Jersey Climate Adaptation Alliance available @ <http://njadapt.rutgers.edu/resources/njcaa-reports>).

Recommendation 3: Develop a “Sustainable Business Strategy” based on “Cradle to Cradle” approach.

Communities still choose to destroy natural resources as a means to increase revenues at the expense of the town's long term economic viability; yet, across the state of New Jersey, many agencies such as NJ Future, Regional Plan Association (RPA), and NJ Transportation Planning Authority champion Smart Growth policies. From a National and State perspective, the preservation of the Highlands as an important region for water and biodiversity embodies the “Smart Growth” Model. The challenge for the Council is to encourage “Sustainable Business Strategy” based on continuous Improvement.

By optimizing positive impacts and minimizing negative impacts with an emphasis on water stewardship, this approach should emphasize the continuous flows of biological and technical resources, values materials for safe, continuous cycling, and reliance on renewable energy. These are fundamental principles of “Cradle to Cradle” approach for product and community development. (Reference: The Upcycle: Beyond Sustainability—Designing for Abundance by William McDonough & Michael Braungart 2013 or see TEDx presentation @ <http://makeitright.org/c2c/>).

Some examples as to what could be done in the Highlands include: Community Solar Projects, equipping gas stations with electric car charging stations, establishing “trail guide services”,

establishing a database of local food producers to connect with local and regional restaurants and grocers, The waterways of the Highlands once had mills powered by water,-“Are micro hydro electric generators feasible today? These are possibilities that promote regenerative growth and enhance the value of the region.

HCIS/Comment Number: 54109

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Sustainable Economic Development

Secondary Topic: Plan Implementation

Comment:

C. Recognizing Statutory Mandates for Economic Growth and Development Subsequent sections of the Act reiterates the need to address economic growth and development in the mandated land use planning document – the RMP. Section 11, subsection (6), of the Act requires the RMP to include a “smart growth component” that includes an assessment of “opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages.”

Subsection (6) also requires a “land use capability map” that identifies the above components, including: existing developed areas for redevelopment activities, undeveloped areas in the Planning area that are not environmentally constrained for development, brownfields sites or sites with 70% impervious coverage for redevelopment, potential voluntary receiving zones, transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area as well as proposed densities. The Council should seize this opportunity to effectuate the critical mandates of the Act that have not been adequately addressed or supported, such as economic growth, development, and the Transfer of Development Rights. The following highlights NJBA’s concerns with these defined elements of the RMP’s Smart Growth Component.

Response:

The Highlands Council acknowledges and appreciates these comments.

The Highlands Council acknowledges that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2).

The Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. The RMP’s

Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 88

Commenter Name: Giulia Grotenhuis

Organization:

Municipality: Phillipsburg

Primary Topic: Sustainable Economic Development

Secondary Topic: Other

Comment:

Economic Development

Economic development can help stimulate local economies. The act promotes the idea that tourism in the Highlands would be desirable. But the act has no provisions for funding a tourism mechanism within itself.

To incorporate and fund a tourism initiative would be a step in positive territory, but it would only be a start in the recovery of struggling local economies, like in Warren County. From a business perspective, to launch a tourism business where people have little disposable income does not make for a good business plan. This means one would have to invest a large amount of money in marketing outside the area to people with disposable income.

Over the past ten years people have moved out of the three more rural counties of Hunterdon, Warren and Sussex. All three of these counties had steady climbs in their populations until it reached a plateau and then began to drop over the past few years. This leaves behind shattered economies where tax burdens related to schools and pensions continue to rise, beyond the population's control. Residents are now responsible for a larger share of taxes. In Warren County's school system in 2013/14 and out of 21 schools, 17 of them now have lower attendance than they did in 2003-04.

When people move out, that translates to less customers for local businesses like restaurants and shopping centers. This carries over to service businesses like contractors, electricians, plumbers, as less people are taking on home improvement projects, expansions or building in general. This translates to less permitting and fees collected at the municipal and county level.

We want business to move in but there is no customer base to support them. We must target out of state or out of county visitors to rebuild a customer base. This can be done through generic destination marketing and the Highlands Council. But this will be a slow process and require a financial commitment from the Council to the municipalities and counties.

The act puts us at a disadvantage with neighboring states that are included in the federally designated Highlands area. The Highlands run through Pennsylvania, New York and Connecticut, but none of those states have imposed such harsh restrictions. While they are eligible for the same funding for preservation. In a failing New Jersey economy this further exacerbates the problem of those counties on the borders of Pennsylvania and New York.

Yet the taxes have increased. The Highlands Act certainly does not cause the school budget to rise, but it did disrupt the natural ebb and flow of local community economics. People are leaving the County and the State. As Warren County is in close proximity to PA, where both taxes and regulation are lower and job opportunities are higher, this puts us at a disadvantage.

This has hurt the economy of New Jersey and not helped it. I speak in terms of the entire state because what happens in one part of the state does ultimately affect the other.

When a business leaves the state it hurts tax revenue collected at the state level as well as the local level.

When people lose their jobs and collect unemployment, relief comes from the New Jersey's Unemployment Insurance Trust Fund. When that fund runs low it triggers an automatic tax increase on employers.

Locally, it was meant to stop the development that brings on urban sprawl, but it succeeded in stopping much more. The Act claims to want to stop urban sprawl, but when you think of urban sprawl you think of acres of townhouses or houses on quarter acre lots, something that most municipalities in our area were already addressing by increasing lot sizes. The Act made the lot sizes in the preservation area 25/88 acres. This formula is used for a sliding scale that then determines lot sizes in conforming towns.

Looking at the lot size determination for those conforming municipalities, the average is about 10 acres. This size lot is akin to estate homes, of which the most rural counties are less likely to attract.

HCIS/Comment Number: 54109

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Sustainable Economic Development

Secondary Topic: Other

Comment:

E. Conclusion

Despite anticipated economic recovery for the State, the Association is concerned that without a thorough revision of the RMP and eliminating conflicting, duplicative and overly restrictive regulations, recovery and growth for the Highlands region will be impeded. The Council is urged to seize this opportunity to effectuate the critical mandates of the Act that have not been fulfilled to support economic growth.

Sincerely,
Carol Ann Short, Esq.
Chief Executive Officer
C: Stephen Shaw, Shaw Built Homes, LLC

HCIS/Comment Number: 25

Commenter Name: Anthony Bevilacqua
Organization: Anthony & Company, Inc.
Municipality: Flemington
Primary Topic: Sustainable Economic Development
Secondary Topic: Plan Implementation

Comment:

As business owner whose company is highly dependent upon the real estate development industry, obstacles that restrict or inhibit growth significantly diminishes a community's ability to sustain a vibrant economy and control its tax base.

HCIS/Comment Number: 27

Commenter Name: Dennis Loh
Organization: Geo-Technology Associates, Inc.
Municipality: Ringoes
Primary Topic: Sustainable Economic Development
Secondary Topic: Plan Implementation

Comment:

From my perspective, the RMP does not put enough emphasis on economic development and growth in the region. The plan is not balanced and only focuses on environmental factors. The only areas for potential growth are in the "existing community zones." These are areas that are already developed, and have very limited redevelopment potential.

HCIS/Comment Number: 31

Commenter Name: Doug Fenichel
Organization: public relations counselor
Municipality: Flanders
Primary Topic: Sustainable Economic Development
Secondary Topic: Plan Implementation

Comment:

With the passage of the Highlands Act, I, like many other North Jersey residents, assumed that some land would be preserved, but other land would be available to allow towns to grow, renew themselves, create jobs and rateables. These, we assumed, would allow our communities to maintain services, sustain a quality of life while allowing taxation rates for individuals and business to afford to stay. Unfortunately, the interpretation of the rules by the Highlands Council has prevented my town and region, among others, from pursuing economic opportunities. Now, I understand that the Council, rather than looking for ways to remedy this situation, is pursuing a lengthy process

designed to reinforce its oppressive interpretation of the law. We need for the Council to quickly review what has transpired over the past 10 years and adjust what has been done to allow appropriate, balanced smart development in areas already designated for such use by the law.

HCIS/Comment Number: 67

Commenter Name: Kevin Antonelli

Organization:

Municipality: Vienna (Independence Township)

Primary Topic: Sustainable Economic Development

Secondary Topic: Other

Comment:

I moved to this town in 2005, in part with the belief that there was potential for growth and development by way of new businesses coming to town, shopping centers to be developed, etc all of which would have a positive impact on the value of our real estate. However, this has never happened due to the impact of the Highlands Act. The economy and fall in real estate values was bad enough, but with the Highland Act there is no possibility of any growth to come to this town.

HCIS/Comment Number: 54064

Commenter Name: Glenn J. Williams, Esq.

Organization: Warren County Regional Chamber of Commerce

Municipality: Phillipsburg

Primary Topic: Sustainable Economic Development

Secondary Topic: Programs of the RMP

Comment:

The Warren County Regional Chamber of Commerce and the Public Policy Committee of the Warren County Chamber appreciate the opportunity to submit the following joint comments for your consideration as part of the New Jersey Highlands Council 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council is evaluating the effectiveness of the RMP, adopted in 2008, in fulfilling the goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act").

We respectfully submit that the Highlands RMP has failed to achieve a very critical element of the stated goals of the Highlands Act. Namely, the RMP fails to permit opportunities for economic growth in the Region where it is most appropriate, along the State and county roads, and railways, that were zoned for such commercial activity. Accordingly, we call upon the Council to focus its attention on restoring the economic viability of the commercial corridors traversing the Highlands Region which are a critical element underpinning the sustainability of the local financial infrastructure.

The Highlands Act expressly provides that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources." RMP, Chap. 4, Part. 8. The economic development was aimed, in part, at increasing the

local tax base and providing employment opportunities to the Region. Id. "Appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth should be encouraged in certain areas of the Highlands, specifically in or adjacent to areas already utilized for such purposes." RMP, Chap. 3, Part. 8 (internal quotations omitted).

Thus, it is clear from the Act itself, that the legislature intended to achieve a balance between conservation and economic vitality, or at least economic sustainability. Unfortunately, the pendulum remains out of balance in favor of the conservation element as efforts to achieve economic sustainability have been repeatedly stymied as if they were, by their very nature, environmentally unfriendly in every respect. That is not the case. Therefore it should come as no surprise that the economic development goals of the RMP have not been met and, in fact, the economic viability of the Region has suffered as evidenced by a declining tax base and lack of employment opportunities.

An impediment toward more desired sustainable economic development is prevalent along the Region's commercial corridors where local governing bodies have thoughtfully zoned such areas for commercial use, but have been prohibited from developing such uses by the RMP. For example, there is a project in Independence-Township, Warren County, that was approved by the local governing body for development of a 52,000 square foot commercial development involving a CVS Pharmacy, a branded day care center and a regional bank. The property is zoned for commercial use and has access to public water and sewer. Despite that, the project was halted by the Highlands Act as the property upon which it was to be built was designated for the Preservation Zone - on the wrong side of the street from an existing shopping center and a recently developed Quick Check convenience store gas station, both of which are located in the Planning Area. This project highlights the real, and undisputable, economic impact of the Highlands RMP that must be addressed. A model that is out of balance is not sustainable.

Certainly we acknowledge that broad economic factors have impacted the Region as well, but the Highlands restrictions have unnecessarily added high hurdles for businesses to overcome. As a result, we have witnessed businesses flee or not enter the Region leaving its residents with less job opportunities and a heightened real estate tax burden to pay for county, municipal and school budgets. Further, the above mentioned project would have certainly generated much needed income tax and sales tax revenue to the state of New Jersey, and would have been built had it been on the "other side" of the street.

Two bills, 81240 and A2852, were introduced in the first quarter of 2014 that are narrowly focused on this very issue of facilitating thoughtful development along commercial corridors in order to revitalize the Region. We respectfully request that the Council support the legislature's attempt to restore some balance between the environmental elements of the Act and the expressly stated economic elements which have been largely ignored. This legislative initiative is in the best interests of all citizens of the State and will help sustain and encourage social, cultural, and economic benefits and opportunities to everyone located within the Region and the State. We appreciate the Council's efforts and leadership as it strives to achieve the sustainable economic development goals of the Highlands Act and improve the overall economic health of Highlands Region.

Respectfully submitted,
Warren County Regional Chamber of Commerce
Betty Schultheis, Chairman of the Board
Warren County Regional Chamber of Commerce
Glenn J. Williams, Esq., Chairman

HCIS/Comment Number: 54065

Commenter Name: Robert Giordano, Mayor

Organization: Township of Independence

Municipality: Great Meadows

Primary Topic: Sustainable Economic Development

Secondary Topic: Programs of the RMP

Comment:

Warren County Chamber appreciate the opportunity to submit the following joint comments for your consideration as part of the New Jersey Highlands Council 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council is evaluating the effectiveness of the RMP, adopted in 2008, in fulfilling the goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act").

We respectfully submit that the Highlands RMP has failed to achieve a very critical element of the stated goals of the Highlands Act. Namely, the RMP fails to permit opportunities for economic growth in the Region where it is most appropriate, along the State and county roads, and railways, that were zoned for such commercial activity. Accordingly, we call upon the Council to focus its attention on restoring the economic viability of the commercial corridors traversing the Highlands Region which are a critical element underpinning the sustainability of the local financial infrastructure.

The Highlands Act expressly provides that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources." RMP, Chap. 4, Part. 8. The economic development was aimed, in part, at increasing the local tax base and providing employment opportunities to the Region. Id "Appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth should be encouraged in certain areas of the Highlands, specifically in or adjacent to areas already utilized for such purposes." RMP, Chap. 3, Part 8 (internal quotations omitted).

Thus, it is clear from the Act itself, that the legislature intended to achieve a balance between conservation and economic vitality, or at least economic sustainability. Unfortunately, the pendulum remains out of balance in favor of the conservation element as efforts to achieve economic sustainability have been repeatedly stymied as if they were, by their very nature, environmentally unfriendly in every respect. That is not the case. Therefore, it should come as no surprise that the economic development goals of the RMP have not been met and, in fact, the economic viability of the Region has suffered as evidenced by a declining tax base and lack of employment opportunities.

An impediment toward more desired sustainable economic development is prevalent along the Region's commercial corridors where local governing bodies have thoughtfully zoned such areas for commercial use, but have been prohibited from developing such uses by the RMP. For example, there is a project in Independence Township, Warren County, that was approved by the local governing body for development of a 52,000 square foot commercial development involving a CVS Pharmacy, a branded day care center and a regional bank. The property is zoned for commercial use

and has access to public water and sewer. Despite that, the project was halted by the Highlands Act as the property upon which it was to be built was designated for the Preservation Zone - on the wrong side of the street from an existing shopping center and a recently developed Quick Check convenience store gas station, both of which are located in the Planning Area. This project highlights the real, and undisputable, economic impact of the Highlands RMP that must be addressed. A model that is out of balance is not sustainable.

Certainly we acknowledge that broad economic factors have impacted the Region as well, but the Highlands restrictions have unnecessarily added high hurdles for businesses to overcome. As a result, we have witnessed businesses flee or not enter the Region leaving its residents with less job opportunities and a heightened real estate tax burden to pay for county, municipal and school budgets. Further, the above mentioned project would have certainly generated much needed income tax and sales tax revenue to the state of New Jersey, and would have been built had it been on the "other side,, of the street.

Two bills, 81240 and A2852, were introduced in the first quarter of 2014 that are narrowly focused on this very issue of facilitating thoughtful development along commercial corridors in order to revitalize the Region. We respectfully request that the Council support the legislature's attempt to restore some balance between the environmental elements of the Act and the expressly stated economic elements which have been largely ignored. This legislative initiative is in the best interests of all citizens of the State and will help sustain and encourage social, cultural, and economic benefits and opportunities to everyone located within the Region and the State. We appreciate the Council's efforts and leadership as it strives to achieve the sustainable economic development goals of the Highlands Act and improve the overall economic health of Highlands Region.

Respectfully submitted,

Warren County Regional Chamber of Commerce
Betty Schultheis, Chairman of the Board
Warren County Regional Chamber of Commerce :&!?
Glenn J. Williams, Esq., Chairman

TOWNSHIP OF INDEPENDENCE
COUNTY OF WARREN
RESOLUTION# 15-18

A RESOLUTION IN SUPPORT OF AND JOINING IN ON COMMENTS SUBMITTED BY THE WARREN COUNTY PUBLIC POLICY COMMITTEE TO THE NEW JERSEY HIGHLANDS COUNCIL FOR CONSIDERATION AS PART OF THE NEW JERSEY HIGHLANDS COUNCIL 2014-2015 REGIONAL MASTER PLAN MONITORING PROGRAM

WHEREAS, the governing body has reviewed the comments provided on behalf of the Warren County Public Policy Committee to the New Jersey Highlands Council for its consideration as part of the Council's 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council will be evaluating the effectiveness of the RMP in fulfilling the initial goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act"); and

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

WHEREAS, the governing body of the Township of Independence is also of the opinion that the Highlands RMP does not currently permit viable opportunities for economic growth within the Township in areas where such growth is appropriate and has been zoned for commercial activity; and

WHEREAS, the governing body likewise concurs that the Highlands RMP does not account for areas outside the Township in the Region where growth is most appropriate, along the State and county roads and railways; and

WHEREAS, the governing body shares the opinion of the Public Policy Committee that the two bills, S1240 and A28S2, which focus on facilitating development along commercial corridors in order to revitalize the Region, further the goals of the Highlands Act which find development and economic growth in certain appropriate areas of the Region to be in the best interests of all citizens of the State and therefore encourage the Council's support of the proposed legislation;

NOW, THEREFORE BE IT RESOLVED by the Mayor and Committee of the Township of Independence that the Township of Independence supports and joins in the comments provided by the Warren County Public Policy Committee to the New Jersey Highlands Council, a copy of which is annexed hereto.

TOWNSHIP OF INDEPENDENCE
ROBERT GIORDANO, Mayor

HCIS/Comment Number: 54106
Commenter Name: Phyllis E. Pizzaia, RMC
Organization: Blairstown Township, Warren County
Municipality: Blairstown
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:
BLAIRSTOWN TOWNSHIP, WARREN COUNTY
RESOLUTION NO. 2015 - 031

In Support of and Joining in on the Comments Submitted by the Warren County Public Policy Committee to the New Jersey Highlands Council for Consideration as Part of the New Jersey Highlands Council 2014-2015 Regional Master Plan Monitoring Program

WHEREAS, the governing body has reviewed the comments provided on behalf of the Warren County Public Policy Committee to the New Jersey Highlands Council for its consideration as part of the Council's 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council will be evaluating the effectiveness of the RMP in fulfilling the initial goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act"); and

WHEREAS, the Township of Blairstown, although not included in the Highlands, is affected by the adverse effects of the Highlands Act on Warren County as a whole; and

WHEREAS, the Township Committee is also of the opinion that the Highlands RMP does not currently permit viable opportunities for economic growth within Warren County in areas where such growth is appropriate and has been zoned for commercial activity; and

WHEREAS, the Township Committee likewise concurs that the Highlands RMP does not account for areas outside municipalities in the Region where growth is most appropriate, along the State and county roads and railways; and

WHEREAS, the Township Committee shares the opinion of the Public Policy Committee that the two bills, S1240 and A2852, which focus on facilitating development along commercial corridors in order to revitalize the Region, further the goals of the Highlands Act which find development and economic growth in certain appropriate areas of the Region to be in the best interests of all citizens of the State, and therefore encourage the Council's support of the proposed legislation.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Committee of the Township of Blirstown, County of Warren, NJ, that it supports and joins in the comments provided by the Warren County Public Policy Committee to the New Jersey Highlands Council, a copy of which is annexed hereto.

