

# MORRIS COUNTY PLANNING BOARD

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July 28, 2017

Margaret Nordstrom, Executive Director  
New Jersey Highlands Council  
100 North Road (Route 513)  
Chester, New Jersey 07930-2322



## RE: Monitoring Program Recommendation Report

Dear Ms. Nordstrom:

We are in receipt of your request for comments on the Monitoring Program Recommendation Report (Baseline Report 2017). We understand the intent of this report is to review milestones and indicators to develop a factual foundation on which potential amendments to the RMP may be made. As there are no specific policies or program changes included in the report at this time, our comments are limited to the following:

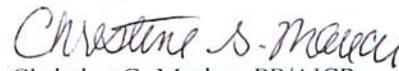
Improved data: A significant number of recommendations focus on the gathering of additional and current data and the maintenance and/or improvement of databases. As much of the data informing the current RMP was collected between 2004 and 2008, this office strongly supports gathering of new information to better inform the RMP and Highlands Council decision making.

Land Use and Economic Development: The report includes recommendations, which support the development of smart growth capability and economic development mapping. Such mapping should be developed in coordination with municipal land use goals and objectives, regardless of a municipality's current conformance status. Development of a regional economic development plan should similarly recognize local land use goals and objectives and, in Morris County, should include input from the Morris County Economic Development Corporation. We also suggest that highway corridors zoned for commercial or industrial uses not be excluded from identification as economic development areas due to lack of sewer infrastructure. These areas may be developed with the use of alternative wastewater treatment facilities, a practice already encouraged in this Report in association with cluster development.

Implementation: As pertains to the recommendation on County Plan Conformance Guidelines, this office appreciates acknowledgement of the NJ County Planning Act and the limits of county review authority. We expect any future county conformance requirements to be significantly reduced.

Thank you for opportunity to comment on this draft of the Highlands Council 2017 Monitoring Program Recommendation Report.

Sincerely,

  
Christine G. Marion, PP/AICP  
Planning Director

cc: Deena Leary, Assistant County Administrator (*via email*)  
Steve Rattner, Chairman, Morris County Planning Board

Reply to highlands act monitoring plan due September 10, 2017 with specifics

I would like to see the word "conservation" changed to "protection" in the entire document. It is clear that the word "conservation" is a code word used by wildlife murderers to hide their true intent of killing and murdering birds/wildlife, reptiles, etc for their own enjoyment of killing so it is frequently used by hunters to hide their true intent. I think it is time that we protect wildlife fully and totally. They have little land left to live on and their full protection is part of the environmental scheme that provides health and benefits for all of us. This sneak attack is not appreciated by the citizens of nj.

Page 13 – using as forests for "resource management" is also another sneak word that means whatever we save is just there until some profiteer can come along and log it to death, butn it to death, chemically treat it to death. There is no protection for our forests at all when you use the words "resource management" for our forests. The whole idea of ht open space public taxation was to save and protect, not to salt it away until some profiteer or evil govt swamp agency comes along and logs it and make s money off it. We see that happening by the njdfgw and their secret pals, who they have allowed to take the lands we all tried to protect and are logging it for some pretension of a bird species,m meanwhile killing our trees that make oxygen for us and killing the hundreds of forest bird species that have made their homes in our forests. The evil mendacity going on in our corrupt nj govt has perverted what is happening to our open space. Non profits are using our open lands to make huge sums for their ownj activities, which activities do not promote the good of all nj citizens, numbering almost 9 million now.

We have fake self appointed arborists who will say anything for money. They are after money and see it in the public lands we all paid to save and protect. The intention of open space was to protect, not to allow privileged friends of njdfgw to log it for their own profitability. Toomany fake arborists will say anything for their billings and their own enrichment. Science is not pure anymore. You can find someone who will say anything you want if you pay them. We know that goes on in corrupt nj every single day.

Wildlife and bird protection is extremely important to all of us. As to deer killing and murder by the psychos who enjoyh murdering wildlife for their joy at killing, there is no sense to that in congested nj at all. No sense at all. We are the most crowded state in this nation. Unfortunely we have a state agency njdfgw creatd in the 1940s which still operates as if nj is exiting in the 1940's. this agency relies on growing animals to be shot to death for license money. So they will always promote growing deer so they can be killed. I find other state agencies afraid to call this as the mess it is. This agency constantly alters habitat to grow deer populations so it can sell license to kill these animals. And this njdfgw is also lying to the nj public sonstantly to promote their vile, violent activites. The lies are plentiful. Deer are monetized victims from this vile agency – new jersey divison fish & wildlife division.

Page 13 – I note use of the words "deer management" when clearly it is deer killing you are after and I find that repugnant, vile, violent and evil. This agency clearly is an advocate of guns, killing, wildlife murder and it is not planning "management" it is planning deer murder so to lie in this use of "deer management " is a lie to the public citizens of nj. Muderous methods of killing are always what is promoted by state agencies and to misuse words to fool the public is demonstrable criminality. You intend deer killing, not compassion to these animals. You intend murderous methods and don't want to use accuracy in your plan. If that is not the case, please set out what compassionate methods you intend to use as part of your "deer management plans

Forest restoration is a failure due to so many effects on the forest, not just one animal We have insects eating up and destroying the forest ". EMERALD ASH BORER, GYPSY MOTH CATERPILLER, OAK WILT,

GOUTY OAK GALL, VERTICILLIUM WILT, SOUTHERN PINE BEETLE, HEMLOCK WOOLY ADELGID, EASTERN PIN LOOPER, BACTERIAL LEAF SCORCH, BEECH BARK DISEASE, SCARLET OAK SAWFLY ARE JUST SOME OF THE VIRUSES AND DISEASES ATTACKING TREES.. , VOLES, MOLES, RABBITS, ACID RAIN, TOXIC CHEMICAL USE, LEAD USE, DIRTY AIR, DIRTY WATER, SOIL IMPACTED BY COMPACTION AND OVERBURNING SO THAT IT IS HARMED. STEALING OF TREES FROM OUR FORESTS IS ALSO RAMPANT. SO THAT THE IMPACTS ON OUR FORESTS ARE MAJOR, AND TO SIMPLY BLAME DEER IS VILE, VIOLENT NONSENSE.

PAGE 24 – All golf courses should be mandated to only use recycled water on their grounds. This state should not allow use of virgin waters for watering golf course grounds. The use of roundup, chlorpyrifos, atrazine, paraquat, 1,3 dichloropropane should not be permitted anywhere in this area of the highlands. In addition there are many others listed here that are bringing about death of life:

[https://utz.org/wp-content/uploads/2015/12/EN\\_UTZ\\_List-of-Banned-PesticidesWatchlist\\_v1.0\\_2015.pdf](https://utz.org/wp-content/uploads/2015/12/EN_UTZ_List-of-Banned-PesticidesWatchlist_v1.0_2015.pdf)

pg 27 goals – we need to include the protection of wildlife in these areas as a desired goal. Senior scientists all over this world have warned about the sixth extinction of wildlife>

## THE EXTINCTION CRISIS

It's frightening but true: Our planet is now in the midst of its sixth mass extinction of plants and animals — the sixth wave of extinctions in the past half-billion years. We're currently experiencing the worst spate of species die-offs since the loss of the dinosaurs 65 million years ago. Although extinction is a natural phenomenon, it occurs at a natural "background" rate of about one to five species per year. Scientists estimate we're now losing species at 1,000 to 10,000 times the background rate, with literally dozens going extinct every day [1]. It could be a scary future indeed, with as many as 30 to 50 percent of all species possibly heading toward extinction by mid-century [2].

Unlike past mass extinctions, caused by events like asteroid strikes, volcanic eruptions, and natural climate shifts, the current crisis is almost entirely caused by *us* — humans. In fact, 99 percent of currently threatened species are at risk from human activities, primarily those driving habitat loss, introduction of exotic species, and **global warming** [3]. Because the rate of change in our biosphere is increasing, and because every species' extinction potentially leads to the extinction of others bound to that species in a complex ecological web, numbers of extinctions are likely to snowball in the coming decades as ecosystems unravel.

