

**HIGHLANDS COUNCIL  
NATURAL RESOURCES COMMITTEE  
CHAIR REPORT  
FOR THE OCTOBER 6, 2005 MEETING**

On October 6, 2005 the Natural Resources Committee held a meeting at the Chester Township Municipal Building in Chester, New Jersey. Notice of the meeting was provided to the public on the Highlands Council's web site. Council members present at the meeting were: Tim Dillingham, Tracey Carluccio, Kurt Alstead and Eileen Swan. Council staff members present were: Dante Di Pirro, Tom Borden and Lynn Brass-Smith. Other agency representatives included: Tim Brill (SADC), Kent Hardmeyer (NRCS) and Dave (Ag). The following items were on the agenda: NJDEP's proposed surface water quality standards and IPR, and Department of Agriculture's proposed rules. Committee Chair Tim Dillingham called the meeting to order at 12:45 p.m.

***1. NJDEP Surface Water Quality Rules and IPR (Interested Party Review)***

Recently, the NJDEP proposed a Surface Water Quality rule and an Interested Party Review for stream buffers. Tom Borden gave an overview at today's meeting.

The Surface Water Quality rule proposes to treat all water bodies in the Highlands Preservation Area as if they were designated C-1. The IPR proposes to formally designate certain waterbodies in the Highlands Region as C-1 and put buffers on Planning Area waterbodies (the buffers on Planning Area waterbodies would not invoke anti-degradation requirements).

The rules provide more specificity as to how measurable change (95%) is calculated. Staff is preparing a written analysis for the Committee's first meeting in November. November 19 is the deadline for the submission of comments to the rules.

Committee Member Tracey Carluccio noted that in growth appropriate areas, growth and riparian corridor protection could be accomplished through design standards, best management practices and mitigation. Tim Dillingham and Committee Member Eileen Swam concurred.

Dante Di Pirro asked the Committee to consider the timing of the Master Plan and NJDEP rule adoption in view of overlapping jurisdiction and primacy. Eileen Swan felt that the standards of the Master Plan should have primacy over the Department's standards. Tim Dillingham felt that the rules should not preclude the ability of the Highlands Council to allow appropriate flexibility in appropriate growth areas. Tracey Carluccio added that if the rules should be allowed to achieve environmental goals in highly developed areas through Master Plan primacy and through design.

Committee Member Kurt Alstead pointed out that some landowners may experience hardship as a result of the C-1 classification and that these situations should merit special treatment.

## ***2. New Jersey Department of Agriculture Proposed Rules - N.J.A.C. 2:92 Agricultural Development in the Highlands***

Dante Di Pirro introduced the issue. He explained that the Highlands Act confers upon the Department of Agriculture the authority and responsibility to implement Farm Conservation Plans and Farm Resource Management Plans in the Highlands Region where agricultural development exceeds 3% or 9% impervious cover thresholds respectively. The Department proposes that the standards for resource protection that will be encompassed by these plans should come from the US Department of Agriculture, Natural Resource Conservation Service's New Jersey Field Office Technical Guide (NJ-FOTG). Today, staff will brief the Committee on what is contained in the proposed rule and the Committee will consider the rules and the proposed use of the FOTG.

Lynn Brass-Smith provided an overview of the proposed rules. Development that increases agricultural impervious cover by three percent or more would require the approval of a Farm Conservation Plan by the local soil conservation district, while development that increases agricultural impervious cover by nine percent or more would require the review and approval of a Resource Management Systems Plan by the local soil conservation district and the NJDEP. The Highlands Act requires that the management plans be prepared in accordance with science-based standards, consistent with the goals and purposes of the Act. Under Ag's rule proposal, the standards governing the management plans would be derived from the NRCS FOTG (Field Office Technical Guide).

Lynn Brass-Smith explained that the FOTG provides technical guidance and allows a degree of flexibility that enables the NRCS and landowner the ability to address the landowners needs and management objectives and protect natural resources. The Department of Agriculture feels the FOTG sufficiently addresses the goals and purposes of the Act. In its review, the NJDEP raises concerns related to: the need to increase protection in these areas: forests; water quality and riparian corridors; threatened and endangered habitats. The DEP will be an approving authority for Resource Management Systems Plans (9% IC) and is requesting that specific criteria/thresholds be established as a basis for plan approval.

Dante DiPirro explained that outside of the Highlands, unless the farm is in farmland preservation, the NRCS recommendations are optional. The Highlands Act makes resource protection required for farms in the Highlands. The NRCS has expressed a willingness to work with the Council to ensure that the FOTG will meet the Highlands Act and Regional Master Plan.

Kurt Alstead explained that most farms have soil conservation plans. If a farmer participates in a federal program they must comply. If the standards are going to be stricter then there must be money available to implement the management plans. Tim Dillingham asked if the Department of Agriculture has money available through their department for complying with the standards? Dante DiPirro responded that cost sharing should apply to them.

Kent Hardmeyer (NRCS) explained that farmers compete for funding available in the EQUIP program. Once the farmer is in the program, their funding is designated by acreage to a certain amount. There exist two levels of funding: eight year program and lifetime.

Tim Dillingham asked if the 3% and 9% impervious coverage included existing uses? Lynn Brass-Smith explained that preexisting impervious coverage does not count toward the threshold. The thresholds are for new impervious cover, i.e. cover added after adoption of the Act.

Tracy Carluccio and Tim Dillingham noted that it may be difficult to enforce these plans, especially the gray areas related to the Right to Farm Act and recommended that the enforcing agents be identified.

Tracey Carluccio and Tim Dillingham expressed the need to ensure that the FOTG addresses and adequately protects Highlands Resources. Lynn Brass-Smith explained that the FOTG addresses the resources, but noted that increased specificity would be needed in order to address all Highlands resources.

Kurt Alstead contemplated that if the rules become too onerous farmers will just decide not to apply the standards and shoot for 2.99% impervious coverage (so as not to trigger the requirement to do a Farm Conservation Plan).

Eileen Swan asked staff to provide greater detail on the FOTG and standards contained therein before providing the committee could make comments on the proposed rules. Lynn Brass-Smith will work with Kent Hardmeyer from NRCS and prepare a follow up memo.

Since the period to comment on the rules is set to expire October 15, Dante DiPirro will request that the Department of Agriculture extend the comment period to allow staff to report back to the Natural Resources Committee.

Kurt Alstead questioned item #6 on the handout regarding forest clearing. Discussion developed over the definitions of forest and canopy. Tracey would like to see poor forest management practices addressed. It was agreed that a quality analysis is key, and that staff will come up with a list of potential factors for framework.

Item #4 on the handout addresses traditional uses vs. commercial uses and questions how the FOTG should address the differences. This is an issue that requires further examination.

Kurt Alstead suggested that the issue of animal waste control is an important one and recommended that incentives be available to farmers to provide good control. New York State has addressed this issue. Geoff Knapp (Highlands Council staff) is familiar with this program and will obtain information.

### **3. Public Comment**

*Allison Mitchell*, New Jersey Conservation Foundation. Ms. Mitchell feels that there will be an increasing trend toward more impervious coverages (example, greenhouses) and that the FOTG should address the new type of agriculture and horticulture.

*Sylvia Kovaks*, Warren County Environmental Commission. Ms. Kovaks asked whether greenhouses would be treated as permanent or temporary cover? A shift to agri-businesses on smaller and smaller farms may occur.

*Wilma Frey*, Highlands Coalition. Ms. Frey noted that regenerating forests protect water quality and cautioned that trees should not be unnecessarily cut.

Tim Dillingham adjourned the meeting at 2:45 p.m.