Date: February 11, 2015

Motion: Price

Second: Avery

VOTE: AYE - Anderson, Avery, Lance, Price, Shoemaker

February 11, 2015

Price

Avery

AYE -Anderson, Avery, Lance, Price, Shoemaker

CERTIFICATION: It is hereby certified that this is a true and accurate copy of a Resolution adopted by the Township Committee of the Township of Blirstown, Warren County, NJ at a Regular Meeting held on February 11, 2015.

Phyllis E. Pizzaia, RMC

Municipal Clerk

The Warren County Regional Chamber of Commerce and the Public Policy Committee of the Warren County Chamber appreciate the opportunity to submit the following joint comments for your consideration as part of the New Jersey Highlands Council 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council is evaluating the effectiveness of the RMP, adopted in 2008, in fulfilling the goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act").

We respectfully submit that the Highlands RMP has failed to achieve a very critical element of the stated goals of the Highlands Act. Namely, the RMP fails to permit opportunities for economic growth in the Region where it is most appropriate, along the State and county roads, and railways, that were zoned for such commercial activity. Accordingly, we call upon the Council to focus its attention on restoring the economic viability of the commercial corridors traversing the Highlands

Region which are a critical element underpinning the sustainability of the local financial infrastructure.

The Highlands Act expressly provides that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources." RMP, Chap. 4, Part. 8. The economic development was aimed, in part, at increasing the local tax base and providing employment opportunities to the Region. Id. "Appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth should be encouraged in certain areas of the Highlands, specifically in or adjacent to areas already utilized for such purposes." RMP, Chap. 3, Part. 8 (internal quotations omitted).

Thus, it is clear from the Act itself, that the legislature intended to achieve a balance between conservation and economic vitality, or at least economic sustainability. Unfortunately, the pendulum remains out of balance in favor of the conservation element as efforts to achieve economic sustainability have been repeatedly stymied as if they were, by their very nature, environmentally unfriendly in every respect. That is not the case. Therefore it should come as no surprise that the economic development goals of the RMP have not been met and, in fact, the economic viability of the Region has suffered as evidenced by a declining tax base and lack of employment opportunities.

An impediment toward more desired sustainable economic development is prevalent along the Region's commercial corridors where local governing bodies have thoughtfully zoned such areas for commercial use, but have been prohibited from developing such uses by the RMP. For example, there is a project in Independence-Township, Warren County, that was approved by the local governing body for development of a 52,000 square foot commercial development involving a CVS Pharmacy, a branded day care center and a regional bank. The property is zoned for commercial use and has access to public water and sewer. Despite that, the project was halted by the Highlands Act as the property upon which it was to be built was designated for the Preservation Zone - on the wrong side of the street from an existing shopping center and a recently developed Quick Check convenience store gas station, both of which are located in the Planning Area. This project highlights the real, and undisputable, economic impact of the Highlands RMP that must be addressed. A model that is out of balance is not sustainable. Certainly we acknowledge that broad economic factors have impacted the Region as well, but the Highlands restrictions have unnecessarily added high hurdles for businesses to overcome. As a result, we have witnessed businesses flee or not enter the Region leaving its residents with less job opportunities and a heightened real estate tax burden to pay for county, municipal and school budgets. Further, the above mentioned project would have certainly generated much needed income tax and sales tax revenue to the state of New Jersey, and would have been built had it been on the "other side" of the street.

Two bills, 81240 and A2852, were introduced in the first quarter of 2014 that are narrowly focused on this very issue of facilitating thoughtful development along commercial corridors in order to revitalize the Region. We respectfully request that the Council support the legislature's attempt to restore some balance between the environmental elements of the Act and the expressly stated economic elements which have been largely ignored. This legislative initiative is in the best interests of all citizens of the State and will help sustain and encourage social, cultural, and economic benefits and opportunities to everyone located within the Region and the State. We appreciate the Council's

efforts and leadership as it strives to achieve the sustainable economic development goals of the Highlands Act and improve the overall economic health of Highlands Region.

Respectfully submitted,
Warren County Regional Chamber of Commerce
Betty Schultheis, Chairman of the Board
Warren County Regional Chamber of Commerce
Glenn J. Williams, Esq., Chairman

HCIS/Comment Number: 54109
Commenter Name: Carol Ann Short, Esq
Organization: New Jersey Builders Association
Municipality: Hamilton
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:
Economic Growth

The RMP includes several promising policies and objectives to support economic development in the Region as part of its “Sustainable Regional Economy Program.” See pages 356-358. For example, Objective 8A1b states: “Serve as an advocate and technical resource for Highlands economic development initiatives in work with municipalities, counties, regional agencies, and the private sector to promote sustainable economic development in the Region.” Page 357. From the private sector perspective, it is difficult for NJBA to agree that these measures have been well-established, well-publicized or effective in adequately addressing or supporting economic growth in the Region. NJBA reiterates that the RMP should be revised to attract and retain businesses and industries in the Region. The Council may consider partnerships with the building industry and others in the private sector who influence the economy.

HCIS/Comment Number: 54186
Commenter Name: Betty Schultheis, Mayor
Organization: Township of Allamuchy
Municipality: Allamuchy
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:
Resolution

RESOLUTION SUPPORTING COMMENTS OF WARREN COUNTY CHAMBER OF
COMMERCE REGARDING REGIONAL MASTER PLAN MONITORING PROGRAM
EVALUATION OF HIGHLANDS REGIONAL MASTER PLAN

WHEREAS, the New Jersey Highlands Council has implemented a 2014-2015 Regional Master Plan ("RMP") Monitoring Program in order to evaluate the effectiveness of the RMP in fulfilling the

goals and objectives of the 2004 Highlands Water Planning and Protection Act of 2004 (the "Highlands Act"); and

WHEREAS, the Highlands Act recognizes the critical need to assure the economic well-being of the Highlands Region, in addition to protecting natural resources; and

WHEREAS, it is the position of the Allamuchy Township Mayor and Council that the RMP has failed to permit opportunities for economic growth in the Highlands Region; and

WHEREAS, the Warren County Regional Chamber of Commerce has submitted a letter to the New Jersey Highlands Council, expressing the Chamber of Commerce's concerns with regard to the effect of the RMP on economic development and sustainability within municipalities, such as Allamuchy Township, that are located within the Highlands Region and whose economic vitality are threatened by the RMP, and the Mayor and Council agree with and support the comments of the Chamber of Commerce.

NOW THEREFORE BE IT RESOLVED, that the Allamuchy Township Mayor and Council support and join in the comments of the Warren County Regional Chamber of Commerce in its February 10, 2015 letter to the New Jersey Highlands Council, a copy of which is attached hereto; and

BE IT FURTHER RESOLVED, that a certified copy of this Resolution be forwarded to the New Jersey Highlands Council, attn: 2014 RMP Monitoring Program, 100 North Road (Route 513), Chester, New Jersey 07930-2322.

ATTEST: TOWNSHIP OF ALLAMUCHY
Anne Marie Tracy, Clerk
Betty Schultheis, Mayor

The Warren County Regional Chamber of Commerce and the Public Policy Committee of the Warren County Chamber appreciate the opportunity to submit the following joint comments for your consideration as part of the New Jersey Highlands Council 2014-15 Regional Master Plan ("RMP") Monitoring Program wherein the Council is evaluating the effectiveness of the RMP, adopted in 2008, in fulfilling the goals and objectives of the 2004 Highlands Water Planning and Protection Act ("Highlands Act").

We respectfully submit that the Highlands RMP has failed to achieve a very critical element of the stated goals of the Highlands Act. Namely, the RMP fails to permit opportunities for economic growth in the Region where it is most appropriate, along the State and county roads, and railways, that were zoned for such commercial activity. Accordingly, we call upon the Council to focus its attention on restoring the economic viability of the commercial corridors traversing the Highlands Region which are a critical element underpinning the sustainability of the local financial infrastructure.

The Highlands Act expressly provides that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the

Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources." RMP, Chap. 4, Part. 8. The economic development was aimed, in part, at increasing the local tax base and providing employment opportunities to the Region. Id. "Appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth should be encouraged in certain areas of the Highlands, specifically in or adjacent to areas already utilized for such purposes." RMP, Chap. 3, Part. 8 (internal quotations omitted).

Thus, it is clear from the Act itself, that the legislature intended to achieve a balance between conservation and economic vitality, or at least economic sustainability. Unfortunately, the pendulum remains out of balance in favor of the conservation element as efforts to achieve economic sustainability have been repeatedly stymied as if they were, by their very nature, environmentally unfriendly in every respect. That is not the case. Therefore it should come as no surprise that the economic development goals of the RMP have not been met and, in fact, the economic viability of the Region has suffered as evidenced by a declining tax base and lack of employment opportunities.

An impediment toward more desired sustainable economic development is prevalent along the Region's commercial corridors where local governing bodies have thoughtfully zoned such areas for commercial use, but have been prohibited from developing such uses by the RMP. For example, there is a project in Independence-Township, Warren County, that was approved by the local governing body for development of a 52,000 square foot commercial development involving a CVS Pharmacy, a branded day care center and a regional bank. The property is zoned for commercial use and has access to public water and sewer. Despite that, the project was halted by the Highlands Act as the property upon which it was to be built was designated for the Preservation Zone - on the wrong side of the street from an existing shopping center and a recently developed Quick Check convenience store gas station, both of which are located in the Planning Area. This project highlights the real, and undisputable, economic impact of the Highlands RMP that must be addressed. A model that is out of balance is not sustainable.

Certainly we acknowledge that broad economic factors have impacted the Region as well, but the Highlands restrictions have unnecessarily added high hurdles for businesses to overcome. As a result, we have witnessed businesses flee or not enter the Region leaving its residents with less job opportunities and a heightened real estate tax burden to pay for county, municipal and school budgets. Further, the above mentioned project would have certainly generated much needed income tax and sales tax revenue to the state of New Jersey, and would have been built had it been on the "other side" of the street.

Two bills, 81240 and A2852, were introduced in the first quarter of 2014 that are narrowly focused on this very issue of facilitating thoughtful development along commercial corridors in order to revitalize the Region. We respectfully request that the Council support the legislature's attempt to restore some balance between the environmental elements of the Act and the expressly stated economic elements which have been largely ignored. This legislative initiative is in the best interests of all citizens of the State and will help sustain and encourage social, cultural, and economic benefits and opportunities to everyone located within the Region and the State. We appreciate the Council's efforts and leadership as it strives to achieve the sustainable economic development goals of the Highlands Act and improve the overall economic health of Highlands Region.

Respectfully submitted,
Warren County Regional Chamber of Commerce
Betty Schultheis, Chairman of the Board

Warren County Regional Chamber of Commerce
Glenn J. Williams, Esq., Chairman

HCIS/Comment Number: 54906
Commenter Name: Samuel R. Race
Organization: Township of White
Municipality: Belvidere
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:

On behalf of the governing body of White Township the following comments are submitted regarding the Highlands Master Plan as part of the Council's 2014-2015 Regional Master Plan Monitoring Program.

1. We have reviewed the comments submitted by the Warren County Planning Department Freeholder Resolution 125-15 and fully support the concerns and questions contained therein. In addition, we also support the Feb. 25, 2015 letter submitted by Freeholder Director Smith to Council Director Nordstrom as relevant to our concerns about the RMP and its impact upon White Township. Copies of these documents are attached.
2. We believe that the RMP has failed to address one of the most important mandates of the Highlands Act which declares so eloquently ---"while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region---" in section 2, the declarations section of the Act. The extreme constraints upon land use in the Preservation Area have created a no growth ever constraint that does not allow for ratable growth to support ever increasing cost of government operations and the education of our children and other essentials. We believe that the RMP must address how this important mandate of the Act will be achieved and what opportunities have and will be provided for economic growth and advancement of the quality of life. We request your response to this extremely important concern!

HCIS/Comment Number: 55128
Commenter Name: Anthony Soriano
Organization: Morris County Department of Planning and Public Works
Municipality: Morristown
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:

The concept of "sustainable" economic development as identified in the RMP focuses on agriculture, eco- heritage and agri-tourism. These activities represent only a small part of the regional economy. Alone, they are incapable of producing the number and type of jobs necessary to sustain the population Already existing in the region or maintain Highlands Region property values. And, as noted, while the RMP supports the concept of redevelopment, it fails to identify specific

sites (greyfields, brownfields, underutilized properties, vacant infill properties, etc.) where this may occur.

The smart growth section of the RMP should be amended to include specific brownfields, greyfields, underdeveloped areas, existing (not designated) town centers and commercial corridors where increased economic development/redevelopment may be accommodated, in both the Planning Area and the Preservation Area. The identification of a few “Highlands Designated Centers” is inadequate to address regional economic needs. The existing plan and regulations focus on preservation and the prevention of development; the RMP should be amended to identify specific areas and sites within the Highlands Region, including the Preservation Area, where increased redevelopment, infill development and increased densities may be accommodated. Any locations recommended for growth should be coordinated with and vetted by the affected municipalities and should be consistent with their master plans and /or zoning ordinances.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Sustainable Economic Development

Secondary Topic: Programs of the RMP

Comment:

Goal 8A.1 calls for the maintenance and expansion of the existing job and economic base by promoting appropriate, sustainable and environmentally compatible economic development throughout the Highlands Region. See comments on General Content. There is no true smart growth / economic component to the current Plan. Any revision should focus on identifying specific areas and sites where RMP / Act restrictions should be lessened in order to accommodate reasonable growth consistent with municipal and use plans and zoning. The Highlands Region cannot be economically supported by tourism and agriculture alone.

Response:

The Highlands Council acknowledges that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2).

To that end, the Highlands Act provided 17 exemptions and three (3) waivers to allow for certain types of development in the Region. (A fourth waiver was included in the NJDEP Highlands Rules to provide for affordable housing developments.) In addition, the Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. The RMP’s Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to economic development in the Highlands, the Report will include the appropriate recommendations.

HCIS/Comment Number: 34

Commenter Name: Daniele Basralian

Organization:

Municipality: Chatham

Primary Topic: Sustainable Economic Development

Secondary Topic: Plan Implementation

Comment:

There are 56 mentions of the word “energy” in the Highlands Regional Master Plan. All 56 explicitly or contextually support “energy efficiency,” “green building design,” “green technology,” “less use of energy,” “sustainable sources of energy,” “greenhouse gas reduction,” and “alternative energy.” In direct opposition to all these Master Plan goals is the idea of allowing an enormous new crude oil highway through our towns and water sources in the form of a dual oil pipeline for fracked crude oil originating in the Bakken Shale of North Dakota, and the resulting petroleum products from Linden, New Jersey.

This form of expensive, toxic fossil fuels originating thousands of miles away stands in direct conflict with the Regional Master Plan’s explicit goals and even all 56 mentions of the word “energy” in the RMP. Bakken oil is extremely energy intensive to frack, transport and refine. It is also highly volatile (Wall Street Journal 2/23/14), it has repeatedly ruptured from new pipelines (USA Today 10/25/14 “nearly 300 oil pipeline spills in less than two years), and its wells have rapid decline rates (the very definition of “unsustainable.” In these and many other ways it – and two long pipelines through the Highlands towns and water sources – are highly inconsistent with the Regional Master Plan.

By the way, the only mention of “oil” in the Regional Master Plan is in the word “soils” – the very same that leaking crude oil harms. Crude Oil is NOT natural gas. It oozes, flows, permeates, and does not just evaporate into the atmosphere.

We oppose any change to the Regional Master Plan that would reduce the Plan’s focus on the healthy pro-growth aspects of energy that the RMP was designed to support. Rather, we think the RMP's support of an efficient, greener, alternative (to fossil fuel) energy future should be further strengthened.

Below are excerpts from all 56 mentions of the word “energy” in the Highlands Regional Master Plan:

Page # -- excerpt

14 – energy resources

18 – energy conservation

19 – development patterns affect energy use

36 - Ensure that all new growth and development is sustainable over the long term based on water, energy, and other critical resources,

109 efficient site

109 be designed and constructed to be energy and resource efficient

109 Energy conservation in design includes the use of energy efficient appliances and lighting, as well as the strategic placement of windows, shades, awnings, and overhangs.

177 a local food source to area residents using less energy

180 support proposals to enhance the long-term viability of the agricultural industry in the Highlands Region through innovative programs including, but not limited to, health care, banking practices, housing, food distribution, education, energy, and labor.

196 include green energy and building concepts.

197 Finally, as an efficient and less automobile dependent pattern and form of growth, it reduces energy use,

198 Minimum requirements that all development include energy efficient features in site layouts and all structures.

209 EXPANSION OF INNOVATIVE TECHNOLOGY AND ENTREPRENEURIAL BUSINESSES INCLUDING HOME OFFICE, ENERGY EFFICIENCY, AND RESOURCE CONSERVATION ENTERPRISES IN THE HIGHLANDS REGION

109 Low Impact Development, energy efficiency and resource conservation in support of comprehensive RMP goals

209 ENERGY EFFICIENCY

210 resource protection and energy efficient practices.

210 The RMP also recognizes the importance of the State Energy Master Plan as a means to plan and evaluate for energy efficiency and greenhouse gas reductions at all levels of government.

210 REDUCTION OF AIR POLLUTION THROUGH USE OF ALTERNATIVE AND EFFICIENT MODES OF TRANSPORTATION AND THE USE OF RENEWABLE ENERGY SOURCES.

210 To encourage energy efficient design and green building practices in support of regional resource protection and smart growth planning policies.

225 provides food to area residents using less energy than would be required to import produce from other regions

249 Farmers are also becoming more efficient in water use in response to new research and higher energy and chemical costs,

281 provides a local food source to area residents using less energy 283 To promote research and study, and support proposals to enhance the long-term viability of the agricultural industry in the Highlands Region through innovative programs, including, but not limited to, health care, banking practices, housing, food distribution, education, energy, and labor.

289 In addition, the Council will promote research and study for innovative programs, including, but not limited to health care, banking practices, housing, food distribution, education, energy, and labor.

303 A smart growth component that includes an assessment, based upon the resource assessment prepared pursuant to paragraph (1) of subsection a. of this section, of opportunities for appropriate development, redevelopment, and economic growth, and a transfer of development rights program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages.

327 include green energy and building concepts

334 The Highlands Act requires that this Plan's smart growth component include an assessment, based upon the resource assessment, "of opportunities for appropriate development, redevelopment, and economic growth, and a TDR Program which shall include consideration of public investment priorities, infrastructure investments, economic development, revitalization, housing, transportation, energy resources, waste management, recycling, brownfields, and design such as mixed-use, compact design, and transit villages" (Section 11.a.(6)).