Species diversity ensures ecosystem resilience, giving ecological communities the scope they need to withstand stress. Thus while conservationists often justifiably focus their efforts on species-rich ecosystems like rainforests and **coral reefs** — which have a lot to lose — a comprehensive strategy for saving biodiversity must also include habitat types with fewer species, like grasslands, tundra, and polar seas — for which any loss could be irreversibly devastating. And while much concern over extinction focuses on globally lost species, most of biodiversity's benefits take place at a local level, and conserving local populations is the only way to ensure genetic diversity critical for a species' long-term survival.



In the past 500 years, we know of approximately 1,000 species that have gone extinct, from the woodland bison of West Virginia and Arizona's Merriam's elk to the Rocky Mountain grasshopper, **passenger pigeon** and Puerto Rico's Culebra parrot — but this doesn't account for thousands of species that disappeared before scientists had a chance to describe them [4]. Nobody

really knows how many species are in danger of becoming extinct. Noted conservation scientist David Wilcove estimates that there are 14,000 to 35,000 endangered species in the United States, which is 7 to 18 percent of U.S. flora and fauna. The IUCN has assessed roughly 3 percent of described species and identified 16,928 species worldwide as being threatened with extinction, or roughly 38 percent of those assessed. In its latest four-year endangered species assessment, the IUCN reports that the world won't meet a goal of reversing the extinction trend toward species depletion by 2010 [5].

What's clear is that many thousands of species are at risk of disappearing forever in the coming decades.

Pg 32 – agriculture has in fact become a toxic chemical polluter dangerous to all life on earth. The use of toxic chemicals on farms is major. Their use of nitrates is damaging to water so that we need to institute Regulations that prevent the use of such life altering, life damaging chemicals In nj. Farms also have adopted factory farming practices which brutalize animals, giving them short lives of extreme stress and torture and feeding them endless quantities of toxic chemicals to make them grow fast, produce more. Cows are forced to give at least six times the quantity of milk they used to give. Such brutality alters the physical condition of the cows. When we save farms, I see a desired goal of saving farms that use Organic methods of growing. That practice humane methods of growing farm animals and that don't create massive manure piles. That harms all of us less. We should institute that of giving organic farms the lead in saving with tax dollars.

Pg 37 – including hunters murder of wildlife in plans – the use by hunters of lead shot to kill and murder animals is dangerous to all. The proliferation of lead shot means the dead animals is serve up to poor people so they can eat lead shot which remains in the dead bodies of deer and other shot animals.. Hunters give away the animals shot with lead. The fact is lead endangers life with effects on the brain and bodies and red blood cells of those eating animals or plants filled with lead. . Allowing hunters to use lead shot is a dangerous thing to allow. Many shooting ranges in the highlands have had tests done, like in chester, That show plants near their shooting ranges growing with very high dangerous levels of lead in them/ Such lead use affects water quality. As you can see, the lead in flint Michigan has resulted in world wide headlines and fright. Encouragement of hunting in nj means the use of lead shot. That is a good reason not to encourage hunting in nj. This agency is supposed to be about healthfulness, not injury to nj citizens.

Page 38 – as to recommendations, I think more outreach to the people of this region and state instead of coordinating only with state govt agencies (those employees may not even live in nj), with non profits (who have their own aims of gaining money, money, money) . I find effort to contact both those as unworthy, undemocratic, when the people of this state should be what matters most in having a voice in plans. Govt employees have to spout the govt political line so when you visit other agencies, you get a political agenda, which may be corrupt. You are also talking to people who may not even live in nj. Outreach from this agency should be with the PEOPLE, the TAXPAYERS, the CITIZENS of nj.

Page 47 – I find offensive the furthering of wildlife murder by hunting int his plan. I do not believe in any way there has been a mandate from the people of nj for this agency to promote hunting. I do not think the highlands plan was organized with your agency to act as a promoter of guns and murder and killing of wildlife in nj .I think you have been urged by the njdfgw to include this offensive recommendation and believe it should be taken out of this plan. I do not believe this recommendation comes from the people of NJ at all. I find this inclusion of this murderous activity to be completely offensive. Promoton of aims of the NRA is very very controversial. They promote violence and killing. Hunters in nj represent less

than one half of one percent of our nj population of almost 9 million people. For that small group to have sway over 99 and 1/2% of the population who do not hunt is completely offensive. Again, hunters are less than 1/2 of 1% of the NJ population. There is no need to give them this protection on our open space paid for by 100% of the nj population.

This plan uses the word "equitable". Giving such a small group so much control over 99% of the nj populatin is out of order. That is not "equitable" at all and it is offensive.

Pgg 48 Promoting farm labor housing – This is also an offensive idea. The fact is we import slaves from foreign countries to come her to work on farms so that cheaper wages can be paid by ag profiteers. The fact is ag profiteers don't want to pay decent wages to farm workers so they have been advocating this slave labor for years, isince the civil war. This is about labor costs. When we bring in foreign slave labor, the general public has to pay for their medical costs, education costs, food costs, because that ag profiteer doesn't want to pay for it. I am not in faor of the general public paying for farm labor housing at all because it has created a huge financial burden on the general public. We don't need farm labor housing. What we need are decent wages paid to American citizens to do this work. It is honorable work. It should be done by americans. This promotioin of farm labor housing is another polticially offensive program THAT SHOULD NOT BE INCLUDED IN THE HIGHLAND ACT. THE INTENT OF THIS HIGHLAND ACT WAS NEVER TO PROMOTED FOREIGN SLAVE LABOR. AND THAT IS WHAT THIS FARM LABOR HOUSING IS. THEY DON'T HIRE OUR TEENAGERS ANYMORE. THESE POFITEERS WANT TO HIRE FOREIGN SLAVE LABOR AFRAID TO INSIST ON DECENT LABOR LAWS. THIS PROGRAM SHOULD NEVER BE ADVOCATED BY THIS HIGHLAND AGENCY.

HOUSING FOR AMERICAN CITIZENS IS ONE THING TO SUPPORT. HOUSING FOR SLAVE LABOR FROM FOEIGN COUNTRIES IS QUITE ANOTHER MATTTER. IT NEEDS TO BE CHANGED. ITS ABOUT AG PROFITEERS NOT WANTNG TO PAY THE WAGES WHICH CAN ATTRACT AMERICAN WORKERS. ITS TIME TO PUT AMERICAN WORKERS FIRST AND TO INSIST ON DECENT LIVING WAGES BEING PAID. THESE AG PROFITEERS WHO BRING IN FOREIGN SLAVE LABOR TURN ALL THE COSTS OF THAT LABOR OVER TO GENERAL TAXPAYERS TO PAY FOR INCLUDING MEDICAL COSTS, WHICH AG PROFITEERS DO NOT PAY, EDUCATION COSTS, AND FOOD COSTS. GENERAL TAXPAYERS ARE BEING FORCED TO PAY FOR THAT FOR THE AG PROFITEERS "FARM LABOR".

PG 56- As to innovation, farm products can be grown successfully in empty factories such as in Newark NJ is presently done. They can be grown on rooftops. They can be grown on corporate campuses, They can be grown on mall rooftops. It is time to think of growing farm prodcuts in other locations than in vast farm sites. That is true innovation.

Your recomemndations seem to include higher charges for your pgorams ,and this state is already the highest taxed, highest cost of living state in this nation. How will those increased charges affect people having to move out of NJ because they cant afford tolive here anymore. We need to stop the increasing costs of these programs. Find a way to do it withijn the budget of what you present have. We simply cannot constantlky increase the costs of living in NJ, which is already causing mas egressotu of this state

Pg 57 – the properties in highlands have been enhanced by these regulations. There is no reason that increased amounts be paid to any sellers by this agency.

Pg 59 – the word “stewardship” seems to be a word used for spurious reasons these days. We see it quoted when injury to nature is proposed and that these “stewards” are the only ones who care about the land, when that is not accurate. When stewards advocate cutting down and logging, it is clear that they are not cognizant of the value of trees as homes for wildlife, erosion experts, shade experts, beautifiers of landscape. We need to protect trees to the utmost despite the mendacity of the alleged “stewards”. Some of these “stewards” are in fact malicious in their attacks on nature. Protection is key.

