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## **PUBLIC NOTICE**

### **HIGHLANDS COUNCIL**

#### **LEGAL DEPARTMENT**

#### **Notice of Receipt of Petition for Rulemaking**

#### **Petition to Adopt Rules Limiting or Prohibiting Development in Certain Wildfire Hazard Areas;**

#### **Mandating Retrofit of State-of-the-Art Fire Prevention Practices on Existing Development in**

#### **Certain Wildfire Hazard Areas; and Requiring Monitoring and Reporting of Emissions of Air**

#### **Pollutants from Wildfires and Prescribed Burns**

**N.J.A.C. 7:7, 7A, 13, 27, 38, and 50**

Petitioner: Bill Wolfe

**Take notice** that on March 9, 2022, the Highlands Water Protection and Planning Council (Highlands Council) received a petition for rulemaking from Bill Wolfe (Petitioner). The Highlands Council is acknowledging receipt of the petition for rulemaking. As discussed below, the Highlands Council does not and cannot acknowledge the petition on behalf of the Pinelands Commission or the Department of Environmental Protection (DEP), to the extent the petition asks for relief that is within the sole jurisdiction of either entity.

The Petitioner requests that the Highlands Council, DEP, and Pinelands Commission amend the Highlands Regional Master Plan, DEP's regulations, and the Pinelands Comprehensive Management Plan to:

- Ban new development in mapped "extreme" wildfire hazard areas;
- Restrict new development in mapped "very high" and "high" wildfire hazard areas;
- Mandate retrofit of state-of-the-art fire prevention practices on existing development in mapped "extreme," "very high," and "high" wildfire hazard areas;
- Prohibit reconstruction of fire-damaged properties in mapped "extreme," "very high," and "high" wildfire hazard areas; and
- Monitor, quantify, and publicly report in the State's State Implementation Plan (SIP) under the

Federal Clean Air Act all air pollution emissions, including greenhouse gas emissions and fine particulate matter (including very fine particulates less than PM10), and impacts of wildfire and prescribed burns.

In support of the petition, Petitioner cites to the authority of the Highlands Water Protection and Planning Act (N.J.S.A. 13:20-1 et seq.), the Pinelands Protection Act (N.J.S.A. 13:18A-1 et seq.), the Coastal Area Facilities Review Act (N.J.S.A. 13:19-1 et seq.), the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.), the Air Pollution Control Act (N.J.S.A. 26:2C-1 et seq.), the Water Pollution Control Act (N.J.S.A. 58:10A-1 et seq.), the Endangered and Nongame Species Conservation Act (N.J.S.A. 23:2A-1 et seq.), the Flood Hazard Area Control Act (N.J.S.A. 58:16A50 et seq.), and the general powers of DEP (N.J.A.C. 13:1D-1 et seq.). As justification for the need for the requested action, Petitioner cites to the February 10, 2022, testimony of Commissioner Shawn M. LaTourette before the New Jersey Senate Environmental Committee, in which the Commissioner noted the number of wildfires in the State in 2021, and stated that the best available Department science indicates that wildfire risks and impacts are projected to increase due to climate change. Petitioner also refers to the 2019 New Jersey Hazard Mitigation Plan (2019), in particular Section 5.12, Wildfire ([https://nj.gov/njoem/mitigation/pdf/2019/mit2019\\_section5-12\\_Wildfire.pdf](https://nj.gov/njoem/mitigation/pdf/2019/mit2019_section5-12_Wildfire.pdf)), which assesses the risk and likely impact of wildfires in various regions of the State.

According to Petitioner, the State's land use planning and regulatory framework are seriously flawed and are incapable of preventing and reducing wildfire risks and impacts. Consequently, new and more stringent measures are necessary to prevent and reduce such risks and impacts. Petitioner states that he makes his petition "to protect people and property from current and projected wildfire risks and impacts; to protect ecosystems, natural resources, air quality, water quality, wildlife, vegetation, and public health from current and projected risks and impacts of wildfire; to mitigate the risks and impacts of climate change; and to reduce the occurrence and damages from wildfire disasters and the disbursements of [F]ederal and [S]tate taxpayer funded disaster assistance and response programs."

The Pinelands Protection Act gives the Pinelands Council the sole authority to amend the Pinelands Comprehensive Management Plan. N.J.S.A. 13:18A-6. The DEP has the sole authority to amend the various rules implicated by this petition. Accordingly, the Highlands Council does

not acknowledge receipt of the petition to the extent that Petitioner requests amendments to the Pinelands Comprehensive Management Plan and any DEP regulations, or otherwise seeks relief that is beyond the Highlands Council's authority.

This notice and the full text of the petition filed in this matter are available on the Highlands Council website at [www.nj.gov/njhighlands/act/index.html#petitions](http://www.nj.gov/njhighlands/act/index.html#petitions).

In accordance with N.J.A.C. 17:30-4.2, the Highlands Council will subsequently mail to the Petitioner and file with the Office of Administrative Law a notice of action on the petition.