335 Green building technology, including water conservation and energy efficient practices; 336 Housing and community facilities should be built in appropriate locations using smart growth approaches to community building that strive to create compact, energy efficient, walkable communities,

339 RMP policy encourages the use of energy efficient or green building techniques

340 Housing Approaches - Green and Energy Efficient Facilities

340 This program component will support the implementation of green building and energy efficient Technology

340 Recent innovations in building practices and development regulations reflect significant energy efficiency measures through building materials, energy efficient appliances,

340 and energy efficient housing;

340 Promotion of the use of green building site design, efficient water management, energy efficient technologies, green building materials and equipment, and retrofitting inefficiencies;

340 Coordination with the Sustainable State Institute, BPU, the Green Building Society and alternative energy agencies and non-profit entities; and

344 Minimum requirements that all development include energy efficient features in site layouts and all structures.

344 Low Impact Development, energy efficiency and resource conservation

345 employing energy and resource efficiency all aid in reducing impacts of development

345 Development and redevelopment projects shall incorporate energy-efficient technology into new and rehabilitated structures

347 , there are important energy savings that should offset the costs through energy savings

358 Low Impact Development, energy efficiency and resource conservation in support of comprehensive RMP goals.

361 This program also supports the State Energy Master Plan as a means to plan and evaluate for energy efficiency and greenhouse gas reductions at all levels of government.

362 To encourage energy efficient design and green building practices in support of regional resource protection and smart growth planning policies.

362 The Highlands Council should encourage the development of governmental or utility investments in the Highlands Region that contribute to the meeting of the NAAQS and State Energy Master Plan goals. It shall review private sector investments in stationary sources to ensure that those investments meet the NAAQS goals. The Council shall also encourage and support development of air quality plans that seek to reduce levels of ozone, sulfur dioxide and fine particulate matter pollutants in the Highlands Region

362 The use of clustering, energy efficient design, green building technology, resource protection standards and landscape regulations shall be used to promote air quality. The following represent some of the tools available:

362 cut energy use through a reduction in demand for heating and cooling;

362 promote energy conservation and reduce demand for energy from high emission power plants; and

362 reduce energy consumption.

389 utilizing energy efficient construction elements for new development and home renovations;
and
404 includes consideration of energy efficient features in site layouts and all structures;

Response:

The Highlands Act and the NJDEP Highlands Rules require coordination between the Highlands Council and NJDEP regarding certain projects within the Region. The Highlands Act provides NJDEP with regulatory authority over what it defines as “major Highlands development” in the Preservation Area (C.13:20-3). In the Planning Area, NJDEP Rules (N.J.A.C. 7:38) call for the Highlands Council to review and comment on proposed projects in the Highlands Region. N.J.A.C. 7:38-1.1(j) states that: "For both the planning area and preservation areas, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in making permit decisions that provide relief from strict compliance with the standards of the applicable permit programs, such as making a determination of public benefit or hardship waiver from certain Departmental permits." All permitting in the Highlands Region is through NJDEP; the Highlands Council does not issue permits. The RMP includes extensive cross-references to the NJDEP Highlands Water Protection and planning Act Rules (N.J.A.C. 7:38) in the project review section in Chapter 6.

In the case of linear development projects such as pipelines and transmission lines proposed to be constructed through the Highlands Region, the Highlands Council has limited authority, in an advisory capacity, to provide comments and recommendations to NJDEP for the protection, minimization and mitigation of impacts to Highlands resources. If the project qualifies for an exemption from the Act and Rules, under the definition of Exemption #11, the Highlands Council has more of a jurisdictional role in determining whether or not the project is consistent with the goals of the Highlands Act. Again, this is a coordinated review with NJDEP and is provided in the form of a Consistency Determination.

The Highlands Council cannot make determinations based upon proposed need of a project, source of transmitted product, destination of product, or the public utility status of an applicant.

HCIS/Comment Number: 54232
Commenter Name: David K. Dech
Organization: Warren County Planning Department
Municipality: Belvidere
Primary Topic: Sustainable Economic Development
Secondary Topic: Programs of the RMP

Comment:
Economic Development

Agritourism - Heritage Tourism

The Regional Master Plan tends to put too much emphasis on tourism. While Agritourism and Heritage tourism can thrive in the Highlands region, neither can generate significant employment and wages to sustain an indigenous population of the region. How many petting zoos, wineries, Christmas tree farms and corn mazes can this area support? Seasonal employment cannot sustain a family year round. As is evident in other parts of the country, economic growth based on natural resources often results in the growth of secondary employment industries such as retail establishments, restaurants, hotels, active recreational parks, etc.

Question #45. As written, the Highlands Act, regulations, and Plan would make it too difficult if not impossible for retail establishments, restaurants, hotels, active recreational parks, etc. to build in the Highlands. How can waivers or a relaxation in standards be written into the Rules and the RMP to allow for agritourism and heritage tourism based industries and support industries to locate and build in the Highlands?

Question #46. How much in sales revenue, employment, and wages were realized in the agri-heritage based tourism industries since the RMP was adopted?

Question #47. How will the RMP be amended to provide an equal opportunity and standard of living for residents of the region that is found elsewhere in the State or at least equal to what it was prior to implementation of the restrictions of the Highlands Act?

Question #48. Has the Legislature been advised by the Council of this challenge?

Redevelopment

On Page 325 of the Highlands Regional Master Plan, under Programs for Redevelopment, the section contains two maps identifying Tier 1 and Tier 2 sites for redevelopment. This is a start but in order to promote meaningful economic development in the Highlands Region, the Council should do more to actively promote and market these sites. The additional requirements to obtain redevelopment designation by the Highlands Council should be streamlined, if not eliminated altogether. A case study is Borealis in Mansfield Township. Borealis struggled to obtain status as a redevelopment site in the Preservation Area. It took years to obtain that designation when in reality it should have been designated with very little question.

Question #49. Redevelopment and brownfield sites in the Highlands Region should be subjected to the same rules and regulations as those elsewhere in the State. Impervious coverage regulations should be eliminated for brownfields. How will the procedures be streamlined for properties located in the Highlands?

Question #50. What program will the Highlands Council develop to actively promote the development of redevelopment and or brownfield sites? This will help to offset the loss of ratables

resulting from the overly strict development standards imposed by the Highlands Act, Rules and Plan.

S-1240

Senator Oroho has introduced S-1240 which provides an exemption/waiver to properties in the Preservation Area situated along major roadway and freight railroad corridors that were zoned commercial or industrial when the Act was passed. It estimated that 1,651 acres or 2.46% of the Preservation Area land area in Warren County could be affected.

Question# 51 Passage of this bill will reinstate some of the properties that municipalities had planned for economic development prior to the Act. Will the Highlands Council support and recommend passage of S-1240?

Municipal Equity

This relates to how the Highlands Region and in particular the municipalities that have a significant amount of land located within the Preservation Area and had its non-residential commercial/industrial zoning with a planned centralized sewer designations stripped of its planned development potential. Local governments and school districts that rely on property tax revenues have been placed in an inequitable situation by the State. All local governments in the State are limited by the 2% levy cap law. All local governments face increasing costs in material and labor and they provide levels of service that must be maintained. When local growth is restricted by the Highlands Act, municipalities cannot rely on increased ratables to boost their tax base thereby forcing local government to increase taxes up to the 2% limit while also cutting services.

According to the Abstract of Ratables for Warren County, the county equalized valuation in 2008, the year that the RMP was adopted, was \$13,822,543,191. In 2014, the equalized valuation was \$10,631,545,458. The valuation in the intervening years exhibited a steady straight line reduction in value with an overall loss of \$3,190,997,733 or a 23% loss of county equalized valuation. During the same time period, net county taxes apportioned went from \$68,451,996 in 2008 to \$71,252,994 in 2014. Meanwhile the amount that must be raised in taxes by the County has increased by 4% over the last 6 years, resulting in higher tax rates. Whether the reduction in value may be attributed to appeals, loss of ratables, or reassessments, the fact is that the Highlands Region is at a disadvantage in attracting ratable growth needed to offset the continued reduction in assessed land value and rising county expenditures.

Question #52. The strict standards contained in the Act, Rules and Plan need to be relaxed to permit growth out of fairness to the region's taxpayers, and residents. What actions will the RMP recommend and the Council take to prevent the region from falling into an economic depression?

Question #53. What analysis of the cost and benefits that have resulted from the implementation of the RMP and of the Highlands Rules has been conducted? Specifically the analysis should be conducted for the regions located within the Delaware River Watershed that are subjected to the unique rules and standards.

Question #54. If a cost/benefit analysis has been completed, please provide it for review. If one has not been done, why not?

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Question #55. According to the report Potable Water Supplied in 1999 by the New Jersey Highlands, 7% of the Delaware River intakes' water is from watersheds located in the New Jersey Highlands. Is the entire volume of that 7 percent considered to be drinking water? If so, how much better is that drinking water protected at the point of intake as a result of the Highlands Act from the Delaware River 15 miles south? What is being done to make it better? What can be done and how?

SUMMARY: In general, the Highlands Act, Rules and Regional Master Plan have established a region of the State that is being treated in an inequitable manner through the imposition of unique, complicated, difficult, and costly environmental standards and processes that have no demonstrative outcomes or results. All of Warren County's water drains to the Delaware River where it is diluted with waters from the States of Pennsylvania and New York at an estimated ratio of 64 to 1. Intakes for the NJ –American Water Company and Trenton Water Works are located just north of the City of Trenton. Another water intake is located south of Trenton for the City of Burlington. In the overall scheme, Warren County's efforts in the preservation of the drinking water supplies of the state result in an insignificant and unmeasurable benefit to the overall quality of the drinking water of the state and is the most notable failure of the implementing agencies to effectuate the stated purposes and goals of the Act. While Warren County's residents face the same strict standards as those in the Highlands that are in locations that do supply larger ratios of water, there is no adjustment in the regulatory scheme to reflect this fact. The Legislature needs to be advised of the irreconcilable problems that the Council, and the NJDEP, face to address the statutory mandates of the Highlands Act in an appropriate and equitable manner. It is evident that the RMP has no ability to address changes needed to cure apparent fatal flaws in the Act. The Legislature, the NJDEP, and the Highlands Council need to promptly address these monumental failures, and lay out, plan, and execute an immediate remedy.

The Council has a fiduciary responsibility to advise the Legislature of the circumstances or the statutory insufficiencies that may preclude the Council and or NJDEP from effectuating the purposes of the Act. How and when will the Council be formally advising the Legislature, the NJDEP and Governor of the issues contained herein?

HCIS/Comment Number: 53678

Commenter Name: Deborah Post

Organization:

Municipality: Chester

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

To Highlands Council

Re Comments for RMP Monitoring Program

Date January 15, 2015

From Deborah Post

Any fiscal impact analysis regarding the Highlands Act and its associated economic devastation in the Highlands must consider the NJ Highlands in the context of its larger mid-Atlantic location in

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

the United States. Limiting the fiscal impact analysis to only an analysis of the Highlands in the context of New Jersey is highly misleading. Reference attached editorial by Warren County Freeholder Ed Smith.

Highlands Act' is 10 years old: 'Highlands water is still unprotected By Warren Reporter on January 14, 2015 at 11 :06 PM, updated January 14, 2015 at 11 :07 PM Reddit Warren Reporter By Warren County Freeholder Director Ed Smith

The Highlands Act has left a legacy of costs that are uniquely borne by the people of the Highlands Region. As a Warren County Freeholder, I view things from a Warren County perspective. Less than five miles from the county's western border, there is an economic activity level that is quite unlike Warren's, and it has for the most part continued to grow during the last decade. During the same period, Warren County's growth has stalled. Until 10 years ago, Warren County was growing like the Lehigh Valley, and then it stopped. Some say it was the economic downturn from 2008 that did it, but Northampton and Lehigh counties continued to grow. So what happened? The answer is the Highlands Act. The differential in growth on the two sides of the Delaware River became evident subsequent to the passage of the Highlands Act. For Warren County, the differential easily translates into tens of millions of dollars in lost jobs, business activity, and tax revenues over the past 10 years. There is a real cost that Warren County has paid to produce clean "Highlands" water. Geographically, Warren County is unique in the Highlands in that all of its watersheds drain into the Delaware River. It is this fact that leads to a single question: What does the State of New Jersey do to protect the clean water generated in Warren County so it can be used for the benefit of other users in the state?

The answer is nothing. Water from the Paulinskill, Pequest, Pohatcong, and Musconetcong, along with many other streams, flows unrestricted, and unpreserved, into the Delaware River to be picked up at the Bull's Island water intake for the New Jersey Water Authority's Delaware and Raritan Canal that flows to New Brunswick. Bull's Island is approximately 15 miles downstream of Warren County's southernmost watershed, the Musconetcong River. The protection of Warren County's "Highlands Preservation Area" surface water lasts only until it is dumped into the Delaware River where it frequently represents less than 1/ 64th of the volume of the river. This vastly disproportionate volume is mixed with interstate waters that are mostly regulated to have a nitrate levels that can be nearly 100 times above the levels required in preservation regions within the Highlands. It is the nitrate level that is the basis of the "Nitrate Dilution Model" that is used to justify building lot sizes in the Highlands of up to 88 acres for a single family home.

Groundwater, the other asset that gives cause for nitrate regulation in the Highlands, is equally unprotected. The grand aquifers beneath the state span well beyond the Highlands, and the clean Highlands water that is produced at significant cost to the Highlands region, is mixed with and degraded by less stringent non-Highlands standards as soon as it flows out to the surrounding regions where it is used.

I believe that the direct benefit - the level of improvement of the general public health safety and welfare - too frequently used to justify a policy that ignores the equal protection provisions found in our Constitution, is not measurable even 10 years after the enactment of the Highlands Water Protection Act. The sacrifice of a region can't be measured by improved water quality at the Bull's Island water intake or at the great water wells outside of the Highlands region. The costs of the sacrifice of Warren county go unlisted on the balance sheet of the N.J. Water Authority, which

assigns no asset value to the commodity they sell. Financially speaking, \$0.00 is the value of the water they sell, only the transportation and storage costs are considered. Any costs borne by Warren County that may improve the quality of the product they sell are not considered because they most likely can't honestly show, by any means of accounting, where there is a direct benefit that came to them as a result of the effort. Billions and billions of gallons of clean water, produced at significant cost, are not directly harvested, protected, or accounted for, and are gone without a trace. That is the legacy of the great Highlands Water Protection and Planning Act. Water protection does not stop at a line on a map. It either is, or is not, an obligation of the entire political entity to ensure that water quality is protected. Any region can pollute the aquifer, and therefore, all regions have an equal obligation of sacrifice to ensure that the public benefit of clean water is not compromised. Equal protection under the law is a foundation of our constitutional republic. If a locality wants more stringent regulation, it has the power to pass such laws to that end. No entity, such as a state legislature, has the right to place dissimilar burdens upon any particular group or class when no measurable public benefit can be determined. The "Highlands Act" needs to immediately go through a cost-benefit analysis.

The "Nitrate Dilution Model" must be reevaluated to determine its suitability to mandate 88-acre minimum lot sizes for a single family home. Finally, the Legislature needs to implement a non discriminatory statewide water protection policy that equalizes the burden of responsibility for water protection to all regions of the state.

Response:

The Highlands Council acknowledges and appreciates these comments.

The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. The Highlands Council does, however, acknowledge that the Highlands Act recognizes “that it is important to ensure the economic viability of communities throughout the New Jersey Highlands; and that residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all the citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities.” (C.13:20-2)

To that end, the Highlands Act provided 17 exemptions and three (3) waivers to allow for certain types of development in the Region. (A fourth waiver was included in the NJDEP Highlands Rules). In addition, the Highlands Council offers significant support in the form of funding and expertise to encourage smart growth and sustainable economic development planning in the Region. RMP’s Sustainable Economic Development Program in Chapter 5 includes an economic tracking component to evaluate the condition of the regional economy.

Furthermore, the Highlands Act, in Section 11, requires that the RMP include a financial component detailing the costs of implementing the RMP and the sources of revenue for covering such costs. Chapter 3, Part 8 of the RMP includes the substantive discussion of the financial component, including an analysis of the Highlands Protection Fund that was created by the Legislature through the passage of the Highlands Act. The costs of RMP implementation at a municipal and county level is primarily funded through the revenue

provided by the Highlands Protection Fund. To date, the Legislature has appropriated sufficient funding for the implementation of the RMP based on submitted invoices from municipalities and counties.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to economic development in the Highlands, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54947
Commenter Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Sustainable Economic Development
Secondary Topic: Other

Comment:

Please accept these comments as you continue to collect input as part of the Highlands Regional Master Plan (RMP) review process.

As a state legislator representing a district that encompasses a significant portion of the Highlands region, I am highly interested in how a revised regional master plan can help guide planning and economic growth efforts in the local region. More specifically, as the Highlands Act itself declares, "it is important to ensure the economic viability of communities throughout the New Jersey Highlands" so sustained economic development must be addressed within the Highlands RMP that heretofore it has severely lacked.

As for suggestions, my first area of concern is the re process to be more of a cursory review on how things can potentially be improved and not a full scale review that would result in the RMP actually being amended. If accurate, I think that would be to the detriment of the region and the residents and businesses that reside within it. If the process to date is any indication, I think those concerns may have some foundation.

HCIS/Comment Number: 54947
Commenter Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Sustainable Economic Development
Secondary Topic: Other

Comment:

Since the advent of the Highlands Act and the subsequent adoption of the Highlands RMP, the Highlands region has suffered from a decrease in available commercial tax ratables required to help offset the ever increasing property tax burden on the residents of the region. Certainly, more universal economic factors have impacted the Highlands region as well, but Highlands regulations have unnecessarily added high hurdles for businesses to overcome. As a result, we have witnessed businesses flee the area and others who have pursued outside venues when they initially considered a relocation or startup of a business in the region. This leaves rural residents with less job opportunities and a heightened real state tax burden to pay for county, municipal and school budgets. It is also important to note that the Sussex/Warren region of the state has the significantly highest number of commuters, around 60 percent, who travel out of county for employment because we simply do not have a considerable number of local jobs available for the prospective workforce. The Sussex/Warren region is also tops among rural counties losing population, especially among millennials, in great measure due to the lack of local employment opportunities. As a legislator representing these areas of such sobering statistical demographics, it is incumbent upon me to seek ways to address the issue. A revised Highlands RMP can play a critical role in helping establish more economic development opportunities in the region.

As to the how the RMP can improve the local economic climate, my main suggestion is that the RMP needs to have an economic vision for the region that is sustainable. Frankly, the present RMP is bereft of a working economic development component. Certainly, tourism related industries are integral to the area's economy, but that should not and cannot be the only industry we are looking to grow. We need to be encouraging other growth industries as well or our local economy will only continue to sputter. The Council should coordinate with local chambers of commerce who have studied this area well. In fact, when I was a member of the Sussex County Freeholder Board several years back, we developed a Vision 2020 Plan. The Council should review those findings and look to improve upon it for the Highlands region at large.

I am also going to suggest that the Highlands Council review legislation that I am sponsoring, Senate Bill 1240, that would essentially create an additional Highlands exemption, permitting local governing bodies to determine the appropriate use of the properties located along well traveled commercial Corridors. In such instances, the local planning or zoning authority would have jurisdiction over such use. This legislation was developed in close coordination with county and local governing bodies, chambers of commerce, public school districts and building trades organizations all of whom have a stake in restoring the economic viability of the commercial corridors in communities located in the Highlands region.