Pg 62 – Recommendations \_ I am totally opposed to adding a section to the Regional Master Plan to “preserve hunting” on publicly owned land. This appears to be a backdoor secret approach to add something to the Regional Master Plan that was never part of the plan, and that seems to be introduced maliciously without full public notice. There is no reason to add this to this Regional Master Plan. Hunting is a vile, violent, mendacious attack on nature. Each town can decide on their own and their own population should have the right to make these decisions. THIS IS NOT THE PLACE TO MAKE DECISIONS FOR THIS ENTIRE REGION. IT IS SNEAKY. IT IS DUPLICITIOUS. AND THE ADDITION OF IT IS SNEAKILY DONE. THERE IS NO CALL FROM THE GENERAL PUBLIC TO INCLUDE THIS CHANGE IN THE REGIONAL MASTER PLAN. AND YOU ARE OVERSTEPPING THE INTENTION OF THE HIGHLANDS ACT.

As to the appendix a – list of indicators considered

The public has no access to any information on deer patterns or deer populations or deer browsing zones and none was included in this report so they appear to be a figment of the imagination of someone. Who could that be? Can you identify please the supplier and the information itself.

I also see listed in this on page I information on number and species of birds, which could be inaccurate. Is this from nj Audubon logging interests and submitted in furtherance of their logging ambitions? Please advise

As to the fiscal analysis prepared by a California firm completely unfamiliar with nj economy and this state, why would you go so far afield to employ a California company to make estimates and assessments on this state, when they have no familiarity with this state. Seems like a poor choice imo. Is it to utilize that unfamiliarity?

Pg 118 in fiscal analysis – charts on home sales show values up to 2012 which is 5 years ago, which is valueless in 2017. The information gathered is useless in 2017. Why get 5 year old information and pay for that?

As to pages and pages per a-117 with all the towns in nj and their tax rates, paying for all this information gathering which has absolutely little to do with this highlands region seems to be egregious overdoing.

Pg d-13 introduced as information for the public information from 2004 and 2005 as if that was relevant in 2017. This contractor was producing old wasteful information not relevant for any future plan. What a waste this report was.



TOWNSHIP OF WEST MILFORD  
Office of the Township Clerk  
1480 Union Valley Road  
West Milford, New Jersey 07480  
www.westmilford.org



Antoinette Battaglia  
Registered Municipal Clerk

973-728-7000  
FAX 973-728-2704

August 17, 2017

Margaret Nordstrom, Executive Director  
New Jersey Highlands Council  
100 North Road  
Chester, NJ 07930

Subject: **Monitoring Program Recommendation Report (MPRR) Comments**

Dear Ms. Nordstrom:

The Mayor and Council of the Township of West Milford have directed that the enclosed letter be mailed to your attention. I respectfully request that you distribute a copy (enclosed) to each of the following:

Chairman Jim Rilee  
Vice Chairman Kurt Alstede  
Highlands Council members Carluccio, Dougherty, Dressler, Francis, Holtaway,  
James, Richko, Sebetch, Tfrank, Visioli, Vohden and Walton

Thank you.

Very truly yours,

Judy Kehr  
Office of the Township Clerk

Enc.

# Township of West Milford



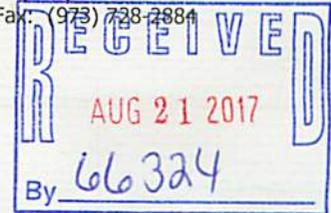
Office of the Township Administrator

1480 Union Valley Road  
West Milford, NJ 07480-1303

(973) 728-2710

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August 16, 2017



New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road  
Chester, NJ 07930

**RE: MONITORING PROGRAM RECOMMENDATION REPORT (MPRR)  
COMMENTS**

To Whom It May Concern:

The Highlands Council has been engaged in a multiple year process of reviewing the Highlands Regional Master Plan (RMP). This has resulted in the promulgation of a *Monitoring Program Recommendation Report (MPRR)* which has a comment period until September 10, 2017. The elected officials of the Township of West Milford, County of Passaic, State of New Jersey have general comments to submit and share with the legislature on behalf of their constituents. To place these comments in perspective, it should be noted that West Milford is the largest municipality in the State which is located entirely in the preservation zone.

There are 565 municipalities in the State of New Jersey. Of those 565 municipalities, 5 are located entirely in the Highlands Preservation Area. Those are Bloomsbury Borough, Califon Borough, Glen Gardner Borough, Ringwood Borough and West Milford Township. Furthermore, of the 565 municipalities in the State, 300 receive their water from the Highlands Area. In effect, 70% of the population of the State of New Jersey receives water from the Highlands Area. Primarily, the 5 preservation zone municipalities protect that water supply.

The brakes must be applied before any further recommendations, restrictions, rules and requirements are adopted. When the Highlands Council first began the process of reviewing the RMP, a commitment was made that West Milford would be included in the conversation and process. No such inclusion has occurred. A significant document has been created with deference to many State and Federal agencies. But, quite simply stated, none of these "experts" have communicated in the most

basic way with the State residents who serve as the stewards of the water which supplies over 7 million people, who pay the lion's share of the cost for preservation and who struggle to comply with oppressive rules & regulations currently in place.

West Milford submits the following comments with regard to the MPRR promulgated by the Highlands Council on July 11, 2017:

1. Before one new rule or regulation is imposed or recommended for any municipality in the preservation zone, each of those five municipalities should be provided an opportunity to have their voices heard. This should be done in an informal, public venue where the legislative and enforcement officials involved in the Highlands Act are charged with hearing, from the source, the advantages and disadvantages that have been realized during the past ten years.
2. State and legislative officials must recognize that any land acquisition results in the taking of these lands off the tax rolls for the subject municipality. The Highlands Act places significant emphasis on land acquisition. Funding has been given to non-profit and/or government agencies for the purposes of acquisition. These land owners cease to pay property taxes on those lands and the municipality has no mechanism to substitute for those lost revenues other than taxing the already over-burdened taxpayers in these communities. In West Milford, approximately 25% of the landowners pay for 100% of the land in property taxes. The State of New Jersey must find a sustainable mechanism to compensate host municipalities for land acquisition initiatives and the resulting loss of taxes.
3. Municipalities located entirely in the preservation zone cannot realize much, if any, development because of the stringent development restrictions that limit any growth in these zones. The State legislature should appropriate sustainable funding to compensate these municipalities for this lost revenue. Alternately, State officials should identify mechanisms to minimize the restrictive rules so that any development that could be realized is realized. For example, public schools in the preservation zone have fewer restrictions that are not enjoyed by other government agencies, businesses and residential property owners.
4. Under the current rules, municipal government especially in the preservation zone, is charged with complying with increasingly more stringent rules and regulations that require the investment of resources (money, manpower, time and equipment). There is no funding in place for these expenses and, if a municipality does not comply despite the fact that it is fiscally impossible to do so, the DEP can impose fines of up to \$5,000 per day. The powers that be

must recognize that municipal government cannot sustain these costs without any means to offset them. Funding must be forthcoming to offset these costs.

5. West Milford is an 80-plus square mile municipality with over 190 miles of roads located entirely in the preservation zone. This equates to over 50,000 acres of land with approximately 2/3rds (or 30,000 acres) identified as either open space or watershed lands. Municipal services such as police, emergency services, search & rescue, road maintenance, zoning & health enforcement, etc. must be provided throughout the municipality despite the fact that approximately 25% of the landowners fund the cost of these services which are provided to 100% of the property owners in West Milford. The State must identify and provide funding to offset this inequity.
6. The MPRR identifies the need for forest resource management and sustainability. In West Milford much of the open space and watershed land experienced significant deforestation as a result of Super Storm Sandy. In addition to the negative impact to the environment, this has left an aesthetic blight on West Milford. Many of these lands are owned by the State, were either funded by the State for acquisition to non-profit groups or are owned by the Newark Watershed who enjoys significant assessment and conservation concessions because of the actions of the State. Nonetheless, no effort has been made by these same State officials to have these properties restored.
7. The MPRR recommends that the State identify and fund dedicated sources of funding for land preservation and stewardship. This has been a recurring comment in all Highlands Act reports and even in the legislation itself. Nonetheless, this funding has not been identified or appropriated. This continued failure to provide the funding coupled with the demand to abide by the rules & regulations and the imposition of costly fines make the loss of funding a triple threat to preservation zone municipalities.
8. Throughout the MPRR, the Highlands Council seeks to engage in even more intrusive efforts to coordinate with State and Federal agencies to the detriment of the local governments in the preservation zone. Without first partnering with these municipalities, this approach is divisive and counterproductive.
9. The MPRR recommends that the State undertake a lake management study to focus on Lake Hopatcong and Greenwood Lake. Greenwood Lake is partially located in West Milford New Jersey. It is also located in New York State. West Milford residents and elected officials have grave concerns about such a study that, in all likelihood based on past experience, result in West Milford being subject to restrictions, rules and regulations that we cannot sustain because half of that lake is not within our jurisdiction nor is it in the jurisdiction of New Jersey State agencies.

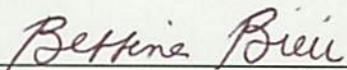
10. The MPRR delineates the goals of the Highlands Act. While this all sounds wonderful to all residents and primarily reflects the ideals of the majority of West Milford residents, the reality is that it takes money to achieve each and every one of these goals. Currently this burden is being borne by the taxpaying residents of West Milford. A lone municipality cannot continue to sustain such a burden and sources of funding must be dedicated to meet these goals.
11. It is important to recognize that taxpayers in the preservation zone protect the water supply to over 7 million residents in New Jersey. This means that whenever one of these 7 million New Jersey residents turns the faucet to pour a glass of water, take a bath, wash the dishes, run a load of laundry or even water the lawn that water is readily available to them at no cost because of the stewardship provided by the small percentage of New Jersey citizens living in the Highlands preservation zone.

While we could submit comments to each and every component of the 215-page MPRR document, that level of specificity could be counterproductive for the following reasons:

- Each and every section of the MPRR begs for comments about the funding and lack thereof.
- Comments get lost when State officials who produce a cumbersome bureaucratic document are guiding the conversation by way of having volumes of commentary impede the dialogue just as the production of the unwieldy document itself serves as an impediment to constructive understanding of the core concerns.
- The proposed remedy to many of the findings of the report constitute intrusive regulations on the very sector of the State who cannot grapple with the burdensome regulations that currently exist never mind seeking to mandate more rules.
- The State continuously insists that participation in these practices is voluntarily. This, in fact, is a fallacy. If the State of New Jersey Department of Environmental Protection (NJDEP) engages in a process of issuing fines for non-compliance (which they do), these are not optional rules. The “option” is to pay to enact and abide by these expensive, labor-intensive, and cumbersome rules OR pay a fine which can amount to up to \$5,000 per day in some circumstances for each “infraction”. As such, to label participation as optional is disingenuous to the residents of New Jersey and the taxpayers who are saddled with the costs.

We, the elected officials of the Township of West Milford, submit this letter, not only as comments on the Highlands Council's MPRR, but also as a plea on behalf of our constituents. We implore the Governor, the members of the State Senate, the members of the State Assembly, the appointees to the Highlands Council, the staff at the Highlands Council and the staff at the NJDEP to hear our voices. It appears that we are Samson facing Goliath and that is not a good relationship to foster when we are all supposed to be working to achieve the same goals. We are entreating you to hear our voices, learn from our "on the ground" experience and respect our involvement in the process. This small community of approximately 26,000 serves as stewards of the water that serves over 70% of the residents of New Jersey. Recognizing our voices ultimately protects the entire state.

Respectfully submitted,



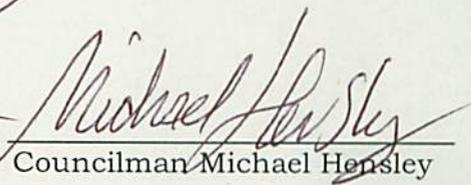
Mayor Bettina Bieri



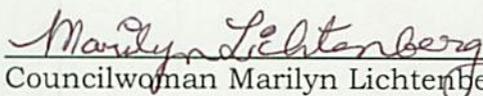
Council President Lou Signorino



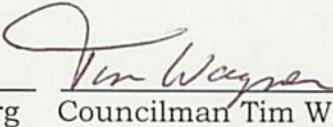
Councilwoman Ada Erik



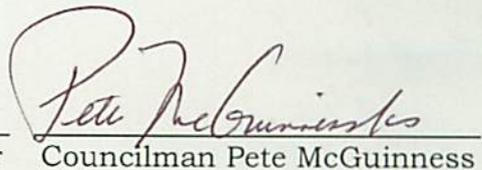
Councilman Michael Hensley



Councilwoman Marilyn Lichtenberg



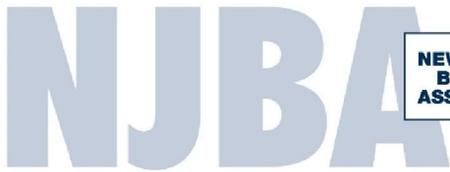
Councilman Tim Wagner



Councilman Pete McGuinness

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- c: Executive Director Margaret Nordstrom
- Chairman Jim Rilee
- Vice Chairman Kurt Alstede
- Highlands Council members Carluccio, Dougherty, Dressler, Francis, Holtaway, James, Richko, Sebatch, Tfrank, Visioli, Vohden, Walton
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- Assemblywoman Betty Lou De Croce
- Assemblyman Jay Webber
- Members of the State Senate
- Members of the State Assembly
- Administrator, Bloomsbury Borough
- Administrator, Califon Borough
- Administrator, Glen Gardner Borough
- Administrator, Ringwood Borough



www.njba.org  
 www.abconvention.com  
 www.foundationforhousing.com

February 19, 2015

Highlands Council  
 Attn: 2014 RMP Monitoring Program  
 100 North Road (Route 513)  
 Chester, New Jersey 07930

**RE: 2014-2015 Highlands Regional Master Plan – Monitoring Program Comments**

To Whom It May Concern:

On behalf of the state association and our local affiliates, the Metropolitan Builders and Remodelers (Metro), Builders and Remodelers Association of Northern New Jersey (BRANNJ), the New Jersey Builders Association (NJBA) submits the following comments for consideration as part of the Council’s “Monitoring Program”.

BRANNJ members represent the Highlands counties of Bergen, Passaic and Sussex, while Metro represents the Highlands counties of Hunterdon, Morris, Somerset and Warren. The NJBA and its local affiliates are professional trade associations comprised of builders, remodelers, material suppliers, attorneys, engineers and other technical consultants, lending institutions, subcontractors and others involved in housing and building-related activities. The NJBA advocates for members’ interests before various state agencies, the Legislature and the Judiciary. NJBA members have been actively involved from the early stages of discussion on the Highlands Water Protection and Planning Act (Act), as well as subsequent enactment and implementation of the Act and the Highlands Regional Master Plan (RMP).

The NJBA appreciates the ongoing communications, interaction and outreach with Highlands Council staff over the past several years, as such dialogue furthers the interests of our members. Nevertheless, the NJBA outlines substantive and procedural issues with the Council’s interpretation of the underlying Highlands Act and in turn implementation of the RMP. We believe the Council’s actions, through the implementation of the RMP, have failed to fulfill all the statutory mandates of the Act, which affect not only NJBA members but also the residents and businesses of the Region. The RMP overall is a compilation of environmentally driven goals and does not adequately address or support development and economic growth in the Region. Revisions to the RMP should focus upon a more balanced approach that would help the Region to fully realize its economic potential rather than deterring industries and businesses from establishing themselves here. NJBA views the required revision and update process as an

**New Jersey Builders Association Officers**

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**opportunity** for a thorough re-examination of the current RMP as well as the plan conformance and implementation processes.