As economic viability in the Highlands communities is a declared goal of the Highlands Act, working in that spirit and taking a very careful, measured approach, we crafted a bill which will restore commercial growth opportunities and jobs in the Highlands region. Additionally, we have conducted research, and analyzed and compiled data, that shows that the total vacant land and farm assessed parcels zoned commercial and industrial in the Highlands preservation area along commercial corridors that would be impacted by such a proposed change in the legislation represents less than five percent of the total land acreage in the Highlands preservation area. As such, we feel strongly that the proposed bill strikes a very delicate balance of allowing for reasonable and necessary economic growth without sacrificing environmental protections, and the Highlands Council should get behind it.

HCIS/Comment Number: 54947
Commenter Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Sustainable Economic Development
Secondary Topic: RMP Format and Communications

Comment:

The public forum that I attended at the Sussex County Technical School in January of this year was not conducive to meaningful public comment. The poster boards and their subject headings seemed more designed to drive public input in a specific direction rather than be accepting of a free outflowing of critique and/or suggestion. As the Highlands Council and staff continue in this process, public hearings with an open microphone with Highlands Council members present to hear from the public are clearly warranted.

My primary focus in the Legislature has been on creating opportunities for more capital investment in New Jersey because that will ultimately equate to more jobs and state revenue. So with that as a goal and thinking about the Highlands RMP review process, it is necessary to take a look back in order to figure out the best way to move forward.

HCIS/Comment Number: 54947
Commenter Name: Steven V. Oroho
Organization: New Jersey Senate
Municipality: Sparta
Primary Topic: Sustainable Economic Development
Secondary Topic: Other

Comment:

It should be recognized that many communities throughout the Highlands region, even before the existence of the Highlands Act, were taking it upon themselves when drafting municipal master plans, that good planning was essential for community development. Where localities were often succeeding yet the Highlands RMP comes up short, is that there was more balance in local planning efforts to allow for appropriate economic development while preserving the more rural character of neighborhoods. There are perhaps no greater stewards of the land than our farming community and I agree with the Farm Bureau's assessment that the Highlands RMP has indeed become so imbalanced toward regulation instead of planning.

There also exists tremendous support for open space and farmland preservation measures in the Highland region. I supported the most recent open space and farmland preservation ballot measure because I recognized its critical importance to farmers, especially as the lone source of funding to address the compensation issue. But more importantly, I point this out to demonstrate that there is a particular reason many of us reside in the Highlands region and that is because we enjoy its more rural nature. But that must be balanced with the vital need to provide economic growth opportunities and jobs for area residents, and I feel strongly that the Highlands RMP has been missing the opportunity to play that decisive role.

In closing, to quote the Highlands Act again, “residential, commercial, and industrial development, redevelopment, and economic growth in certain appropriate areas of the New Jersey Highlands are also in the best interests of all citizens of the State, providing innumerable social, cultural and economic benefits and opportunities.” If that was a true goal of the Highlands Act, then previous iterations of the Highlands RMP have failed to measure up. Sustained economic development is vital to the well-being of the Highlands region and the RMP must begin to address this critical need. I look forward to working cooperatively to craft an effective plan that addresses the needs of the Highlands region and thank you for your consideration of these comments.

Sincerely,
Senator Steven V. Oroho
District 24

DRAFT

Transportation and Air Quality

DRAFT

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Transportation and Air Quality

Secondary Topic: Other

Comment:

Increase flexibility for Transportation Improvements. Reconsider the prohibition of new travel lanes in the Highlands. Much of the Highlands Region, including portions of the Preservation Area, is highly developed. Even if all new development were halted, traffic through the Highlands will still increase from the rising number of intra and interstate commuters who cross the Highlands each day. Since further development in the Highlands Preservation Area is strictly controlled by the Act, the presence of enhanced transportation infrastructure would not result in increased density or sprawl development in the Preservation Area. Restrictions on roadway improvements that result in new capacity lanes should be reexamined and greater flexibility considered to address the existing traffic concerns within the Region, recognizing that pass through traffic is likely to increase even if development in the Region itself is halted.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Transportation and Air Quality

Secondary Topic: Programs of the RMP

Comment:

Objectives 5A2a and 5A2b support an increase in transferring freight by rail and the reactivation of abandoned freight lines. In keeping with these policies, the Highlands Council should also support the acquisition of associated rights of way necessary for new rail sidings for on and off loading, and support the issuance of waivers from the RMP and Highlands Act requirements to allow these necessary modifications to occur.

Goal 5B and Policies 5B1, 2 and 3 require the maintenance of the existing Highlands roadway system level of service without the use of infrastructure that could trigger additional development in areas “not appropriate for growth inducing land uses.” In Preservation Area and conforming Planning Area municipalities, roadway capacity improvements will not generate growth due to the extraordinary limitations and restrictions placed on all land development and natural resource disturbance. Regarding Policy 5B2 and 5B3, there is no need to examine the growth inducing impacts of roadway improvements in conforming areas since “inappropriate” growth impacts are eliminated by virtue of conformance with the multitude density and natural resource restrictions.

Goal 5D supports multi-modal transportation improvements provided there is no adverse impact to ecosystem integrity. This language should be changed to encourage a minimized adverse impact on ecosystem integrity and community character as any increase in transit or transportation infrastructure must have some impact. For example, adding new park and ride lots along major corridors such as Route 80 and Route 10 and expanding parking at existing transit stations is

essential to increasing transit, but this may have some adverse impact to other goals in the RMP. The impacts of different improvements must be weighed against the various goals of the RMP.

A policy should be added at 5D and in the Transportation Programs section to provide specific support for the addition of passenger and freight rail infrastructure expansion, the reactivation / creation of additional train stations and maximization of new commercial development linked to freight rail. This would increase transit ridership, reduce mobile source pollution, and reduce truck traffic and associated congestion in the Highlands. Expansion of services would not be growth inducing due to other restrictions and policies contained in the RMP and NJDEP Highlands rules and regulations.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Transportation and Air Quality

Secondary Topic: Programs of the RMP

Comment:

Page 302 – Overview of Transportation Projects Review – Item #5 requires review of “Growth-inducing impacts regarding new land use, new residents, and new permanent employment which could have secondary growth implications, or greatly expand transportation infrastructure capacity, especially in areas with high natural resource values and limited capacity to support human development.” Conforming municipalities and counties will be unable to develop land in a manner inconsistent with the RMP; therefore this review is unnecessary. See previous comment re: goal 5B.

Response:

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to transportation, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54232
Commenter Name: David K. Dech
Organization: Warren County Planning Department
Municipality: Belvidere
Primary Topic: Transportation and Air Quality
Secondary Topic: Programs of the RMP

Comment:

Transportation and Air Quality

One way to help traffic congestion and improve air quality is to encourage job growth near the population so that people will not have to drive long distances to their workplaces.

Question #25. What does the Highlands Plan recommend to reduce commuting, and what is the Highlands Council doing to actively promote job growth in the Highlands Region?

Another way to help with traffic and air quality is to promote and subsidize the use and operations of public transportation systems. All forms of public transportation should be encouraged and funded.

Question #26. To what extent has the Highlands Plan supported increasing public transportation systems in the Highlands Region as a way to improve the resident's quality of life, reduce traffic congestion, improve air quality and promote economic growth?

Response:

This topic is discussed in Chapter 3 Part 5 of the Regional Master Plan (RMP) where employing smart growth principals and efficient land use at the municipal level are encouraged. Following smart growth principles and efficient land use policy characterized by compact, mixed use development, higher densities and a more compact built environment, Highlands Region municipalities can begin to promote alternative modes of transportation to automobile travel. The Region can achieve the goals outlined in the Highlands Act by encouraging a more compact mixed-use pattern for new development and redevelopment, creating more transportation choices, including mass transportation, bicycle, and pedestrian travel. To some extent, this is occurring through Highlands Plan Conformance programs, which encourage centers and the development of sustainable economic development plans.

However, the RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to regional transportation, the Report will include the appropriate recommendations.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Transportation and Air Quality

Secondary Topic: Programs of the RMP

Comment:

The Act requires a transportation component of the RMP that shall include projects to promote a “sound and balanced transportation system” [13:20-11a(5)]. The RMP provides general support for mixed-use development and the concept of transit villages, but a balanced plan for meeting transportation needs in the region is not provided. The RMP does not adequately analyze present or future transportation needs of the region, the impact of additional traffic passing through the Highlands Region from and to employment centers within or outside the Highlands Region, or supply comprehensive recommendations for addressing those needs.

Response:

Specifics regarding NJ future transportation needs are addressed through other state agencies. The Highlands Act and resulting Regional Master Plan are supportive of employing smart growth principals and efficient land use at the municipal level.

However, please note that the RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to the specific development of a Regional Transportation Plan, the Report will include the appropriate recommendations.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Transportation and Air Quality

Secondary Topic: RMP Format and Communications

Comment:

The discussion of the Highlands transportation system references the use of a “Highlands Sub-Area model” to determine existing vehicular travel patterns and traffic conditions in the Highlands. (page 98) The results of this modeling are not included in the RMP so there is no ability to review these in

relation to RMP proposals. In addition, the base year for this modeling was 2002, suggesting that an update is appropriate.

Response:

The technical reports that support the Regional Master Plan (RMP) contain detailed and objective scientific background and supporting data. While this information is generally described in the RMP, detailed information is contained in the publicly available Transportation System Preservation and Enhancement Technical Report, which was adopted with the 2008 RMP.

Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP related to the inclusion of an updated report's findings, the monitoring report will include the appropriate recommendations.

HCIS/Comment Number: 53582

Commenter Name: Gregory L. Gorman

Organization: NJ Sierra Club Chapter

Municipality: Hambury

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

Thank you for allowing this opportunity to provide comments regarding the Highlands Regional Master Plan. I am a resident of the Highlands Planning Area as well as Conservation Chair for the NJ Sierra Club Chapter.

Recommendation 1: The 2008 Highlands RMP states "The RMP policies support the State Global Warming Response Act in reducing the level of greenhouse gas emissions in the state by the year 2020 through the reduction of mobile sources, resource protection and energy efficient practices." The 2008 RMP uses this principle to address air quality issues as well as the importance of "forest preservation" role in sequestration of carbon dioxide. The planning process focus on "mitigation" needs to be expanded to encourage development of renewable energy within the Highlands Region and to incorporate concepts of resiliency planning and "adaptation". New technology developments in solar, wind, household geothermal systems, and micro-hydroelectric power generation provide new opportunities for the Highlands Counsel to enhance property values and generate jobs.

Response:

This topic is discussed in Chapter 3 Part 9 of the Regional Master Plan (RMP). Supporting information can also be found in the Air Quality Assessment Technical Report, which was adopted with the 2008 RMP.

Please note that the RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. This process involves the identification and development of indicators and milestones that will be used to measure and monitor the policies and programs contained in the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to air quality, the Report will include the appropriate recommendations.

DRAFT

Water Resources and Utilities

DRAFT

HCIS/Comment Number: 48

Commenter Name: Sharon Pontier

Organization: Sierra Club

Municipality: Newton

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

As a citizen and resident of New Jersey, I very much value the Highlands and want them preserved. For one thing they ensure 50% of the New Jerseys water supply. The preservation of the Highlands has saved the state of New Jersey tens of billions of dollars since 2004 in providing clean drinking water to state residents. In this world of vast pollution sites and the damage which is occurring to our lakes and streams, we should count ourselves lucky to have a clean source of water. This area, the Highlands, needs to be preserved as the gem that it is.

HCIS/Comment Number: 4

Commenter Name: DENISE DEBERNARDI

Organization: NONE

Municipality: KINNELON

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

I am fortunate to live in the Highlands Region and I am a strong advocate of the current plan, which has been producing positive gains for all New Jersey residents. By protecting our critical water supplies, reducing flooding, and preserving wildlife habitat through sensible limits on development, the Act is promoting the healthy future of our state. Water is an absolute necessary resource and we must all protect our drinking water. Let's learn from the recent mistakes from other areas of the country – we must not take any chances with this vital resource necessary for all life (i.e. fracking, development or pipelines in or near a watershed).

Thank you.

HCIS/Comment Number: 8

Commenter Name: Ross Kushner

Organization: Pequannock River Coalition

Municipality: Newfoundland

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

The Pequannock River Coalition (PRC) has been working in the Pequannock River Watershed and Wanaque River Watershed area since 1994. Our monitoring of water quality gives us a special relationship to and knowledge of the Highlands water resources.

PRC is a vocal advocate of the current Highlands plan, which has been producing positive gains for all New Jersey residents. By protecting our critical lands and waterways through sensible limits on development, the Act is promoting the healthy future of our state. This is vital, not only for residents of the Highlands dependent on local water supply, but for businesses and people across New Jersey who take their water from this region. These restrictions are equally important to many flood-prone communities. Only preservation of upland regions can hold flood levels to the current status.

Before the Act, PRC devoted much time to commenting on inappropriate development, and educating the public on the damage this caused. Since the Act, the need for this has largely been eliminated, especially in the Preservation Area. We believe the Act works so well, that similar restrictions would be beneficial statewide.

PRC strongly recommends that the Highlands Regional Master Plan maintain the current level of protection and current restrictions.

Response:

The Highlands Council acknowledges and appreciates these comments.

HCIS/Comment Number: 44749

Committer Name: Patrick Moffitt

Organization:

Municipality: Peapack

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Indicators and Milestones

Comment:

A basic planning assumption of the Highlands Council is that a "slight" reduction in - nitrate loadings has occurred over some undefined period of time. This "minor" reduction in nitrate loading is used, in part, as an "off-set" to new loadings from septic based development. Basically, the Highlands Council has defined the allowable new septic based development as a function of the recent nitrate loading decline.

(See Notes 1 & 2 as the basis for the above.)

The historical nitrogen mass analysis required to make this nitrogen loading assumption cannot be found in any available Public document. I would appreciate reviewing the relevant analyses including:

- Methodology and calculations used in the preparation of the historical nitrogen mass balance including identification of and changes in nitrogen source loads.
- The time period used.

- The soil and/or groundwater depth selected to track changes
- The assumed nitrogen delivery efficiencies.
- The applied "error bars" and safety factors.
- The net change in nitrogen (nitrate) loading to groundwater over this period
- The "offset" nitrogen load allocated to new septic development.
- The assumed number of new septic based residences allowed by this offset.
- The number of residences using septic assumed without the Highlands Act.

Thank you for your attention to this matter.
 Regards,
 Pat Moffitt

Notes:

1. "NJDEP's Highlands Preservation Area Rules allow for very limited additional septic systems on the assumption, among other things, that nitrate loadings from existing and past land uses are declining over time, resulting in an offset to minor additional loadings. "The Basis and Background of Septic Density Standard of the Highlands Water Protection and Planning Act Rule at N.J.A.C. 7:38-3.4
2. "This analysis allowed the Council to evaluate changes in nitrate concentration in ground water over time, taking changes in land use and other factors into account to the maximum extent feasible. "Water Resources Volume I Watersheds and Water Quality Prepared by State of New Jersey Highlands Water Protection and Planning Council in Support of the Highlands Regional Master Plan 2008 Technical Report

HCIS/Comment Number: 54208

Commenter Name: Jim Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

2. Septic Density -We previously commented that the plan needs to provide specific guidance on the density limitations in the "Conservation Zone" that are necessary to protect groundwater resources in the Township. Greenwich adopted new zoning in 2007 which created the Resource Conservation District (RCD). In establishing the RCD zone, the Township determined that a density of 1

DU/10AC for cluster with a mandatory 80% open space set-aside, and 1DU/20AC for conventional (non-cluster) development was necessary to protect groundwater supplies. The Township objects to policies in the Plan that would allow for the expansion of wastewater treatment facilities and service areas, or relaxation of nitrate standards in the Conservation Zone for cluster development.

The plan includes a "Land Use Capability Zone Map" that shows the majority of the "Conservation Zone" in Greenwich Township as being environmentally constrained. In addition, as memorialized in the plan, a significant portion of Greenwich Township is identified as "Prime Groundwater Recharge" and underlain by "Carbonate Rock" which protect the drinking water supplies of existing residents. As such, the Township objects to the Highlands Council establishing a lower nitrate standard for the Conservation Zone than would apply in the Protection Zone. Given the resource constraints and significance of the groundwater resources Greenwich Township, the nitrate standards for the Protection Zone should apply the Environmentally Constrained Conservation Zone to avoid any degradation to existing drinking water supplies.

HCIS/Comment Number: 54946

Commenter Name: none none

Organization: Mansfield Township Land Use Board

Municipality: Port Murray

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

2. Adjust minimum acceptable nitrate levels to align with state standards. Highlands standards are set at .17 vs. state standards of 2.5. In terms of groundwater quality, there seems to be a misconception that limiting future development of individual septic systems to extremely low densities, 25 acres and 88 acres, will actually improve water quality. The basis for the lot sizes are based on an NJDEP report titled Basis and Background of the Septic Standard of the Highlands Water Protection and Planning Act Rule at NJAC 7:38-3.4 that used 45 samples throughout the region in mixed use areas. The median ambient nitrate level was .76 mg/L. For pristine areas 7 locations were selected as a representation of "pristine" forested areas. It appears that most of these samples were taken from State Parkland Areas. Therefore, nitrate levels included in the modeling reflect "pristine" conditions, with average value of .21 mg/L. So the values selected are to maintain the existing groundwater quality despite the commonly used target of 2 mg/L in the non "Highlands area of the State. The federal drinking water public health standard is 10mg/L.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

With regard to the establishment of septic system baseline nitrate levels, the RMP states that the “existing sampling data for nitrates are insufficient to establish the variability of background nitrate levels thorough the Highlands Region, particularly in areas that have limited development and limited ground water quality data.” (page 89) Recognizing the deficiencies in the data, we expect the Council to welcome independent data that may be provided, even if such data shows errors in the original assumptions or an ability to increase the number of septic systems in the Region, particularly as the Council has developed a very conservative model in the development of allowable septic systems. As it pertains to this issue, what has the Council done to increase or improve its data since the adoption of the existing RMP in 2008?

HCIS/Comment Number: 55128**Commenter Name:** Anthony Soriano**Organization:** Morris County Department of Planning and Public Works**Municipality:** Morristown**Primary Topic:** Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)**Secondary Topic:** Programs of the RMP**Comment:**

Policy 2M2A supports the identification of “innovative technologies that may be appropriate for the design, installation, and maintenance of on-site wastewater treatment systems to minimize impairment to ground water or surface water quality due to elevated nitrate concentrations and other pollutant loads from septic systems provided the systems meet the minimum standards of N.J.A.C 7:9A.” Where innovative technologies are proposed that would improve septic treatment, the Council should permit the consideration of waivers for increased septic density in recognition of the use of improved and more expensive technologies.

Response:

The Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the *Water Resources Technical Report – Volume I*. The RMP also included a Water Resource and Ecosystem Science Agenda, which outlines additional research into improved ambient nitrate concentration estimates. Any municipality retains the right to adopt more conservative resource standards than what is proposed in the RMP or subsequent Plan Conformance documents. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 71**Commenter Name:** Greg Gorman

Organization: NJ Sierra Club Chapter

Municipality: Hamburg

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

“The Highlands Act emphasizes the protection, enhancement, and restoration of water resources throughout the Highlands Region, including the ground and surface waters that support aquatic ecosystem sustainability and provide necessary water supplies for the State.” (NJ Highlands RMP 2008, p. 80) The probability of an oil pipeline spill is high, and the consequences of contaminated ground water or degraded surface water is serious. In the case of hazardous oil pipeline, the only method to achieve this goal is to prohibit this land use.

Justification: A report prepared for The Center for Biological Diversity demonstrates that over the lifespan of the pipeline, there is a high probability that a significant incident will occur. The report includes a video that shows pipeline incidents from 1986 to 2013, relying on publicly available data from the federal Pipeline and Hazardous Materials Safety Administration (PHMSA). Only incidents classified as “significant” by the agency are shown in the video. “Significant” incidents include those in which a person was hospitalized or killed, damages amounted to more than \$50,000, more than 5 barrels of highly volatile substances or 50 barrels of other liquid were released, or where the liquid exploded or burned. According to the data, since 1986 there have been nearly 8,000 incidents (nearly 300 per year on average). These incidents resulted in more than 500 deaths, more than 2,300 injuries, and nearly \$7 billion in damage. This is equivalent to 200 barrels every day. There’s no way to get around the fact that oil pipelines are dangerous and have exacted a devastating toll on people and wildlife. The reason for the pipeline spills is primarily excavation operations incidents (24%) with the remainder metal failure, improper operation and corrosion. (http://www.biologicaldiversity.org/campaigns/americas_dangerous_pipelines/index.html#video)

We have a false sense of security thinking that pipelines are monitored and protected, often they are not. The responsibility for ensuring safe transportation of hazardous liquids rests Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (PHMSA). The United States has over 2.6 million miles of pipeline with only 135 PHMSA inspectors. That’s an average of 19,259 miles for each inspector. Only 1/5 of U.S. pipeline systems have been inspected by PHMSA or its state partners in the past eight years. The understaffed agency cannot adequately do its job. It relies on the diligence of the pipeline operators to monitor the pipelines and on their integrity to take quick and effective action to stop and report leaks.

Specific detection systems are only required in certain environmentally sensitive or populated areas, not along entire pipeline routes. Since 2010 fewer than 20% of pipeline oil spills that have monitoring systems are discovered by those monitoring systems; the rest are found by people along the pipeline. (“High-Tech Monitors Often Miss Oil Pipeline Leaks” By Alison Sider Wall Street Journal Jan. 20, 2014.) PHMSA “Leak Detection Study – DTPH56-11-D-000001” dated December 10, 2012 reports “The most used leak detection technique, Pressure/Flow monitoring was acknowledged by all operators not to be generally a sensitive method. It is only effective for large ruptures, and even then not consistently so.” The study addresses various impediments (expense, retrofit, training, et. al.) and technology gaps to improve monitoring stems. Not many of the operators interviewed for the study had substantial leak detection systems improvement plans. (“Leak Detection Study – DTPH56-11-D-000001” [www.phmsa.dot.gov/.../Leak Detection](http://www.phmsa.dot.gov/.../Leak%20Detection))

Study.pdf. The discussion of “Operator and Developer Opinions and Current Practice” begins on page 4-42). Monitoring systems are not working sufficiently to detect moderate and small leaks.

Monitoring pipelines has limited value. According to data from the Pipeline Hazardous Materials and Safety Administration, 44% of pipeline leaks are due to non-technical issues such as excavation, operation error, and forces of nature. In the case of Enbridge pipeline break in Michigan, the defect that led to the 6 and a half foot gash in the side of Line 6B was detected at least three times before the incident. Neither Enbridge nor the federal regulator felt the damage required repair. (<http://www.documentcloud.org/documents/351569-enbridge-cong-test.html#document/p18/a61044>) Detection of problems does not equate to correction of the problems.

Damage from pipeline leaks is never fully remediated. “Three weeks after the Poplar Pipeline spewed 40,000 gallons of oil into the Yellowstone River in eastern Montana, cleanup efforts have been called off due to dangerous ice conditions... During the abbreviated cleanup, a total of 1,200 gallons of oil was allegedly recovered from the river. At the peak of the cleanup effort, a spokesman for the company that operates the Poplar Pipeline said that oil was being recovered at the rate of one teaspoon every ten minutes. At that pace, it would have taken 1,753 years to remove all the oil from the river.” (<http://www.americanrivers.org/blog/yellowstone-oilspill-proving-difficult-to-clean-up/>).

Despite cleanup efforts of an oil spill that polluted a Minnesota aquifer in 1979, the water remains contaminated because of levels of benzene, toluene, and methylbenzene and xylenes exceed EPA standards. (<http://mn.water.usgs.gov/projects/bemidji/results/fact-sheet.pdf>) Volatile organic compounds are toxic, carcinogenic and mutagenic which cannot be removed from water. A recent study of the same aquifer finds arsenic levels rose from below 10 micrograms per liter to over 230 micrograms per liter years after the spill. When bacteria break down petroleum underground, the chemical process can release naturally occurring arsenic. (http://www.usgs.gov/newsroom/article.asp?ID=4110&from=rss_home#.VQWhX5VFDmQ).

The Highlands sole source aquifers, once contaminated may require millions of dollars and decades to restore these vital water sources.

HCIS/Comment Number: 53582

Commenter Name: Gregory L. Gorman

Organization: NJ Sierra Club Chapter

Municipality: Hambury

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

Recommendation 3: The 2008 Highlands RMP Policy 2g3 is "To adopt and implement water quality protections through Plan Conformance, local development review, and Highlands Project Review." Objective 2g3a states "Prohibit land uses that would increase pollutant loadings to waters for which TMDLs have been adopted by the NJDEP unless in compliance with the relevant TMDL." (Total maximum daily loads of pollutants prescribed by NJ DEP for water bodies) Oil pipelines pose unique problems. First, the operation of pipelines allows the transport of a variety of fluids; i.e.,

various types of unrefined oil and configurations of various grades of gasoline and diesel fuels, It is impracticable to know what may leak. Secondly, since 2010 fewer than 20% of pipeline oil spills that have monitoring systems are discovered by those monitoring systems; the rest are found by people along the pipeline. Recently, a leak at a nuclear power plant went undetected for weeks, allowing up to 2,000 gallons of oil to flow into Lake Michigan. Unpredictability of the nature of the fluid and the detection of leaks poses a significant risk of catastrophe for our waters and habitat. Recommend that an objective to "Ban all oil transmission pipelines" be included in the revised RMP.

HCIS/Comment Number: 53582

Commenter Name: Gregory L. Gorman

Organization: NJ Sierra Club Chapter

Municipality: Hambury

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

Recommendation 2: The Highlands RMP should be expanded to address policy for natural gas/oil pipelines and power lines development. These land developments or intrusions adversely impact property values and create significant environmental problems. The experiences and lessons learned from Tennessee Gas Pipeline expansion and Susquehanna Roseland Line project need to be incorporated into the planning process to ensure transparency for all stake holders.

Response:

The Highlands Act and the NJDEP Highlands Rules require coordination between the Highlands Council and NJDEP regarding certain projects within the Region. The Highlands Act provides NJDEP with regulatory authority over what it defines as "major Highlands development" in the Preservation Area (C.13:20-3). In the Planning Area, NJDEP Rules (N.J.A.C. 7:38) call for the Highlands Council to review and comment on proposed projects in the Highlands Region. N.J.A.C. 7:38-1.1(j) states that: "For both the planning area and preservation areas, the Department shall give great consideration and weight to the RMP, to be incorporated by reference in making permit decisions that provide relief from strict compliance with the standards of the applicable permit programs, such as making a determination of public benefit or hardship waiver from certain Departmental permits." All permitting in the Highlands Region is through NJDEP; the Highlands Council does not issue permits. The RMP includes extensive cross-references to the NJDEP Highlands Rules in the project review section in Chapter 6.

In the case of linear development projects such as pipelines and transmission lines proposed to be constructed through the Highlands Region, the Highlands Council has limited authority, in an advisory capacity, to provide comments and recommendations to NJDEP for the protection, minimization and mitigation of impacts to Highlands resources. If the project qualifies for an exemption from the Act and Rules, under the definition of Exemption #11, the Highlands Council has more of a jurisdictional role in determining whether or not the project is consistent with the goals of the Highlands Act. Again, this is a

coordinated review with NJDEP and is provided in the form of a Consistency Determination.

The Highlands Council cannot make determinations based upon proposed need of a project, source of transmitted product, destination of product or the public utility status of an applicant.

HCIS/Comment Number: 54906

Commenter Name: Samuel R. Race

Organization: Township of White

Municipality: Belvidere

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

3. We are aware of the issues raised by Mr. Pat Moffitt whose research has shown that many of the declarations made in the Act and the RMP supposedly based upon documented scientific studies that cannot be found or never existed. We are concerned that there has been no action taken by the council to investigate these issues. We request the Council to call for an independent investigation by some qualified organization to determine if the Act and the RMP, their declarations, their requirements and constraints are truly based upon sound science and research.

HCIS/Comment Number: 54907

Commenter Name: Samuel R. Race

Organization: Warren County Board of Agriculture

Municipality: Belvidere

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

On behalf of the Warren County Board of Agriculture the following comments are submitted regarding the Highlands Master Plan as part of the Council's 2014-2015 Regional Master Plan Monitoring Program.

- We have reviewed the comments submitted by the Warren County Planning Department Freeholder Resolution 125-15 and support the concerns and questions contained there in. In addition, we also support the Feb. 25, 2015 letter submitted by Freeholder Director Smith to Council Director Nordstrom as relevant to our concerns about the RMP and its impact upon our members. Copies of these documents are attached.

- Our members are aware of the extensive research by Mr. Pat Moffitt that reveals that many of the supposed environmental impact, water supply and quality studies and documents referred to or relied upon to support extensive controls and regulations in the Highlands Act jurisdiction were found to not be available or ever exist when requested through the open public records act. This has been brought to the attention of the Council but no action has been taken to investigate. This places the entire Highlands Program in question as to credibility!

We believe the Council should request an independent investigation to determine if Act and the RMP are on sound footing or if changes are needed. The Act and the RMP have extreme major consequences that must be based upon Indisputable documentation and science. We request the Council to take action to cause an independent investigation to be implemented to clarify the issue.

HCIS/Comment Number: 54947

Commenter Name: Steven V. Oroho

Organization: New Jersey Senate

Municipality: Sparta

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

Relating to that point, the utilization of the water resource is also a significant issue. Water conservation was a stated requirement in the Highlands Act yet an aging water infrastructure, including leaky pipes and even wasteful consumption contribute to a substantial loss of treated water. Also there is the questionable impact of the watershed areas in certain portions of the Highlands region. When all of the watersheds in Warren County flow into the Delaware River and the northern watersheds in Sussex County flow into New York, one wonders how the preservation of the water resource in these watersheds benefit New Jersey. Additionally, New Jersey employs such an overly restrictive nitrate dilution model, one that is not used in most areas throughout the country, even those considered some of the most environmentally sensitive. There is even question among some if there is any good science behind this model application. These are questions that should be explored and any evidence for the policies substantiated. If the data and science used for the Highlands Act implementation is flawed and cannot be supported, then the Highlands Council should be advocating for amendments.

Response:

The technical reports that support the Regional Master Plan (RMP) contain detailed and objective scientific background and supporting data. While this information is generally described in the RMP, detailed information is contained in the publicly available [technical reports](#).

The water resources of the Highlands Region provide potable uses and ecological benefits for residents within the Region as well as downstream citizens. Highlands Council addresses deficit areas in a number of ways. Water Use and Conservation Management Plans are intended to address any confirmed deficit. This planning process can evaluate sources of the deficit and appropriate remedial measures. The Highlands Council recently completed a pilot

program that resulted in the development of nine model Water Use and Conservation Management Plans.

The Highlands Council completed a detailed nitrate analysis and septic system yield analysis. The results of these analyses are included in the Regional Master Plan (RMP) and the *Water Resources Technical Report – Volume 1*. The RMP also included a Water Resource and Ecosystem Science Agenda, which outlines additional research into improved ambient nitrate concentration estimates.

Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related the handling of deficit area, nitrate analysis and/or septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 55049

Commenter Name: Cheryl Canale, Chairperson

Organization: Kinnelon Environmental Commission

Municipality: Kinnelon

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

Organizations: Borough of Kinnelon Board of Health

Borough of Kinnelon Environmental Commission

Kinnelon Coalition For More Green Safe Fields For Our Children

Organization Type: Drinking Water, Environment, Safety & Health Preservation

By: Cheryl Canale, Chair KEC; Jack Glaser, Chair KBH; Randall Charles

Date: May 5, 2015

Subject: Highlands Regional Master Plan:

Highlands Water Protection and Planning Act - REVISE Exemption and Waivers #6:

Current Situation:

Municipalities located in the Highlands Preservation Area must adhere to "The Highlands Water Protection and Planning Act", P.L.2004, c.120 (C.13 :20-1 et seq) and "The Areawide Water Quality Management Plan" (WQMP) with no exemptions allowed for the improvement for non-residential purposes such as construction/installation of Artificial/Synthetic Turf Fields by a local government unit within the Highlands Area.

"Only Hospitals, Public/ Private Schools, Non-Profit entities and organizations primarily for Religious purposes in existence on the date of enactment are exempt (#6) from applying the enhanced environmental standards adopted by the New Jersey Department of Environmental Protection in the Highlands Preservation Area".

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Problem:

Municipalities situated within and/or on the Watershed - on Aquifers and on a "Prime Ground Water Recharge Area" (Subject to N.J.S.A. 13:230-10) are circumventing The Highlands Water Protection and Planning Act, P.L.2004,c.120 (C.13 :20-1 et seq) by utilizing Exemption #6 - to file a "Highlands Determination Applicability Application" with NJDEP to install Artificial/Synthetic Turf Fields (Tire Crumb/Alternative Compositions) on Public School properties located within the Highlands Preservation Area utility directly on Watersheds - Aquifers and Prime Ground Water Recharge Areas.

Problem:

This deliberate disregard by Municipal Governing Officials collaborating with Local School Board of Education Officials to bypass The "Highlands Water Protection and Planning Act", P.L.2004, c.120 (C.13 :20-1 et seq) and "The Areawide Water Quality Management Plan" (WQMP), Watershed, Aquifers, Wetlands, Subwatershed, and Trout/Fish producing streams, jeopardizes - Puts "AT RISK" the ...Quality, Safety and Quantity of the CLEAN DRINKING WATER provided from the Highlands Preservation Area for an estimated 4 million or more New Jersey Families and business every day.

Environmental, Health & Safety Consequences - Liability:

Kinnelon Environmental Commission is concerned with the "materials and compounds" that may be found in tires which are used in the manufacture of "Tire- Crumb" or "Crumb Rubber" often used in Artificial Turf Fields as "Infill" between the Turf Fibers. Industry estimates that one (1) Artificial Turf Field may contain tens of thousands of tires. During 2013-2014 the Environmental Protection Agency revised its position concerning Artificial Turf "Tire-Crumb Rubber." The EPA relabeled the 2009 Study - "News Release is OUTDATED. Please visit the EPA Tire-Crumb Study web page for the most current information 2: www.epa.gov/nerl/features/tire_crumbs.html."

EPA has stated that there are no studies on the LONG-TERM impact of "Tire-Crumb" and "Alternative Compositions" on the Environment, Health and Safety - it is up to the states to conduct the studies³. (CA, NY, KY, MN have pending legislation calling for studies and moratoriums on installation of Artificial Tire-Crumb" Rubber Turf Fields - legislation information attached & NY Child Safe Products Act 2015). The Kinnelon Board of Health is very concerned that The EPA has listed on their website Dec. 2013 "...the materials and compounds that may be found in tires, although not all are contained in every tire." The list totals 30 substances which include CARCINOGENS also identified by Dept. HHS "Report on Carcinogens, Thirteenth edition 2014" - arsenic, benzene, benzothiazole, cadmium, chloroethane, chromium, cobalt, isoprene, lead, naphthalene, nickel, polycyclic aromatic hydrocarbons, styrene- butadiene, toluene, trichloroethylene . Toxic substances include acetone, aniline, barium, copper, halogenated flame retardants, latex, manganese, mercury, methyl ethyl ketone, methyl isobutyl ketone, nylon, phenol, pigments, polyester, rayon⁴ • (CDC Report "ortho-Toluidine" 2014; EPA Webpage Dec. 2013 and HHS "Report of Carcinogens, 13th Edition 2014).

Environmental, Health & Safety Consequences - Liability:

A proposed Artificial Turf Field with "Tire-Crumb" Rubber or a newer "Alternative Composition" (cork, coconut, acrylic coated polymer sand, rice sneakers have not been studied) will be installed directly on the Watershed – Aquifer. These carcinogens and toxic substances will degrade – seeping/leeching by Rain Runoff/Drainage, along with Wastewater from Disinfecting and Cleansing

the Artificial Turf Field and the discharge of Volatile Organic Compounds/Semi-Volatile Organic Compounds and Carbon Black (Black Dust) into the air and water are significant threat to the Environment, Health and Safety⁵. (Jrl of Environmental & Toxicology – “Release of Polycyclic Aromatic Hydrocarbons’ & Heavy Metal from Rubber Crumb in Synthetic Fields”: “Preliminary Harzard Assessment for Athletes”, Jan 2015 and MSDS for Methyl Ethyl Ketone is attached courtesy of Kinnelon Vol. Fire Dept & OEM). When it rains, snow melts and/or watered to cool-off the Artificial Turf Field, the Runoff Water will enter into the adjoining Wetlands, Trout Stream, compromising the - quality/purity of the freshwater produced by the watershed that flow's in the Pequannock River and the surrounding environment which is "Prime Ground Water Recharge Area." Providing drinking water to more than half (+4 million) of New Jersey Residents and Kinnelon Borough Residents. A significant short-term and Long-Term negative effect not factored in - is the anticipated increase in the amount of Water Required to "Irrigate" Cool the Artificial Turf during summer and Early fall per OSHA regulations citing ASTM C1055-03 when the FIELD SURFACE of 120 ° F is the generally accepted surface temperature before warnings and protections must be considered when an Artificial Turf field temperature may reach 160°F⁶. (Penn State: AS McNitt et al, "Temperature Amelioration of Synthetic Turf Surfaces Through Irrigation", 2008 and Brigham Young University "Synthetic Surface Heat Studies", 2009).

The Watershed - Aquifer may be impacted along with the surrounding residential neighborhoods that have "individual well water for drinking" will experience significant drop in water pressure and supply during the summer months of June, July, August, early September when the Kinnelon High School Field is completely exposed to several months of "Hot Weather". Sustained exposure and "Heat Islands" generated by the sustained heat will place increased stress on the water supply to irrigate the Artificial Turf Field to keep it tolerable for the athletes to practice and adversely impact the Watershed – Aquifer which is "Prime Ground Water Recharge Area." Multiple studies have validated the temperature on an Artificial Turf Field can range from 35-60°C higher than Natural Grass necessitating "Irrigating" the Turf fields⁷. (University of Arkansas Turfgrass Science - "Synthetic (Artificial) Turf vs. Natural Grass Fields").