The following outlines areas of concern based upon NJBA members' experience with the implementation of the RMP over the past six years. We reiterate comments made when the RMP was originally drafted. The RMP should be condensed and simplified so it is a more user friendly, understandable document. We urge the Council to seriously consider the comments presented below and include them as priorities for the anticipated update process. Further, we recognize that some of the concerns and recommendations provided are beyond the purview of the Council and would in fact require legislative action to amend the Highlands Act. NJBA has determined to include them in this commentary in the event opportunities to have legislative discussions do arise.

**A. Monitoring Program in lieu of Statutory Revision and Update Process**

Section 8 of the Highlands Act requires that the "Highlands regional master plan shall be periodically revised and updated **at least once every six years**, after public hearings." (Emphasis added.) First, the Association notes that the Council is delayed in the revision process itself, as the RMP update process should have been completed in **2014** given the 2008 adoption of the RMP. To our disappointment, the Council determined an alternative approach establishing the projected 6-month "RMP Monitoring Program" to gather public input and collect data on the Region from consultants, followed by issuing a draft "Monitoring Program Recommendation Report" for public review and comment.

NJBA's concerns with this approach are significant due to the Council's public statements that the Monitoring Program is "***not intended to amend*** the RMP, but rather develop factual foundation for ***potential*** amendments to the current or future iterations of the RMP". Such non-committal language raises serious doubts as to whether the process itself is, in reality, meaningless and the public's efforts to participate in the process for changes are futile. Further, we are concerned that this process, without clear timeframes to move forward expeditiously to address any issues, will only continue to hamper the economic growth potential of the Region and efforts to compensate land owners.

**B. Distinguishing Planning Area vs Preservation Area**

In enacting the Highlands Act, the Legislature determined that "that it is in the public interest of all the citizens of the State of New Jersey to enact legislation setting forth a comprehensive approach to the protection of the water and other natural resources of the New Jersey Highlands." (See Section 2.) While the Highlands Act has been touted as an environmentally oriented legislative initiative, the Legislature also deliberately incorporated language to emphasize the importance of economic growth and development to the Region. Specifically, while the Act calls for a new "comprehensive approach", the Act also recognizes that:

"it is appropriate to encourage in certain areas of the New Jersey Highlands, 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, in or adjacent to areas already

utilized for such purposes, and to discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way” (See Section 2.)

Consequently, the Act created two distinct areas—the **Preservation Area** and the **Planning Area**. The **Preservation Area** would be “subjected to stringent water and natural resource protection standards, policies, planning and regulation” that were reinforced by the New Jersey Department of Environmental Protection’s adoption of “stringent standards governing major development” in that area. In contrast, the **Planning Area** was distinguished to accommodate development, redevelopment and economic growth for the Highlands Region. (See Section 2.) Further, the Legislature gives direction to the Council to essentially balance the interests of environmental protection with economic growth and development:

“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 ... while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region and the entire State.” (See Section 2.)

Despite the intent of the Act to distinguish the Planning Area from the Preservation Area, the Council’s “blind to the line” policy approach from the initial stages of developing the structure of and then implementing the RMP actually made most of the Planning Area a *de facto* extension of the Preservation Area. As discussed below, the RMP and regulatory review standards should be revised to encourage development and growth in appropriate sections of the Planning Area, as envisioned by the Act.

Further, when the Act was proposed and enacted, it presumed that the Preservation Area is a remote undeveloped area and established specific standards for the NJDEP’s rules to preserve intact its “undeveloped” nature. However, these standards do not reflect reality in that some areas and sites are in fact fully developed and already contain public water and sewer utilities and major transportation corridors, which require considerable investment in infrastructure systems. The existence of these developed areas in the Preservation Area must be recognized and different standards should be applied in order to attract private economic investment and generate new revenue by taxation. Along with counties and municipalities, the Council should develop a formal means to identify and designate them as municipalities, villages, transportation corridors, or specialized “nodes” for utility infrastructure and public transit stations. Municipalities and counties need to develop balanced plans for these designated areas to ensure economic viability, allow infill development of vacant parcels, and allow for reasonable redevelopment.

In addition, prior to the Act, utility systems that serve the Planning Area, were located in what is now the Preservation Area. These systems were planned and financed with bonds to serve a certain area and population. Existing public infrastructure should be fully utilized and allowed to extend and expand to serve designated centers, specialized nodes and the Planning Area in accordance with the plans used when they were bonded and constructed. Similarly, new or

extended utility (i.e. sewer and water) infrastructure is permitted only in the Existing Community Zone, not including the environmentally – constrained subzone thereof. This restricts new utility infrastructure to the total 16,000 acres of undeveloped land in the Existing Community Zone. In all other zones within the Highlands, new or extended utility infrastructure, including community on-site treatment facilities, are permitted only where approved by the Council. However, no standards are stated for the Council’s review and approval.

### **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.

#### 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.

During Plan conformance, municipalities may delineate Highlands Centers in their municipalities, which is subject to Council approval. The Council describes a Highlands Center as:

“an area where development and redevelopment is planned and encouraged. Highlands Centers are intended to support balance in the Highlands Region by providing for sustainable economic growth while protecting critical natural and cultural resources. The designation of a Highlands Center triggers a planning process that is specific to a geographic area. The process begins by identifying the development goals for the area, along with the desired level and intensity of development. Highlands Center planning is community-driven and flexible, resulting in a development plan tailored for a neighborhood or area.” (See Council website:

<http://www.highlands.state.nj.us/njhighlands/planconformance/#11>)

The NJBA strongly supports the availability of center designation as it is an indicator that development activity would be welcome. There are eleven municipalities with *approved* centers in the Highlands Region: **Alpha, Phillipsburg, Washington (Morris County), Hackettstown, Wharton, Hopatcong, Byram, Oxford, Lopatcong, Randolph, and Pohatcong**. Most recently Mahwah’s petition to designate two centers was approved by the Council. However, none of the municipalities have approved zoning amendments in place to fully **implement** the center approval to allow development, particularly in the Existing Community Zone. In order to ensure actual economic growth and development opportunities are realized, NJBA strongly recommends that deadlines be imposed to ensure municipalities move forward with amending their zoning for these centers.

### 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.

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.

#### Affordable Housing

With regard to affordable housing needs, the NJBA recognizes the current state of flux with the ongoing Council on Affordable Housing litigation and the Third Round fair share allocations. However, there are executive and statutory mandates and guiding documents in place for addressing affordable housing in the Highlands Region: the Fair Housing Act (FHA) (amended by P.L. 2008, Chapter 46), Executive Order No. 114, the Memorandum of Understanding (MOU) between the Council and the Council on Affordable Housing (COAH) (October 29, 2008), and the Council’s Resolution 2008-41 (adopted October 30, 2008).

The amended FHA requires the Council to “identify and coordinate regional affordable housing opportunities in cooperation with municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation” and identify opportunities for affordable

housing, including the requirement for a 20 percent set aside in all residential developments in the Highlands. Executive Order No. 114 establishes major procedural requirements for municipalities, the Council, and COAH for preparing and reviewing affordable housing plans for Highlands municipalities. Executive Order No. 114 reiterates the FHA and also directs the Council to “identify additional sites, opportunities, and funding sources for 100 percent affordable housing developments...” (See paragraph 1.d.). Similarly, the MOU reaffirms and implements the obligations placed on the Council by the amended FHA and Executive Order No. 114. Pursuant to Highlands Resolution 2008-41, the Council resolved itself to develop and adopt affordable housing guidelines, after public hearing and public comment, in accordance with the amended FHA and Executive Order No. 114. (See Resolution 2008-41.)