Environmental, Health & Safety Consequences - Liability:

Utilizing Exemption # 6 to file a "Highlands Determination Applicability Application" with NJDEP to install Artificial/Synthetic Turf Fields (Tire-Crumb/Alternative Compositions) to BYPASS "The Highlands Water Protection and Planning Act", P.L.2004, c.120 (C.13 :20-1 et seq) and "The Area wide Water Quality Management Plan" (WQMP) INTENTIONALLY UNDERESTIMATES the entire scope long-term time – costs that include planning for the monitoring and impact on the Watershed, Aquifer, Wetlands, Subwatershed and the Highlands resulting from the Water Run-off Discharge/ Drainage generated by scheduled cleaning, types of disinfectants (WASTEWATER) that is applied - are the runoff cleaning chemicals and extractables from the Artificial Turf field environmentally inert? - What residues (will the disinfectants - cleaning agents leave on the field? - are there biofilm potentials on the surface material? Is there a mold or bacteria growth inhibitor or will it create a damp environment in the Artificial Turf "Infill or base material"? - Ingestion hazard to animals if consumed attempting to feed on the surface material? - There will be Safety concerns to the players, students and maintenance staff when disinfectant(s) and cleansers are applied...how long before the Synthetic Turf field is safe for the players to use?

What is the rainfall runoff differential between the existing Natural Grass Field and the proposed Artificial Turf Field as it applies to the Highlands Act?

The Kinnelon Board of Health is quite concerned with the threat of infections such as Staph and MRSA that may/can occur from Artificial/Synthetic Turf Fields. The need to protect the players/staff/student from INFECTION and other health conditions, require Routine Administration of Disinfectant(s) which are applied to cleanse the Artificial "Tire-Crumb" Rubber Turf Field and "Alternate Compositions" are necessary to prevent Staph/MRSA infections.

These communicable infections resulting from "Turf Burns" are passed-on/transmitted by players in locker rooms and/or contact on the playing/practice fields • ("New Eng Journal Med", 2005 NFL St. RAMS and the "Tampa Bay Buccaneer's NFL Take Note of Proving UV Light Disinfects Artificial Turf (MRSA/Staph)", Nov. 13, 2013 and et al).

Exemption # 6 through The Highlands Determination Applicability Application - Engineering Report fails to consider or plan for the impact of the Runoff Discharge and Wastewater Drainage of Direct and/or Indirect Runoff generated by this Artificial Turf Field which will be absorbed - leaching into the adjacent wetlands, stream, Watershed and Aquifer adversely affecting the Category One Trout Producing (TP) Water Stream, the Subwatershed - Prime Ground Water Recharge Area which provides drinking water and flow's into Maple Lake and the Pequannock River 1•

Summary:

Private and Public Schools situated in the Highlands Preservation Area MUST BE HELD TO THE SAME Rules and Regulations that apply to Municipalities situated in the Highlands Preservation Area : "The Highlands Water Protection and Planning Act", P.L.2004, c.120 (C.13 :20-1 et seq) and "The Areawide Water Quality Management Plan" (WQMP).

- Allowing Exemption # 6 for Public/Private Schools to install Artificial/Synthetic Turf Fields CANNOT Circumvent - Void the SAFEGUARDS established by the Highlands Council and detailed in the "Goals, Policies and Objectives" specifically in the Highlands Regional Master Plan, 2008 concerning the "Protection of the Watershed. the integrity of the Watershed and Aquifer and the prevention of any Runoff - Wastewater negatively impacting the Subwatersheds, Wetlands and Groundwater of the Highlands Preservation Zone":
- "Utmost Priority is Protection of the value of the Highlands Region as an Essential Source of Drinking Water, Providing Clean and Plentiful Drinking Water for one-half of the state's population (Highlands Act, Section 2), Along with the Ecological Values of Clean Water, Through the Protection Enhancement and Restoration of Water Resources Quantity, Flow Characteristics and Quality as Fundamental to Ensuring that there are Adequate Water Supplies to Support these Needs".
- "Protection, Restoration and Enhancement of Water Quality and Quantity of Surface and Ground Waters (Sections 10. B(1) and 10.C(l)), and to Determine the Amount and Type of Human Development and Activity which the Ecosystem of the Highlands Region can Sustain while Still Maintaining the Overall Ecological Values thereof, With Special Reference to Surface and Ground Water quality and Supply ..." (Section 11.A. (1)(A).

Closing:

Exemption #6 in conjunction with a Highlands Applicability Determination Application understates and underestimates the entire scope - costs of all work activities and the significant environmental

impact to the Watershed, Aquifer, Wetlands, SubWatershed, Drinking water, Trout Streams flowing into Rivers, Ponds, Lakes and Reservoirs.

Closing:

Exemption #6 and The Highlands Applicability Determination Application provides for applicants/Public and Private Schools to exclude any Monitoring of the Runoff and Wastewater Drainage, the Toxic and Carcinogens and the Volatile Organic Compounds/Semi-Volatile Organic Compounds and Carbon Black which are emitted into the air and inhaled generated from the Artificial - Synthetic Turf Field or from a 10 yr, 20 yr, 100 yr "Sandy" type storm overwhelming the Artificial Turf drainage and impacting the adjoining Wetlands - Watershed.

Solution - Action:

To protect the families, children and businesses that rely on the DRINKING WATER provided by the Watersheds, Aquifers, and Prime Ground Recharge Areas situated in the Highlands Preservation Area, Exemption #6 for Private and Public Schools puts "At Risk" the Quality, Safety, and Amount of Drinking Water available every day - 24/7 365 days to over 4 Million plus New Jersey Citizens.

Current Exemption #6 provides a "Loop-out" for Private and Public Schools: "Places of Worship, Schools, or Hospitals: Any improvement, for non-residential purposes, to a place of worship owned by a non profit entity, society, or association, or association organized primarily for religious purposes or a PUBLIC or PRIVATE SCHOOL, or a hospital, in existence on the date of enactment of this act, including but NOT limited to new structures, a n addition to an existing building or structure, a site improvement, or a sanitary facility".

AMEND and Expand Exemption #6 to Include the Following:

"Public and private schools are not exempt and must comply the SAME AS Municipalities do for non residential purposes, the requirements of the "Highlands Water Protection and Planning Act, P.L. 2004, c.120 (C.13 :20-1 et seq.) for the construction of Artificial or Synthetic Turf Fields containing any component of Crumb Rubber Fill and/or an Alternative Composition (coconut fibers, cork, rice husks, acrylic coated polymer sand, used shoes, and other materials - that safety has not been determined) which Crumb Rubber is the result of processing waste tires which contain numerous components, some which are known to be hazardous to people and the environment."

Solution - Action:

"The hazardous and/ or carcinogenic components as identified by the EPA and HHS include arsenic, cadmium , chromium, lead, vanadium, zinc, acetone, benzene, mercury, carbon black, 1,3 butadiene, phthalates, polycyclic aromatic hydrocarbons (PAHs), benzothiazole , butylated hydroxyanisole, n hexadecane, 4-(t-octyl)phenol." "Until a more comprehensive study that determines cumulative impacts on human health risks and the long-term effects on the environment, health and safety, installation of an Artificial or Synthetic Turf Fields are prohibited". We the members of the Borough of Kinnelon Environmental Commission, the Borough of Kinnelon Board of Health and the Kinnelon Coalition For More Green Safe Fields For Our Children are requesting that the Highlands Regional Master Plan:

"Highlands Water Protection and Planning Act" - Exemption and Waivers # 6 be AMENDED and Expanded:

DRAFT- DELIBERATIVE AND CONFIDENTIAL MATERIAL

Public and private schools are not exempt and must comply the SAME AS Municipalities do for non residential purposes, the requirements of the "Highlands Water Protection and Planning Act, P.L. 2004, c.120 (C.13 :20-1 et seq.), The Areawide Water Quality Management Plan" (WQMP) and being situated on a "Prime Ground Water Recharge Area" (Subject to N.J .S.A. 13 :230-10) no exemptions are allowed for the improvement for non-residential purposes such as construction/installation of artificial/Synthetic Turf Fields by a local government unit within the Highlands Area. Citing national and local concerns, the safety of the environment and our children can not be stated more clearly than by "Kentucky's Energy and Environment Secretary Len Peters said that redirecting the grants was the prudent step to take while more studies are conducted to determine with a greater degree of certainty if the materials used to supplement play areas and athletic fields could be considered harmful, especially to our school children."

"While there may not be enough evidence to justify replacing crumb rubber sports fields and playgrounds, it makes sense not to build any new ones until the science catches up with the questions." Lexington Kentucky Herald-Leader Editorial - "Stop crumb rubber use on playgrounds," May 4, 2015. The Borough of Kinnelon Board of Health and Environmental Commission and the Kinnelon Coalition for More Green Safe Fields For Our Children will make itself available for discussion on this matter with the New Jersey Highlands Council.

Respectfully,

Cheryl Canale, Chairperson
Borough of Kinnelon Environmental Commission
Jack Glaser, Chairperson
Borough of Kinnelon Bd. of Health
Randall Charles
Kinnelon Coalition for More Green Safe Fields For Our Children

HCIS/Comment Number: 54712

Commenter Name: Brian Tipton, Mayor

Organization: Harmony Township

Municipality: Phillipsburg

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

The purpose of this letter is to inform you of Harmony Townships support and agreement of Freeholder Edward Smiths comments he provided on the Highland Regional Master Plan, as part of the Highland's Council's 2014 RMP Monitoring Program, in his letter to you dated February 25, 2015. In addition to these comments, the Township is also interested in receiving a response from you on the questions # 1-3 asked by Freeholder Smith in this same letter. The Highlands Plan directly effects the Township of Harmony which makes the Township Committee and I concerned with its impact on our residents and their property.

Thank you for your time in this important matter.

HCIS/Comment Number: 54164

Commenter Name: Edward J. Smith, Freeholder

Organization: County of Warren

Municipality: Belvidere

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

I am the Freeholder Director of the County of Warren In that sworn capacity (1), I am writing to respectfully submit 'the following comments on the Highlands Regional Master Plan, as part of the Highland's Council's 2014 RMP Monitoring Program. Please note that, in accordance with my fiduciary responsibility to my constituents, my comments include issues I observe to be inconsistent with the interests and rights of the constituency I represent.

While the Legislature passed the Highlands Water Protection and Planning Act in 2004, it relies upon both the Highlands Council and the New Jersey Department of Environmental Protection ("NJDEP") to implement the stated goals of the Act. As you may know, the NJDEP's website states. "The Highlands Water Protection and Planning Act N.J.S.A. 13:20-1 et seq protects drinking water for over 5.4 million people and helps preserve New Jersey's dwindling open space." As you also know, in Section 2 of the Act, the Legislature declared that the Highlands Region is an essential source of drinking water, provides clean and plentiful drinking water for one-half of the State's population, contains other exceptional resources, and provides abundant recreational opportunities for the citizens of the State. The Act created the Highlands Council as a regional planning and protection entity, to develop, and adopt and periodically revise a Regional Master Plan (RMP), with a primary goal of protecting and enhancing the significant values of the resources of the Highlands Region. According to the RMP, "The Highlands Act requires a substantive review take place every six years." "The implementation of a monitoring program will ensure that the RMP remain effective and current." (2)

A primary goal of the monitoring process, as presented to stakeholders, is to allow the measurement of progress toward goals outlined in the Act and the RMP, and shall among other tasks update the science and research agenda.(3)

I respectfully request that, upon review of the comments contained herein, the duly sworn officials (1) of both the NJDEP and the Highlands Council will be compelled by their oath of office, like me, to report the fatal flaws in the legislation that will require significant amendment, or possible repeal, to address the inconsistencies contained therein that preclude implementation of the stated goals of the Act by the agencies charged to do so.

When I began to prepare a comment on the RMP, I studied various aspects of the Highlands Act and its impact on the County of Warren. I found many disturbing facts that are inconsistent with the stated goals of the Act and constitutional provisions regarding equal protection under the law. Please accept the following comments, which I respectfully request be addressed by the Council:

1: Citizens within the area, defined by the Legislature in the Highlands Act have responsibilities and obligations that are unique, and are not placed equally upon all of the citizens of the State solely based upon politically determined lines on a map. (4)

2. A stated goal of the Act is to protect the drinking water for over 5.4 million people. (5)
3. Protection of the drinking water supplies of the State, thereby enhancing the general health, safety and welfare of the citizens of the State has been adjudicated as justification for the Legislature to take extraordinary measures that may supersede constitutional protections.
4. A stated goal is that the Act helps to preserve New Jersey's dwindling open space. (6)
5. The preservation of open space, acquired by easement or purchase in fee, is well established in law. (7)
6. All watersheds in the County of Warren flow into the Delaware River, which is the western border of the State of New Jersey. (8)
7. The watershed area of the Highlands Preservation area of the County of Warren comprises 1.5%, or approximately 1/64th of the watershed area of the upper and central Delaware River. (9)
8. 98.5% of the water, based upon the surface size of the watersheds, mixes with the water from the Highlands Preservation area of the County of Warren at an approximate ratio of 64:1 due to variations of localized weather events that may impact the ratio. (10)
9. There is no man made infrastructure to transport the "protected" drinking water from the County of Warren to the water intakes that facilitate delivery to millions of users in the State of New Jersey.
10. The statutorily protected drinking water of the County of Warren is released and mixed into the Delaware River as a means of transport for the fifteen or more miles to the water intakes for the New Jersey Water Authority. (11)
11. Any contribution, improvement, or protection by the County of Warren to the quality of the drinking water to be used by millions of the citizens of the State of New Jersey is not feasibly measurable and thereby non-existent as a matter of fact.
12. The protected surface waters from the County of Warren do not provide any measurable improvement in the general health safety and welfare of millions of citizens of the State of New Jersey.
13. Recharge of groundwater aquifers is a factor in the Highlands Act, and the key regulatory scheme in the form of nitrate dilution models and impervious coverage restrictions. (12}
14. There are numerous aquifers in the State of New Jersey. (13)
15. The County of Warren is situated upon two aquifers - the Highlands crystalline units in the South, and the Valley and Ridge sedimentary units in the North. (14)
16. The Highlands crystalline aquifer is predominant in the regions delineated in the Highlands Act.
17. The Pohatcong Valley Groundwater Contamination Superfund Site stretches across nearly 9800 acres in Warren County and was added to the "Superfund List" in 1989. (15)

18. The Pohatcong Valley Superfund Site is situated upon the Highlands Aquifer.

19. The plume of contamination, which is an indicator of both water flow speed and direction, has moved westward toward the Delaware River, with groundwater contamination still present decades later, although stretched further west with a defined distance from the source of less than ten miles. (15)

20. If the contamination is moving in the only direction that is not towards another area of the State of New Jersey, and contaminated waters still remain in the area decades later, it is a reasonable presumption that the groundwater resources within the aquifer in Warren County are not a factor in the quality of the groundwater drinking supplies for the rest of the State of New Jersey.

21. When evidence is analyzed from the perspective of Warren County, after ten years, the stated goal of the Highlands Act, being the protection of the drinking water for the millions of residents of the State, the Act is an abject and thorough failure.

22. There is no measurable benefit to justify the special legislation that obligates Warren County to perform unique tasks under the Highlands Act, and is its fatal flaw.

23. Equal protection under the law is a fundamental constitutional right. (16)

General Questions:

1. The nitrate dilution model is used to preserve pristine water quality in a locale, which then, if not harvested, is a component of an overall watershed. Given this fact, how is the impact of the nitrates from the septic of a single family dwelling in the 88 acre zone of the Preservation area more of a factor than the nitrates generated from a single family dwelling in the more densely populated areas of a Planning Zone when both impact the entire production of the watershed equally?

2. Given the virtual non movement of contamination at the Pohatcong Valley Superfund Site, the restrictions of impervious coverage in the Highlands seem utterly irrelevant. Evidence indicates that surface water and groundwater both end up as river flow due to the impermeability of the aquifer. Is there some other factor that benefits the entire State that justifies the severe limits on impervious coverage in the Highlands?

3. Wild and Scenic designation has been assigned to the Musconetcong River, which is a major carrier of the pristine quality drinking water that is produced in the Highlands and ultimately flows to be dumped into the Delaware River. Given the efforts to "Free the Musky" and the need to harness the pristine drinking water generated from the rivers in the Highlands region to benefit the rest of the State, how does such apparatus of diversion which would be needed to collect the Highlands waters before they are mixed with the lower quality water in the Delaware remain consistent with the other environmental initiatives enacted to date, especially since some are under federal law?

1. NJS 41:1 1et seq.

2. Highlands Master Plan p.416

- 3.Highlands Regional Master Plan Update "Briefing Report" 10/14
4. A-2635 MCKEON "The Highlands Water Protection and Planning Act" Section 7
5. www.nj.gov/dep/highlands
6. www.nj.gov/dep/highlands
7. N.J. Constitution Art. I;Paragraph 20
8. "Watersheds of the Delaware Basin" Delaware River Basin Commission (DRBC)
9. "Potable Water Supplied by the Highlands in 1999" NJGS & NJDEP 4/04 10. ORBC Watershed data
11. "Potable Water Supplied by the Highlands in 1999" Pg. 6
12. N.J.S.A. 13:20-1 et seq.
13. Aquifers in NJ NJGS & NJDEP 1998
14. US Geological Survey Principal Aquifers in NJ www.usgs.gov/infodata/aquifers
15. The Warren Reporter 1/23/15 "\$92 million settlement will guarantee funding for cleanup"
16. N.J. Constitution Art I;Par 5 and U.S. Constitution : Amendment XIV

Thank you for the opportunity to provide comments on the Regional Master Plan. If you have any questions, or would like any additional information, please do not hesitate to contact me.
Respectfully Submitted,

Edward J. Smith Freeholder Director
Cc: Governor Chris Christie
Senate President Stephen Sweeney
Senator Robert Smith Senator Michael J. Doherty Senator Steven Oroho
Assembly Speaker Vincent Prieto Assemblyman John McKean Assemblyman John DiMaio
Assemblyman Erik Peterson Assemblywoman Alison McHose
Assemblyman Parker Space

HCIS/Comment Number: 54946

Commenter Name: none none

Organization: Mansfield Township Land Use Board

Municipality: Port Murray

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

4. Recommend immediate action to clean up existing brownfield sites as per original plan. There is very little discussion on prioritizing the clean-up of contaminated areas or on method to conserve water consumption on those that use the water outside of the Highlands Region. And there is little discussion on increasing water supply through the construction or expansion of reservoirs, impoundments, and other surface water and groundwater systems.

One of the planning area's goals is "to protect, restore, and enhance the quality and quantity of surface and ground waters therein". There is little to no discussion in the RMP where the existing contaminated sites are located and no meaningful discussion in setting priority to clean up these sites. According to the RMP, most of the watersheds have Impaired water quality. It seems logical that cleaning up contaminated sites that are known to be significant polluters of our environment should be of top priority to restore and enhance the region's water resources.

HCIS/Comment Number: 55042

Commenter Name: David Epstein

Organization: The Land Conservancy Of New Jersey

Municipality: Boonton

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

9) The RMP should include an energy section with goals, policies and objectives should be developed that harmonize with the State Energy Master Plan, facilitate the improvement of energy efficiency in all sectors, encourage load management, and facilitate and regulate the development of renewable sources (solar, wind, geothermal and small scale hydro).

Response:

Remediation of contaminated ground water, surface water and soils is overseen, and sometimes undertaken, by the NJDEP Site Remediation and Waste Management Program (SRWMP). The SRWMP publishes the Known Contaminated Sites Report, which gives basic information on approximately 14,000 sites in New Jersey where contamination has been confirmed. Wellhead Protection Areas in the Highlands may be included in or affected by some of these sites.

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the

Highlands Act or Preservation Area Rules (N.J.A.C. 7:38). This includes the septic system densities and the impervious surface limitations of the Preservation Area.

HCIS/Comment Number: 53711

Commenter Name: William Koellhoffer

Organization:

Municipality: Stanhope

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

01-18-15

New Jersey Highlands Council

Attn: 2014 RMP Monitoring Program

100 North Road (Route 513)

Chester, New Jersey 07930-2322

RE: Comments regarding the NJ Highlands Act

William Koellhoffer

87 Lake Drive

Stanhope, New Jersey 07874

The Highlands Act has seemed to have a detrimental effect on those communities who are within it's currently established boundaries. For Byram Township, who unfortunately has about 98% of the Township within the Highlands, it appears that the lack of allowed commercial development is continually pushing the tax burden more and more onto the backs of the residential homeowners. When the act was being proposed, we were told that curtailing development would actually increase real estate values since virtually no more homes could be built. Sounded good, but the exact opposite is becoming reality. This in combination of the housing bubble bursting has made taxes on current homeowners a force which is driving many out of the township and the State for that matter. Talk of compensation for farmers and homeowners within the housing is just that, talk, empty promises. So we are in effect penalized on real estate values to protect the water sources for New Jersey communities to the east and south who continue to develop and raise more and more demands for more water. I would think a water usage tax on everyone - residential and commercial - who benefits from the Highlands Act would be a start, with ALL proceeds going directly to the affected farmers and homeowners to help alleviate their growing tax burdens and continued loss of land values.

William Koellhoffer

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources

and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

In addition, the Highlands Council has consistently supported a dedicated source of funding to support protection of the important watershed lands of the Highlands Region (Resolutions 2005-18, 2006-22, 2008-13, 2009-51, 2013-10). These efforts are ongoing.

The RMP Monitoring Program is intended to evaluate progress toward achieving the goals and objectives of the RMP. Should the findings of the Monitoring Program indicate the need to make modifications to the RMP related to landowner equity, the Report will include the appropriate recommendations.

HCIS/Comment Number: 65

Commenter Name: Hing Lum

Organization: Interverse Enterprises Inc.

Municipality: Denville

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

We all want to have clean water and a healthy beautiful environment, but some of the Highlands Act provisions defy logic. For instance, if we need 88 acres to clean one septic system, then shouldn't we clean up all the exiting septic systems especially when existing sewer and water systems have been built and have capacity that are not being used.

For instance, the Hackettstown sewer and water system had been expanded with the idea that it would service and replace hundreds of septic systems in Mt. Olive especially along Smithtown Road area when Kaplan built the sewer lines up Stephen State Park Road to service the two projects: Oak Hill I and II, built in the late 1990's. Kaplan also built the water tower behind Dorset Dr. The logical idea was that the sewer line would extend along Smithtown Road and hook up all the older homes on the eastern part of Smithtown Road and into Karen Place. The end result was that all the septic systems would be eliminated over time as contemplated by the town and the Hackettstown Sewer Authority. All the waste water would be diverted to the sewer plants and cleaned before being release down river.

However, the Highlands Act prohibits extension of sewer service, so the hundreds of homes in the area continue to use septic systems for forever. So if one septic requires 88 acres to clean the water, then a 100 hundred homes would technically require 8800 acres to clean the septic systems. So all the good that the Highlands Act is supposedly doing is being undone by the provision to prohibit sewer extension when the capacity has already been built and in place. This is especially undesirable as these homes are at the top of the mountain and water only flow downhill as dictated by gravity.

If the Highlands Act is based on science, shouldn't we use the scientific logics for the best of society and used these areas with sewage capacity as receiving areas so that we do not use the areas without sewer for housing. The logic is obvious, but, somehow, the Highlands Act is contrary to this logic as it bans sewer extension.

Furthermore, how can the Highlands Act treat Mt. Olive as if it is virgin land dictating that most of it is in the preservation area when t the 2010 United States Census, there were 28,117 people, 10,690 households, and 7,323 families residing in the township. The population density was 956.1 per square mile (369.2/km²). There were 11,244 housing units in the town at an average density of 382.4 per square mile (147.6/km²).

On the other hand, Mendham Township is all planning areas. At the 2010 United States Census, there were 5,869 people, 1,952 households, and 1,659 families residing in the township. The population density was 328.4 per square mile (126.8/km²). There were 2,062 housing units at an average density of 115.4 per square mile (44.6/km²).

Mount Olive has three times the population and housing density per sq. mile as compared to Mendham and Mount Olive is mostly in the pristine/Preservation area while Mendham is in the Planning area. So much for logic again or it is just who had friends in high places. Hopefully, the current Highlands Council would place science and logic over politics.

Response:

The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7 nor the prohibition of expansion of sewer service areas. The RMP acknowledges that utility service such as wastewater treatment may be provided by a variety of mechanisms, such as individual septic systems units or public wastewater collection and treatment. Existing, properly working septic systems are not a detriment to groundwater quality.

HCIS/Comment Number: 88

Commenter Name: Giulia Grotenhuis

Organization:

Municipality: Phillipsburg

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

This Act was eminent domain – regulating property rights – but without the compensation. In a conversation with Bill Wolfe in September or October of 2014, he claimed he was the architect of the Nitrate dilution model. He was hired by the Highlands Coalition to push for bigger lot sizes and in his words said he never dreamed he would get his model passed. In order to do so (again in his words) there was the push for the TDR – the compensation mechanism. The act passed forcing this model on all owners in the preservation area, and as the basis of all acreage determinations in towns that are “conforming.” In other parts of the state that pollute their water much more, these types of regulations on building are not being imposed. In fact, permits are being issued to help revitalize these communities. Our communities struggle to keep their water supply clean and they are not even contributing to the fix for themselves.

Recent article:

<http://www.njspotlight.com/stories/15/01/07/state-dep-takes-steps-to-curb-sewage-runoff-into-surface-water/>

State DEP Takes Steps to Curb Sewage Runoff Into Surface Water Tom Johnson | January 8, 2015

Some laud state agency for addressing long-standing problems with century-old infrastructure, other dismiss scheme as too little too late The state is taking steps to address its long-running problems with water quality by dealing with the pollution that flows into New Jersey’s waterways when heavy rainfall leads to raw sewage being dumped into surface water. In the next few weeks, the state Department of Environmental Protection will issue final permits for 25 municipalities and regional sewage authorities to develop long-term strategies to deal with the problem. The issue has long been recognized by policymakers, but largely neglected, partly due to the huge cost, which could run to tens of billion dollars, according to some projections. Most of the so-called combined sewer-overflow systems (CSOs) - lines that direct both sewage and storm water to regional treatment facilities -- are in the New York New Jersey Harbor region. Overall, there are 217 CSO outfalls in the state covered by the draft permits, according to the DEP. When it rains heavily, the CSO systems cannot handle both the sewage going to wastewater treatment plants and storm runoff, both of which go through the same pipelines.

Each year, more than 7 billion gallons of raw sewage are dumped into New Jersey’s waterways. Despite issuing the final permits in the next few weeks, the problem will not be quickly solved. The DEP is giving towns and authorities up to 5 years to develop strategies to reduce the problem, longer to figure out how to end the pollution. Still, some were enthusiastic that the state is moving to address the problem. “These permits are going to launch an incredible process to upgrade water infrastructure,” said Chris Sturm, senior policy advocate for New Jersey Future, an organization that has been pushing the state to address the issue. The new initiative not only has the ability to improve water quality and mitigate flooding in urban areas, but also has the potential to revitalize urban areas, Sturm said. “This new permit framework encourages regional collaboration on planning and development of projects that will provide urban redevelopment opportunities, improve water quality, beautify neighborhoods, and improve the overall quality of life in our urban communities,” said DEP Commissioner Bob Martin in a press release.

The agency is basically recommending two approaches to address the problems posed by CSOs. One would involve projects that encourage cities and authorities to build storage tanks -- as Camden

has done -- or lagoons to store storm water for later release, according to Larry Hajna, a spokesman for DEP.

The other would entail green infrastructure projects, such as rain gardens, green roofs, and more urban parks to capture storm water. Financing is available to help design these strategies, according to the DEP. To some, however, New Jersey is lagging behind other states, which already have developed similar approaches to deal with century-old systems that handle wastewater and storm runoff.

“New Jersey has lagged behind other states for years,” said Jeff Tittel, a frequent critic of the Christie administration. It should have happened 20 years ago. As we keep waiting, we still get raw sewage spilled into our waterways.” The U.S. Environmental Protection Agency’s Region II office, which covers New Jersey, acknowledged combined sewer overflow systems are a very serious public health and environmental problem in a number of New Jersey communities. “These new permit will help lead the way to improved water quality,” said Joan Leary Matthews, director of the EPA’s Region II Clean Water Division. The permits address combined sewer outfalls in the following areas: Bayonne (30 outfalls); Camden (28); Camden Municipal Utilities Authority (10); East Newark (1); Elizabeth (28); Fort Lee (2); Gloucester City (7); Hackensack (2); Harrison (7); Jersey City (21); Kearny (5); North Bergen Municipal Utilities Authority, encompassing North Bergen and Guttenberg, (10); Newark (17); North Hudson Sewerage Authority, involving Hoboken, Weehawken and Union (8); North Hudson Sewerage Authority, for West New York (2); Paterson (24); Perth Amboy (16); Ridgefield Park (6); Town of Guttenberg (1); and Trenton (1).

Response:

The Highlands Council acknowledges that the Highlands Act recognized “the need to provide just compensation to the owners of those lands” that were identified in the Regional Master Plan (RMP) where “development shall not occur in order to protect water resources and environmentally sensitive lands” (P.L. 2004, c. 120 C.13:20-6.n). The Act further specified establishment of a transfer of Development Rights program as one means of addressing landowner equity.

To that end, the RMP addresses landowner equity issues through numerous Goals, Policies, and Objectives, including those detailing the Highlands TDR Program. To-date, the Highlands TDR Program has provided nearly \$9 million to property owners in the Region. In August 2015, the Council proposed Rules related to a new open space and TDR purchase program with the intent of investing another \$9 toward preservation and landowner equity.

The Highlands Council cannot regulate other parts of the state or building permits in general. As the article indicates, there are no CSOs in the Highlands Region.

HCIS/Comment Number: 54208
Commenter Name: Jim Adams, Mayor
Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

Please accept the following as formal comments from Greenwich Township regarding the Highlands RMP, and related conformance documents implemented the policies of the RMP, for your consideration.

These comments are summarized as follows:

1. Wastewater Management Plan (WMP) Review and Approval - As you are aware, Greenwich Township has made numerous attempts over the last several years to seek Highlands Council Consistency review for its WMP. NJDEP's Water Quality Management Rules were readopted with amendments on July 7, 2008 at which time Greenwich Township requested and was granted alternative assignment as the planning authority on July 9, 2009. In accordance With applicable state regulation in effect, Greenwich submitted an updated wastewater management plan to NJDEP on April 6, 2011. At that time we also submitted a copy to the Highlands Council requesting a consistency determination in accordance with the provisions at N.J.A.C. 7:15-3.10 and N.J.A.C. 7:38-1.1. The current approved WMP is substantially inconsistent with the Highlands RMP.

At no time did the Township consent to defer review of the WMP either as part of or until after plan conformance was completed. Yet despite our numerous attempts, this issue remains unresolved. The Highlands RMP and Plan Conformance process needs to be amended to avoid unnecessary delay in conducting consistency review s of Wastewater Management Plans.

HCIS/Comment Number: 54982

Commenter Name: James Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

Please accept the following as formal comments from Greenwich Township regarding the Highlands RMP, and related conformance documents implementing the policies of the RMP, for your consideration.

These comments are summarized as follows:

I. Wastewater Management Plan (WMP) Review and Approval - As you are aware, Greenwich Township has made numerous attempts over the last several years to seek Highlands Council Consistency review for its WMP. NJDEP's Water Quality Management Rules were readopted with amendments on July 7, 2008 at which time Greenwich Township requested and was granted alternative assignment as the planning authority on July 9, 2009. In accordance with applicable state regulation in effect, Greenwich submitted an updated wastewater management plan to NJDEP on April 6, 2011. At that time we also submitted a copy to the Highlands Council requesting a

consistency determination in accordance with the provisions at N.J.A.C. 7: 15-3. I 0 and N.J.A.C. 7:38-1.1. The current approved WMP dated 1988 is substantially inconsistent with the Highlands RMP.

At no time did the Township consent to defer review of the WMP either as part of or until after Highlands conformance was completed. Yet despite Greenwich's numerous attempts, resolution of this issue has been stalled by the Highlands Council and remains unresolved. The Highlands RMP and Plan Conformance process needs to be amended to avoid obstructing timely approval by NJ DEP due to unnecessary delay in conducting consistency reviews of municipal Wastewater Management Plans.

Comment Number: 54982

Commenter Name: James Adams, Mayor

Organization: Township of Greenwich

Municipality: Stewartsville

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

2. Septic Density -We previously commented that the RMP needs to provide specific guidance on the density limitations in the "Conservation Zone" that are necessary to protect groundwater resources. Greenwich adopted new zoning in 2007 which created the Resource Conservation District (RCD). In establishing the RCD zone, the Township determined that a density of 1 DU/ 1 OAC for cluster with a mandatory 80% open space set-aside, and 1 DU/20AC for conventional (non-cluster) development was necessary to protect groundwater supplies. The Township objects to policies in the Plan that would allow for the expansion of wastewater treatment facilities and or relaxation of nitrate standards in the Conservation Zone for cluster development.

The plan includes a "Land Use Capability Zone Map" that shows the majority of the "Conservation Zone" in Greenwich Township as being Environmentally Constrained. In addition, as memorialized in the plan, a significant portion of Greenwich Township is identified as "Prime Ground Water Recharge" and underlain by "Carbonate Rock" which protect the drinking water supplies of existing residents. As such, the Township objects to the Highlands Council establishing a lower nitrate standard for the Conservation Zone than would apply in the Protection Zone. Given the resource constraints and significance of the groundwater resources Greenwich Township, the nitrate standards for the Protection Zone should also apply to the Environmentally Constrained Conservation Zone to avoid any degradation to existing drinking water supplies.

Response:

The Highlands Council acknowledges these comments. The Township should contact the Highlands Council regarding its Wastewater Management Plan.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Other

Comment:

REGIONAL ANALYSIS

The RMP currently calls for refined estimates on Net Water Availability (page 164). Water supply data and estimates of water utility capacity should be revisited as part of the RMP monitoring “reexamination”. The current plan relies on water supply allocation as an estimate of ultimate water utility capacity. Estimates should not be used to identify the actual safe yield of a water source as they may over- or under estimate this safe yield. The Council should continue to work with the NJDEP to determine safe yield in order to more accurately reflect actual versus perceived water deficits. The existing RMP uses peak monthly demands from years 2000 through 2004 to project water use demand. The RMP (and associated Utility Capacity Technical Report) should be updated to reflect a broader and more recent range of demand estimates and to make changes to water capacity calculations as necessary.

Response:

The comment regarding updating water demand data is acknowledged. The RMP included a Water Resource and Ecosystem Science Agenda, a component of which is updating relevant water use data. This program has been an ongoing task for the Highlands Council. Should the findings of the RMP Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to the handling of deficit areas, the Report will include the appropriate recommendations.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

Page 249-250 The Efficient Use of Water – This section promotes improving efficiency of water use in Highlands Water deficit areas and in the Highlands Region. The section, however, does not address the need for conservation, recycling, reuse and updates to infrastructure outside of the Region affecting Highlands water resources. It does little to prevent further consumptive and depletive uses in the Highlands Region if municipalities and water users outside the region are not

also required to conserve water. Even though these areas are outside the geographic authority of the Highlands Region, the Council should include in this section a clear support for water conservation measures by the end users of the water. Water conservation, recycling and infrastructure upgrades by the end users located outside the Highlands should be addressed since the consumers of the water are equally responsible for the impacts on Highlands water resources.

Response:

The comment is acknowledged. The Highlands Council has consistently supported the efficient use of water, including a dedicated source of funding to support protection of the important watershed lands of the Highlands Region (Resolutions 2005-18, 2006-22, 2008-13, 2009-51, 2013-10). Those efforts are ongoing and will likely be incorporated into the RMP Monitoring Program and ongoing Highlands Research and Science Agenda.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

Focus on the core mission of the Act – Water Protection and related Planning. The complexity of regulation and cost of conformance may be reduced if the Highlands Act were to be amended to focus on its core issue, the protection of water resources and associated smart growth/preservation land use policies. Historic Preservation, Scenic Resources, Transportation policy etc, are important, but efforts to address these issues and others in the Act detract from the core mission of the Act and the Highlands Council. The burden on the Council and on local government would be lessened if the Act and RMP focused on water supply and quality. There are other state agencies that can address non-water issues that the Council can work with cooperatively.

HCIS/Comment Number: 55128

Commenter Name: Anthony Soriano

Organization: Morris County Department of Planning and Public Works

Municipality: Morristown

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Programs of the RMP

Comment:

Increase flexibility to grant waivers from the Highlands Act and RMP. Waivers from the provisions of the Act are currently permitted for 1) public health and safety, 2) redevelopment and 3) to avoid a taking. Section c.12:20-33 b.(1) should be amended to allow waivers necessary to protect the public health, safety and welfare, which would mirror the Municipal Land Use Law and provide greater

flexibility to the Highlands Council and the NJDEP in addressing unique land use conditions as they occur.

While the extension of sewers to serve certain areas may be prohibited by the Highlands Act, it is within the power of the Highlands Council to include recommended changes to the Act within the RMP. The RMP should support economic expansion through the extension of sewers as necessary to areas that are already substantially developed, but without sewer service. The extension of infrastructure would be particularly appropriate in areas that are commercially and industrially zoned, contain existing commercial/industrial development, with nearby undeveloped/underdeveloped infill sites, commercial corridors and existing mixed use communities. The RMP could also suggest the extension of sewer service be allowed to serve older, relatively high density residential communities in the both the Planning and Preservation Area. There are older residential areas, originally developed on septic systems that due to age and small lot sizes, would be better served by sewer. The RMP should recognize communities where sewer service would correct potential/existing septic system problems.

Response:

The Highlands Council is charged with implementation of the Highlands Act, which contains many aspects of Highlands Resources protection. However, the Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act.