Although clear responsibilities have been placed on the Council, the NJBA views that the Council has failed to complete the specific task of proactively identifying opportunities and appropriate sites for affordable housing, particularly through the RMP conformance process. NJBA strongly recommends that, as part of the “monitoring process”, the Council should evaluate the extent of zoning for affordable housing as well as the actual construction of same within the Highlands region since the Highlands Act was passed. Regarding the Council’s promised task of identifying appropriate sites for affordable housing, the Council should take the following recommended steps:

1. It should prepare an inventory of sites zoned for affordable housing pursuant to court orders or COAH approval.
2. It should promulgate a policy, adopted after rule-making, which recognizes the court/COAH designation of these sites, unless it is demonstrated that development cannot be accomplished in conformance with statewide DEP regulations or would threaten regional water quality or supply.

### 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.

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.

#### 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.

#### **D. Regional Master Plan – Implementation and Conformance**

The NJBA has significant concerns with the Plan Conformance process, many of which have already been discussed extensively with the Council staff and made known to the Council.

##### Lack of Rule-making Procedures

The NJBA views the Highlands RMP as a substantial regulatory program that directly impacts property rights. Landowners, the general public, municipalities, and those seeking to invest in an area should be able to depend on an official, consistent and publicly vetted regulatory process to inform such decision-making. However, without any statutory authority, the Highlands Council has determined from the onset to take all formal actions without adopting rules and regulations in accordance with the Administrative Procedures Act (APA) and case law. The posted guidance documents and policies posted on the Council's website are subject to change at any time, including actions that may make significant changes to the RMP.

NJBA and others have brought the need for the adoption of rules and regulations to the attention of the Council and its staff. NJBA has in fact urged the Council to stop taking any official action until it operates within the standards of the APA. However, the Council has disregarded such advice and has proceeded with the county and municipal plan conformance without utilizing a formal administrative process (among other actions).

In discussing this issue with the Council staff, the Appellate Division decision was referenced as highlighting how the Highlands Act was sufficiently specific in its regulatory requirements that satisfied, essentially, rulemaking standards. However, NJBA highlights that more recent Appellate Division decisions have questioned and limited the scope of the New Jersey Department of Environmental Protection (DEP)'s guidance documents in its Waiver and Stormwater regulatory programs. The courts noted that these guidance documents had been developed and used by staff and the regulated community *without* having been adopted under the APA's formal public comment framework. The impact of these decisions is significant given that, in the case of the Stormwater Non-Structural Point System, the regulated community has already invested significant monies and has relied upon this tool to ensure regulatory compliance, and now is left in a state of uncertainty.

At its January 22, 2015 meeting, the Council determined to use the formal rulemaking for the pending Land Owner Equity and Land Preservation program. Although the rulemaking approach is pending approval of the Governor's Office, the NJBA nevertheless is very pleased that the Council supports the rulemaking approach for such an important endeavor to compensate landowners. Overall, the NJBA views the lack of rulemaking to be a significant public policy and regulatory issue that merits amending the Highlands Act to require the Highlands Council to adopt rules and regulations pursuant to the APA. Consistent with the rule making procedures utilized by other State agencies, the Council should propose for public comment and then formally adopt rules and regulations governing how it would make determinations. Guidance

documents should be used only to explain rules and regulations. Further, in light of the current monitoring program and anticipated updating of the RMP, the Council should establish procedures that conform to the APA for amending the RMP.

#### Regional Master Plan Conformance

Per the Act, municipal and county conformance to the RMP is voluntary in the Planning Area. However, the result is that many municipalities have petitioned to enter the plan conformance process and been approved by the Council, but then have failed to move forward and complete the plan conformance process. As of January 12, 2015, 65 municipalities and counties have initiated the plan conformance process by petitioning the Council as early as 2009, 47 have been approved by the Council as early as 2010 to proceed with the implementation process, but only High Bridge Borough, Vernon Township and Chester Township have actually completed the plan conformance requirements, including the required Model Ordinance. (See: [http://www.highlands.state.nj.us/njhighlands/planconformance/implementation\\_tracking\\_sheet.pdf](http://www.highlands.state.nj.us/njhighlands/planconformance/implementation_tracking_sheet.pdf)) The majority of municipalities have not adopted the “Planning Area Petition Ordinance”, nor the other mandatory elements and Highlands Ordinance. There have been long delays between Council conformance approval and adoption of the implementing ordinances. Notably, the initial surge of municipal petitions for plan conformance was clearly tied to the affordable housing protections laid out in Executive Order #114 under Governor Corzine. (See “Executive Order #114” discussion below.) The RMP should not be used as a means for municipalities to avoid their affordable housing obligations. The conformance should truly be voluntary and there should not be any “incentive” to goad municipalities to opt in.

There are no mechanisms, including deadlines, currently utilized by the Council to “force” a municipality or county to complete the conformance process. As a result, residents and those who want to conduct business in these areas are caught in the regulatory limbo as a final decision to achieve full conformance would impose severe restrictions on growth potential. In order to provide certainty, predictability and long-term planning, the NJBA strongly encourages the Council to enforce deadlines to require a decision to either withdraw from or proceed with Plan Conformance and its required actions. Further, this problem of “no end-in sight” for the plan conformance process is further compounded as municipalities that start the plan conformance process may drop out, but then have a change of position and initiate the process again. That contributes to a continual state of uncertainty at the expense of constituents.

The NJBA is also of the opinion that municipal and county plan conformance in the Preservation Area is an unnecessary and expensive requirement since all development in the Preservation Area has to obtain a Highlands permit from the DEP.

#### Model Highlands Land Use Ordinance

Upon adoption of the required Model Highlands Land Use Ordinance (Model Ordinance), land in the Highlands Planning Area will be severely restricted and may be subject to standard-less review and approval by the Highlands Council prior to any local Board review or approval. The Model Ordinance requires municipalities to adopt and enforce the Highlands resource and special protection area maps and policies as part of its zoning ordinance. Development potential would be significantly curtailed due to broadly mapped resources, such as forest resources,

critical wildlife habitat that may cover all undeveloped acreage, Highlands open waters, riparian resources, steep slopes, as well as policies concerning water conservation and deficit mitigation, development on agricultural land and use of groundwater resources. Sewer and water service is restricted to the Existing Community Zone unless the Highlands Council allows it in another zone.

There is no process for a property owner to prove that their site does not contain the mapped Highlands resources and change landscape designations, so the ordinance designation is final. Highlands Council approval is required before a development application can be deemed complete, despite the lack of statutory authority or articulated standards adopted pursuant to the APA. Also, certain criteria in the ordinance are extremely ambiguous and other standards violate the Municipal Land Use Law by dictating different criteria for variances and site plan exceptions. The Model Ordinance also attempts to have municipalities delegate the design and approval of septic and water systems to planning boards, despite the fact that this is clearly pre-empted by DEP. The Highlands Council should rescind the Model Ordinance and replace it with a workable and simple ordinance which meets all Municipal Land Use Law and other legal requirements.

#### Checklist Ordinance

The 95-page Model Ordinance has been acknowledged by the Highlands Council staff as unworkable for conforming municipalities. Per the January 12, 2015 “Municipal Plan Conformance Implementation Tracking Sheet”, only **six** municipalities out of 47 municipalities with conformance approval have the mandatory Model Ordinance in place that has been deemed consistent by the Council. Instead of amending the Model Ordinance, the Council has developed the “Checklist Ordinance” as an alternative ordinance for a municipality to satisfy the required elements of the Plan Conformance process. The Council defends its use of the Checklist Ordinance as an accepted tool under the Municipal Land Use Law and an “interim” measure until the municipality adopts the Land Use Ordinance. The effect of the Checklist Ordinance is two-fold: (1) authorizes the Council’s review of applications in Planning Area municipalities that have not yet fully conformed to the RMP; and (2) subsequently, development applications would be deemed incomplete until zoning is enacted to conform to the RMP. While the Council has stated that its use would be limited to municipalities with limited development that satisfy specific criteria, the Checklist Ordinance should not be used as it is contrary to the Highlands Act, which authorizes such review by the Council in only the Preservation Area, and violates the Municipal Land Use Law’s prohibition against development moratoria.

Further, although the Council discusses the municipalities seeking its use during the overall Council meetings and makes available some materials underlying the basis of its decision-making, NJBA believes that this approach still lacks transparency. The adoption of the Checklist Ordinance at the local level does not rise to the level of public discussion and vetting as other municipal ordinances. In the case of development applications, an applicant may view the Checklist Ordinance as a simple “checklist” for the town and understand its true effect only during the approval process.

The NJBA is also concerned with the Council's approach of utilizing the Checklist Ordinance in relation to the Permit Extension Act (PEA), as amended in 2012. By way of background, contrary to the legislative intent of the 2008 PEA, the Council boldly took the position that the PEA did not apply in the Highland Region as there are no areas designated for growth per the Regional Master Plan. To rectify that outcome, the 2012 PEA included a new definition of "extension area" to ensure permits and approvals would be extended in the Planning Area (except in those municipalities which obtained conformance approval and adopted one of specified ordinances), and also within Highlands and the State Development and Redevelopment Plan designated centers. Although the PEA explicitly limits these exempt conforming municipalities to those that adopted, as of May 1, 2012, either the Highlands Master Plan Element, a Highlands Land Use Ordinance, or an Environmental Resource Inventory, the Council has broadened the criteria of exempt municipalities to also include those that adopted a "Checklist Ordinance." This interpretation is clearly contrary to the PEA and the NJBA strongly recommends that the Council should strictly adhere to the parameters of the PEA.

### 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. 7:38-1.1k.

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.

#### Environmental Standards

The RMP should be revised to ensure that the environmental standards and municipal ordinances for the Planning Area are not as stringent as for the Preservation Area (i.e. the DEP's regulations applicable to the Preservation Area). The NJBA identifies some problematic standards and recommends aspects to be revised:

1. The 300 foot buffer from Freshwater Wetlands and for any Highlands open waters, which are virtually all waters except for swimming pools, should be imposed only in the Preservation Area. In addition, riparian areas extending beyond these constraints are mapped and disturbance is not permitted. In the Planning Area, the buffer should be reduced to a maximum of 150 feet to be consistent with the Freshwater Wetlands Protection Act regulations;
2. The three percent limitation on impervious surface needs to be amended to allow for greater impervious cover. Virtually all permitted development must occur on very large lots and the driveway alone could account for the three percent cover. This limitation promotes sprawl development. To also help alleviate the problem, the definition of "impervious surface" needs to be amended to exclude porous paving, paver blocks, gravel, crushed stone, decks, elevated structures and other similar structures;
3. Disturbances on slopes of up to 25 percent should be allowed and disturbance of uplands forested areas for permitted uses or within designated centers and specialized nodes should be allowed;
4. Critical wildlife habitat areas may not be disturbed, unless permitted by the Council or the municipality has adopted the Habitat Conservation and Management Plan. Our experience is that the Council does not defer to the DEP's findings, despite their expertise in this area. NJBA strongly urges that critical wildlife habitat be subject to DEP's determination for any area to be served by public and/or community sewer. Property owners and municipalities should have the right to submit habitat suitability studies to dispute or revise the Council's determination of critical habitat areas. Further, the Council's determination of such areas is based on Landscape Project maps, which are not easily accessed nor provide the supporting data and sitings to allow for independent confirmation of the designations. The NJBA recommends that the basis for the Council's determination should be more transparent for the public's review without requiring such specialized computer software; and

5. No forested areas may be cleared unless “unavoidable” and mitigation plan is provided. It is unrealistic to not allow forested areas to be cleared, especially for affordable housing projects. This provision should be eliminated and standard municipal provisions regarding tree removal and mitigation should apply.

#### DEP Waiver and Exemption Processes

A landowner may recognize that property is not developable under the Highlands regulatory structure. Unfortunately, the DEP waiver process established in the Act is so cumbersome, expensive and unrealistic that it is virtually impossible to receive a waiver. The waiver process should be streamlined to expeditiously provide a landowner with a determination of a regulatory taking.

Also, many times a waiver from a required standard would actually prove to be beneficial to the Highlands environment. For example, there are existing situations where serious environmentally deleterious conditions exist. A waiver from an existing standard could allow development to proceed without being fully consistent with the regulatory standards while also greatly improving the condition. The overall improvement of existing problems should be a factor in determining whether to grant waivers.

The Act provides that for a number of exemptions that would exempt activities from DEP’s Preservation Area regulations. The NJBA viewed DEP’s exemption process as an unduly cumbersome, extensive application process that required considerable expense and extensive time. Thus, the NJBA supports the DEP and Council’s delegated “Highlands Area Municipal Exemption Determination Certification Program” enabling certified municipalities to issue determinations as an important efficiency measure. The Association encourages additional municipalities to participate in the program.

#### Lack of Process for Property Owners Input

Through the Council’s “Map Adjustment program” and “RMP Updates”, only local government bodies (municipalities and counties) may request adjustments to the Land Use Capability Map as part of the Plan Conformance process or as a separate request. The Council’s summary of the Map Adjustment Inquiry Form states: “The Map Adjustment Program allows for the exchange of planning information between the Highlands Council and local government units in order to ensure *a sound basis for local planning and development review* in support of the overall Goals, Policies and Objectives of the RMP and the Highlands Act.” However, public input is severely circumscribed since there is no similar process for property owners themselves to request map adjustments, center designations, or updates to the RMP. Property owners are not able to protect their rights, but instead must rely instead upon the municipality to request changes or correct factual errors, which would require the municipality’s support.

The NJBA strongly recommends the Council to establish a separate appeals process to the public that is available on an ongoing basis to address such mapping errors and concerns.

### 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 DEP's 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 Council's 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:

- Protection Zone: 19 acres - 43 acres;
- Conservation Zone: 7.7 acres – 15.1 acres; and
- 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.

**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



www.njba.org  
www.abconvention.com  
www.njmx.com  
www.foundationforhousing.com

September 8, 2017

New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road (Route 513)  
Chester, NJ 07930-2322

**RE: Draft Monitoring Program Recommendation Report**

To Whom It May Concern:

On behalf of the state association and our local affiliates, the Metropolitan Builders and Remodelers (Metro), Builders and Remodelers Association of Northern New Jersey (BRANNJ), the New Jersey Builders Association (NJBA) submits the following comments for consideration on the Council's draft "Monitoring Program Recommendation Report" (draft Report). BRANNJ members represent the Highlands counties of Bergen, Passaic and Sussex, while Metro represents the Highlands counties of Hunterdon, Morris, Somerset and Warren. NJBA had submitted extensive comments in 2015 on the Highlands Regional Master Plan (RMP), which have been attached as they are relevant to the Council's decision-making on next steps with the draft Report.

NJBA maintains the position that the Council's "RMP Monitoring Program" approach does not satisfy Section 8 of the Highlands Act, which requires that the "Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings." (Emphasis added.) Thus, a thorough *update* of the RMP should have been completed in 2014, rather than evaluating the RMP for what has been implemented, where program deficiencies lie and listing of recommendations. Further, as NJBA has advocated previously, the Council should move forward with a process to amend the RMP to comply with all mandates of the Highlands Act, as discussed below.

The draft Report discusses broad topics and related program areas along with helpful background on the issues and a compilation of indicators that were previously identified through the Technical Advisory Committees. Although each topic area identifies recommendations, it is entirely unclear how and when any of these recommendations can be implemented and accomplished. As discussed recently, NJBA strongly encourages that a process be developed with realistic timeframes. That process should also enable the staff to initially identify for the Council's consideration the priority recommendations that should be pursued in the more immediate short-term.

*New Jersey Builders Association Officers*

JOHN H. KIRKENIR *President* • CAROL ANN SHORT, ESQ. *Chief Executive Officer*

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ROBERT M. WASHBURN, ESQ. *General Counsel* • MICHAEL J. GROSS, ESQ. *Environmental Counsel* • THOMAS F. CARROLL III, ESQ. *Land Use Counsel* • TED ZANGARI, ESQ. *MXD Counsel*

Further, the Council should ensure that regulatory programs are incorporated with sufficient detail and standards into the adopted RMP, rather than the current practice of relying upon policy memos and draft documents that posted on the Council's website.