The RMP Monitoring Program is not intended to edit the RMP, but rather develop the factual foundation on which potential amendments to the RMP may be made. At the conclusion of the Program, a Monitoring Program Recommendation Report will synthesize the results of all efforts related to the Program and provide a framework from which the Highlands Council may choose to make policy or programmatic changes to the RMP or recommend further study.

HCIS/Comment Number: 55042

Commenter Name: David Epstein

Organization: The Land Conservancy Of New Jersey

Municipality: Boonton

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: RMP Format and Communications

Comment:

5) The Highlands Act requires the N.J. Department of Environmental Protection (NJDEP) to establish regulations to "ensure that existing water quality shall be maintained, restored, or enhanced." NJDEP developed septic density standards based on a scientific model with valid assumptions designed specifically for the Highlands Preservation Area. The RMP should not address nitrate dilution standards as the Highlands Act that this be conducted by NJDEP.

6) The Council should establish, maintain, and make available an inventory of all Highlands Open Waters and their integrity as specified in the RMP, including the Watershed Resource Values of each Highlands HUC14 watershed.

Response:

The Act mandated that the NJDEP establish septic system densities for the Preservation Area. The RMP defers to those densities in the Preservation Area and establishes separate densities for the Planning Area.

An inventory of all Highlands Open Waters, Riparian Corridor Integrity Scores and Watershed Values can be found on the Highlands Council's Interactive Mapping website.

Should the findings of the Monitoring Program indicate the need to make modifications to the RMP and/or the Highlands Research and Science Agenda related to nitrate analysis and septic system densities, the Report will include the appropriate recommendations.

HCIS/Comment Number: 54232

Commenter Name: David K. Dech

Organization: Warren County Planning Department

Municipality: Belvidere

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: RMP Format and Communications

Comment:

Water Resources Protection

The premise behind the Act, Rules, and Plan is to protect Highlands's water quality and quantity for use by the Highlands and non-highlands populations. According to a document titled Potable Water Supplied in 1999 by New Jersey's Highlands by the NJ Geological Survey, it reported that the Highlands supplied 34% percent of potable water used in the State in 1999. 36% of the of the Highlands area is within the Delaware River watershed which consists of all of Warren County, approximately half of Sussex County, and smaller portions of Hunterdon and Morris Counties. All of Warren County's water drains into the Delaware River and no water is collected for drinking water reservoirs for use outside of the region. Further analysis reveals that Warren County comprises about 5.3% of the entire Delaware River basin north of Trenton, 3.88% of the basin is in the Warren Highlands region, and 1.55% is in the delineated Highlands Preservation Area. Water is collected from the Delaware River for non-Highlands users by intakes that feed the Delaware and Raritan Canal south of Warren County and north of Trenton. Water from the Preservation Area in Warren County is collected for distribution to the rest of the State at the intakes located at Bull's Island at an approximate ratio of 1 part to 64 parts based on watershed area data for the entire Upper Delaware River basin. A dilution of 1 to 64 of "Highlands Warren County" water does not ensure any meaningful or measurable improvement of water quality at the intakes downstream of

Warren County. The burden placed on Warren County is unreasonable and arbitrary due to the inability to define any gain at the water intakes.

In terms of groundwater quality, there seems to be a misconception that limiting future development of individual septic systems to extremely low densities, 25 acres and 88 acres, will actually improve water quality. The basis for the lot sizes are based on a NJDEP report titled Basis and Background of the Septic Standard of the Highlands Water Protection and Planning Act Rule at NJAC 7:38-3.4 that used 45 samples throughout the region in mixed use areas. The median ambient nitrate level was .76 mg/L. For pristine areas 7 locations were selected as a representation of "pristine" forested areas. It appears that most of these samples were taken from State Parkland Areas. Therefore the nitrate levels included in the modeling reflect "pristine" conditions, with an average value of .21 mg/L. So the values selected are to maintain the existing groundwater quality despite the commonly used target of 2mg/L in the nonHighlands area of the State. The Federal drinking water public health standard is 10 mg/L.

Question #3. What methods are in place to demonstrate that the strict nitrate target of 25 acre and 88 acre densities, has resulted in an improved ground and surface water quality?

Question #4. Given the facts as presented above, why should Warren County be held to the higher strict standards for water quality, the 25 acre and 88 acre septic density standard when the measurable impact of nitrate dilution downstream in the Delaware is unquantifiable?

Question #5. As discussed above, since Warren County's Highlands water drains into the Delaware River at a 1 to 64 part ratio, having an insignificant impact on water quality at the intakes, is it inappropriate to impose a strict nitrate standard on our region when the users of the water are indigenous?

Question #6. Having no special statewide interest therefore, why shouldn't the nitrate standard in Warren County be the same as the statewide standard of 2mg/I or locally determined if a municipality chooses a more strict standard?

Question #7. What is the purpose of the water being protected at a level at .17mg/I?

Question #8. If the response to question #7 is that it is for drinking water, how is that drinking water transported to its end users?

Question #9. What protections are provided to ensure that the water maintains a .17mg/I pristine standard to where it is harvested at the water intakes 15 miles south of Warren County on the Delaware River?

Question #10. Where is the cost/benefit analysis to justify imposing the .17mg/I standard in the Preservation area when the water is actually taken from the Delaware River 15 miles south of where the Musconetcong River drains into the Delaware?

The Highlands Act, Rules, and RMP rely heavily on regulating and limiting impervious coverage. One of the criteria for a major development in the Preservation Area is that if a development will exceed more than 1/4 acre of impervious coverage it may not exceed 3% of an existing lot. Reconstruction of a structure in the Preservation area may not exceed 125% of the original

coverage. Farmland conservation plans limit impervious coverage from 5% to 9% of the farm depending on the farm unit. Redevelopment sites may only be declared in the Preservation Area if the site contains 70% or more impervious coverage.

Question #11. Why is the Highlands so unique that special impervious coverage restrictions are needed and would not be applicable elsewhere in the State?

Question #12. What is the scientific rationale for these impervious coverage standards?

Question #13. What is the rationale in applying different impervious coverage standards in the Preservation Area and in the Planning Area?

Contaminated Sites

There is very little discussion on prioritizing the clean-up of contaminated areas or on methods to conserve water consumption on those that use the water outside of the Highlands Region. And there is little discussion on increasing water supply through the construction or expansion of reservoirs, impoundments, and other surface water and groundwater systems. One of the planning area goals is "to protect, restore, and enhance the quality and quantity of surface and ground waters therein;" There is little to no discussion in the RMP where the existing contaminated sites are located and no meaningful discussion in setting priority to clean up these sites. According to the RMP, most of the watersheds have impaired water quality. It seems logical that cleaning up contaminated sites that are known to be significant polluters of our environment should be of top priority to restore and enhance the region's water resources.

Question #14. What method and indicators have been developed that demonstrate that existing contaminated sites have been remediated? There is very limited mention of superfund sites in the RMP, and nothing specific to the Pohatcong Valley Groundwater Contamination Superfund Site that encompasses over 5,000 acres. It is polluting the carbonate limestone aquifer underneath portions of Washington Borough, and Washington, Franklin, and now Greenwich Townships with PCE and TCE. Because it is a limestone aquifer, the contamination can travel further distances in a shorter amount of time within the formation. The contamination plume appears to be contained within the Pohatcong Valley formation and has not migrated into adjacent formations. The contamination has been identified since the 1980's and is still here.

Question #15. What analysis/study is utilized that can demonstrate that the migration of Warren County's groundwater affects water supplies elsewhere in the state?

Question #16. It now appears a settlement is in the works with the known polluter to remediate the contamination. Is this settlement included in or related to the RMP in anyway?

Question #17. The fact that the contamination plume has not migrated into adjacent formations is an indicator that the basins seem to be self-contained. This gives credence to the contention that Warren County should not be subject to the same Preservation Area water quality standards. What evidence can be demonstrated that Warren County's groundwater uniquely contributes to the overall quality of the drinking water of the State.

Water Supply

A-2635 known as the Highlands Water Protection and Planning Act states that the "Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the NJ Highlands ... ". The RMP repeats several times the significance of the Highlands Region's reservoirs in supplying water to over five million New Jersey residents. It was reported that these reservoirs, built by Newark, Jersey City, the North Jersey District Water Supply Commission, and the State of NJ, may have insufficient amounts of water to provide anticipated water needs resulting mainly from growth outside the region. In addition, a few Highlands communities have their own small reservoirs. Development in urban communities will place heavy stresses on these reservoir supplies. Although most reservoir water from the major reservoirs is exported, limited supplies have been contracted to a few communities in the eastern Highlands.

Question #18. If the water supply is at a deficit because of the growing population outside of the Highlands Region, preventing growth in the Highlands Region will have a minimal effect. What is being recommended to construct new drinking water reservoirs or storage facilities, utilize existing non drinking water reservoirs, require strict water conservation measures on non-Highlands users of water, repair leaking water supply lines, and curtail future growth outside the Highlands region to reduce the demand for water?

Question #19. Since the RMP has been adopted what methods and what indicators have been developed to measure how much water supply has been added in the region and conserved by users outside the region?

The RMP goal is to encourage development into non Preservation areas, inside and outside the Highlands region, and into existing cities and towns or high density developments. Cities and towns are usually served with central water and most new higher density developments require centralized water and sewer facilities. Sewage treatment plants discharge effluent into surface waters providing no groundwater recharge that is characteristic with individual septic systems. The NJ Water Supply Plan relies on the recharge of water from suburban development and does not take into account an increase in withdrawals without any groundwater recharge as envisioned in the RMP. As a result groundwater will be depleted much faster under the desired scenario envisioned in the RMP.

Question #20. What analysis was done to project available water supply if future development as encouraged in the RMP were to take place in towns and cities over the next 20 years?

Question #21. When was the NJ Water Supply Plan last updated, and does its current version make reference to the policies implemented in the RMP or vice versa?

Water and Wastewater Utilities

According to the RMP "There are 42 Highlands Domestic Sewerage Facilities representing a total wastewater treatment capacity of approximately 121.61 MGD and a total discharge flow at the maximum three month rate of 99.98 MGD. Some of these facilities have service areas that extend beyond the Highlands Region so a pro rata allocation based on the relative portion of the service area in and outside of the Highlands Region was used to estimate a Highlands Region treatment capacity of approximately 78.41 MGD and a total discharge flow at the maximum three month rate of 63.11 MGD, or approximately 80 percent of the total treatment capacity. Individual facilities have

discharge flow (at the maximum three month rate) ranging from 42 percent to 192 percent (indicating a deficit) of total treatment capacity, and from a deficit of 0.21 MGD to 2.52 MGD of current available capacity. "This illustrates that most of the Highlands is in a water deficit and by continuing the exportation of water to cities outside the Region or encouraging that growth occur in a manner that would necessitate the use of centralized discharge to surface water systems would be counterproductive to ensuring adequate water supply.

Question #22. It would seem that if it were State and Highlands policy to rob the Highlands of its water for the benefit of those living and conducting business outside the region, which is not the case in Warren County at this time, how much compensation has been made to Highlands communities for the loss of water and the loss of potential economic development that may have been diverted elsewhere? As discussed before, Warren County's water is harvested from the Delaware River after mixing through a 1 to 64 part dilution. For NJ's non-Highlanders to benefit directly from Warren County's pristine drinking water, infrastructure must be built that would harvest and transport the water directly to the water purveyors instead of allowing it to mix with the waters running off from Pennsylvania and New York.

Question #23. There is no infrastructure in place to transport Warren County's water to other regions of the State of New Jersey in a manner that does not degrade its quality. This insufficiency is a fatal flaw in the regulatory structure to effectuate the Act's stated goal of protecting drinking water. What infrastructure needs to be in place to ensure that Warren's water is delivered untainted to the users?

Question #24. What would be the cost to construct such facilities? Until such infrastructure is in place, the Highlands rules/regulations/standards are totally inappropriate and should be suspended in Warren County, and the entire Delaware Watershed area in the Highlands region. There is no measureable or tangible benefit to justify subjecting Warren County to the strict standards established in the Highlands Regional Master Plan and Rules.

Response:

The Highlands Council is charged with implementation of the Highlands Act. The Highlands Council does not have the power, authority, or jurisdiction to change the Highlands Act. This includes the boundaries of the Region and the Preservation Area, which are delineated in C.13:20-7.

HCIS/Comment Number: 54109

Commenter Name: Carol Ann Short, Esq

Organization: New Jersey Builders Association

Municipality: Hamilton

Primary Topic: Water Resources and Utilities (Infrastructure, Supply, Availability, Etc.)

Secondary Topic: Plan Implementation

Comment:

Overall Wastewater Management Planning NJBA urges that all State Planning Areas 1 and 2 in the Region should be within the sewer service areas, as these designations are clearly aligned with overall State planning objectives and goals. Further, the NJBA has advocated to DEP and counties, including Highlands counties, about the unreliable nature of DEPs underlying Geographic Information Systems data used to locate freshwater wetlands, species habitat and stream buffer and then draw the Future Wastewater Service Area maps. Instead of delaying taking action to correct the mapped areas until the plan conformance process or the cumbersome site specific amendment and revision processes, the Council should proactively make the determination to add areas back in to the sewer service areas. The DEP has imposed the requirement that the Council make a "determination of consistency" with the RMP for a Water Quality Management Plan amendment for the entire Highlands Region, not just the Preservation Area. As conformance with the RMP is voluntary for the Planning Area, this general consistency determination by the Council for the entire Planning Area is not in the Act, should be eliminated from the DEP regulations, and DEP should assume responsibility in the Planning Area. Also, the DEP should allow for new or expanded utilities (both for wastewater and water supply) within designated centers and other developed areas throughout the Region, Existing Community Zones, including any Environmentally-Constrained Sub-zones, as the current prohibition is unjustified and only inhibits economic growth. Currently, new or extended utilities in other zones must be reviewed and approved by the Council, despite the lack of standards for doing so. It is also entirely unclear how the wastewater management plan (WMPs) amendment process is being conducted in the Highlands, where notably only very few WMPs have been adopted in the Planning Area. NJBA is concerned about the lack of transparency and public input involved in the process and perplexed about the secrecy when other regions and state agencies are far more open. The Council has not posted any correspondence or reports for public review and understanding and specifically states that "Draft WMPs are not available from the Highlands Council for public review." Further, the draft future wastewater maps for Morris and Hunterdon Counties simply stated: "The Future Wastewater Service Area delineation for those municipalities that have been identified as Highlands Conforming Municipalities on this map are being developed through the Highlands Councils Plan Conformance process cooperatively between the Highlands Council and the municipality." Such statements are not informative or reassuring since the process and respective responsibilities between the DEP and the Council have not been formalized (i.e. there is no "Memorandum of Understanding"). The wastewater management planning process should be more transparent with underlying reports and documents publicly available. Without such critical infrastructure related information available, it is difficult for the business and development communities to confidently invest financial resources in the Region. Development on septic systems must adhere to septic system density requirements that override current zoning standards and require very large lots. The March 2010 Highlands Council publication concerning average lot size per septic system by land use capability zone for conforming municipalities in the Planning Area shows minimum acres per septic system of: o Protection Zone: 19 acres - 43 acres; o Conservation Zone: 7.7 acres – 15.1 acres; and o Existing Community Zone: 7.2 acres – 15.7 acres. The protection of areas from septic effluent should not be based on deep aquifer recharge for septic dilution. Septic density standards dictate very large lots (up to 88 acres) throughout the rest of the Planning Area, which do not meet the needs of residents and contribute significantly to sprawl. Given the very large lots which result from septic density dilution standards in the Highlands area, the Council should require the use of alternate septic system designs. These systems support clustering and low impact development on reasonably sized lots. These alternative systems are equivalent to mini-sewer treatment systems and provide much better environmental

protection than would low density development. Following the successful model of the Pinelands Region, the Council should establish a similar pilot program for alternative design septic systems that have proven effective at removing nitrates.

Response:

Even if a municipality is not conforming in the Planning Area, the State of New Jersey Regulations (N.J.A.C. 7:15-3.4; N.J.A.C. 7:15-3.10; N.J.A.C. 7:15-5.22a (1) and b; N.J.A.C. 7:38-1.1(k)), RMP policies, and Executive Order 114 (2008) require the Highlands Council to review and provide comments and recommendations for WQMP amendments regarding consistency with the Net Water Availability provisions of the RMP.

The WMPs that the Highlands Council is developing are full WMPs and samples can be viewed on the Highlands Council website. Public input can be addressed during the public comment process and to the municipality in question. The WMPs incorporate NJDEP's as well as municipal comments and concerns.

The Goals, Policies and Objectives in the RMP relating to on-site wastewater discharges discuss a variety of mechanisms to encourage smart growth at appropriate densities, including clustering and innovative treatment technologies.

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Comment:

Regulatory Review

The NJBA is concerned about the overall lack of clarity for regulatory reviews and permitting between the DEP and the Council in the Planning Area, which has caused undue burdens in the application process. The Water Supply Management Act was amended in conjunction with the Highlands Act to prohibit the DEP from taking any action (i.e. issuance of water allocation permits) in the Highlands Region unless they are consistent with the Highlands Act and the RMP. See, N.J.S.A. 58:1A-15.1. Per the Highlands Rules, DEP may approve Wastewater Management Plan amendments for the entire Region “only after receiving from the Highlands Council a determination of Consistency with the Regional Master Plan.” See, N.J.A.C. 7:38- The Highlands Council considers much of the Planning Area to be in water deficit (a position that NJBA believes is scientifically flawed). Much of the Highlands Area is designated in the RMP as having insufficient groundwater available for human use. (Fig. 3.15 and 3.28 of RMP.) Until such time as a town adopts a “Water Use and Conservation Management Plan”, any

development application which requires water either from an onsite well or water supply provider, cannot be deemed complete until the Highlands Council has determined adequate water supply. The Council also seeks to preserve water resources by requiring enhanced groundwater recharge. NJBA disagrees with the council's definition for defining "water deficit" areas. Water deficit should be dependent on NJDEP's water allocation for municipalities and water purveyor. We also note that NJDEP already has regulations in place that require groundwater recharge. In all other permit determinations, DEP has no statutory or regulatory authority to require a Highlands consistency review in the Planning Area. Nonetheless, DEP has indicated that even for a simple water main extension permit in the Planning Area, it will require a Highlands Consistency Determination for the water line and the development project to be served, despite approvals being issued prior to the municipality achieving full plan conformance. Members have also noted inconsistency in direction as to when Highlands consistency reviews are required in relation to how far along the municipality is with the Plan Conformance process. The difficulties NJBA members have faced through the permitting process exemplify why rulemaking is necessary to inform the public and the regulated community and also to guide staff at both agencies in permitting matters. Clarity is necessary for the scope of the regulatory review between the DEP and the Council and such review should not exceed the underlying statutory authority. The Council should adopt regulations to properly and uniformly set forth when Highlands consistency reviews are required.

Response:

The Highlands Act provides NJDEP with regulatory authority over what it defines as "major Highlands development" in the Preservation Area (C.13:20-3). All permitting in the Highlands Region is through NJDEP; the Highlands Council does not issue permits. However, the Highlands Act requires coordination between the Highlands Council and NJDEP regarding certain projects within the Region. The RMP includes extensive cross-references to the NJDEP Highlands Water Protection and Planning Act Rules in the project review section in Chapter 6.