NJBA encourages the Council to critically examine what is necessary to address deficiencies with its plan conformance and implementation process, as outlined on pages 64-69 of the draft Report. In our view, the limited participation of Preservation Area municipalities in adopting the Highlands Land Use Ordinance and Zone Map Ordinance is a strong indicator that the process and accompanying elements need to be modified.

### **Smart Growth**

We believe that the implementation of the RMP has failed to fulfill the statutory mandates of the Highlands Act, which affect not only NJBA members but also the residents and businesses of the Region. As stated previously, NJBA recommends that revisions to the RMP should focus upon enabling the Region to fully realize its economic potential.

Significantly, the RMP has not addressed the "smart growth" component required pursuant to N.J.S.A. 13:20-11a(6), which 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."

NJBA strongly recommends that "smart growth" be identified as a priority issue that is necessary to address or support development and economic growth in the Highlands Region.

### **Land Use Capability Maps**

Similarly, the current Land Use Capability Maps do not satisfy N.J.S.A. 13:20-11a(6), in that a map does not exist that designates areas appropriate for future growth. The Draft Report recognizes this as an issue of concern: "A component directing opportunities for future smart growth development, as required by the Act, has not been created." See page 50.

The statutorily mandated Land Use Capability Map should provide a framework for regional planning and identify areas suitable for development and redevelopment. Therefore, NJBA strongly supports that these recommendations be priorities:

- "Update the LUCZ Map to create a three-map LUCZ set depicting past and present on-the-ground conditions, as well as a map reflecting areas appropriate for future growth.

- Based on the resource assessment conducted under the Land Use Capability Map Series, establish a region-wide Smart Growth Capability map depicting areas within the region that are appropriate for future development and redevelopment activity, and areas that are more appropriate for conservation and protection.” See page 50.

In addition, as previously recommended, NJBA recommends that the Council develop a process by which a property owner or town may petition or request a change in a Highlands RMP resource area designation of a specific piece of property based upon on-site data such as soil samples, groundwater data or habitat evaluation reports.

### **Natural Resources**

NJBA recommends that the discussion of “Natural Resources” should emphasize that the environmental standards and municipal ordinances for the Planning Area should not be as stringent as those for the Preservation Area where the DEP’s regulations are applicable. A specific concern is that the 300-foot buffer from Freshwater Wetlands and for any Highlands open waters, which are virtually all waters except for swimming pools, may be imposed only in the Preservation Area pursuant to the Freshwater Wetlands Protection Act and the Highlands Act. In addition, riparian areas extending beyond these constraints are mapped and disturbance is not permitted. This restriction should apply only in the Preservation Area. In the Planning Area, the buffer should be reduced to coincide with the buffer required by DEP pursuant to the Freshwater Wetlands Protection Act regulations and no additional riparian areas should be required.

### **Affordable Housing**

Although executive and statutory mandates and guiding documents have required the Council to address affordable housing in the Highlands Region, the Council has instead failed to identify opportunities and appropriate sites for affordable housing, particularly through the RMP conformance process. The amended 2008 Fair Housing Act (FHA) requires the Council to “identify and coordinate regional affordable housing opportunities in cooperation with municipalities in areas with convenient access to infrastructure, employment opportunities, and public transportation” and identify opportunities for affordable housing, including the requirement for a 20 percent set aside in all residential developments in the Highlands.

The draft Report similarly lacks any meaningful discussion on implementation measures that would satisfy the requirements of the FHA. The Council should evaluate the extent of zoning for affordable housing as well as the actual construction of same within the Highlands region since the Highlands Act was passed. NJBA outlines some steps that have been offered previously:

1. Council should prepare an inventory of sites zoned for affordable housing.
2. Council should promulgate a policy, adopted after rule-making, which recognizes the court/COAH designation of these sites, unless it is demonstrated that development cannot be accomplished in conformance with statewide DEP regulations.

### **Redevelopment**

The draft Report recognizes that, although *draft* procedures were established, “[r]edevelopment procedures have not been adopted as part of the Regional Master Plan.” See page 50. Pursuant to N.J.S.A. 13:20-11a(6), the Council has the duty to actively promote brownfields remediation and redevelopment opportunities in the Region, rather than the vague language contained in the RMP that the Council would “encourage” redevelopment. Therefore, NJBA strongly supports the recommendations for the Council to develop and adopt procedures for designating Highlands Redevelopment Areas. See page 51.

### **Low Impact Development**

NJBA strongly supports the points and recommendations made regarding low impact development techniques and use of green infrastructure. See pages 24 and 51. NJBA and New Jersey Future have been working jointly to promote the use of green infrastructure as an alternative approach to traditional stormwater management systems.

NJBA also notes: “A formal project review guidance document has not been created to synthesize the Goals, Policies, and Objectives of the RMP for minimum standards required for a project submission for Highlands Council review.” See page 51. NJBA agrees that such a guidance document would prove valuable for applicants, municipalities, and Council staff.

### **Cluster Development, Highlands Center Designation**

The draft Report states that 15 Highlands Centers have been designated where “the greatest intensity of development and highest concentration of employment of all confirming municipalities” occurs. See page 52. Significantly, the Report acknowledges that Highlands Center designation has **not** been formally recognized and guidelines have not been formally adopted as a component of the RMP, aside from being part of the Plan Conformance process. NJBA strongly supports the recommendation that these aspects be rectified through a formal designation process that requires municipalities to amend THEIR zoning ordinances with specified deadlines to fully **implement** the center approval to allow development, particularly in the Existing Community Zone.

Since cluster development has not been utilized as an option by any of the 28 project reviews, NJBA agrees that the program should be re-examined and stronger policies and standards be set forth to encourage its use particularly within and adjacent to Highlands centers. NJBA is pleased to read the recommendation to “encourage the use of alternative wastewater treatment systems for cluster development in areas that are not currently served by traditional systems.”

Such alternative systems provide much better environmental protection than would low density development. NJBA also supports the Council’s work with municipalities and NJDEP to

“develop alternative and innovative Wastewater Treatment Plans to address wastewater issues.” See Page 30. However, it is unclear why the draft Report states that there is a lack of groundwater nitrate data and modeling, given the recently adopted NJDEP Septic Density Standards relies upon such updated data and contains information for the entire Highlands Region. See page 25.

### **Transfer of Development Rights Program**

The “Highlands Transfer of Development Rights (TDR) Program” section acknowledges that the RMP has not established a functional TDR program with receiving zones, as mandated by N.J.S.A. 13:20-13, -8, and that the program should update the 2008 initial credit value. The Report also notes that “while municipalities may be willing to accept the increased density associated with TDR, the demand to support receiving zones does not appear to exist” and “a private market for credits has failed to materialized”. See page 57. Further, the draft Report notes the cost impact on development:

“Although the Highlands Act permits a municipality to charge development impact fees within designated receiving areas, this inherently increases the cost of development therein.” See page 57.

NJBA recognizes that the Council has expended efforts over the years to develop a workable TDR program, including through the TDR Receiving Zone Feasibility Grants and through discussions with NJBA. However, in addition to the recommendations listed on page 58, the Council should focus its efforts to develop meaningful incentives for municipalities where market demand exists (or is projected) to encourage their engagement as designated receiving zones.

### **Water and Wastewater Utilities**

As noted on page 30, NJBA acknowledges the coordination and implementation problems that arose under the New Jersey Department of Environmental Protection’s 2008 Water Quality Management Planning (WQMP) rules. Those rules severely hampered the designation of sewer service areas and in turn development activities throughout the state. With the adoption of the amended 2016 WQMP rules, NJBA strongly encourages the Council to expeditiously coordinate with NJDEP to ensure the adoption of more reasonable Wastewater Management Plans that identify new sewer service areas for development, particularly in the Existing Community Zones and Centers. NJBA reiterates the need for the wastewater management plan amendment process to be more transparent with underlying reports and documents publicly available. As noted previously, business and development communities need access to such critical infrastructure information to confidently invest financial resources in the Region.

It is also unclear how sewer service areas would have decreased in the Existing Community Zones and Centers, given that those areas should be where development occurs. See pages 154 and 159.

### **Water Deficit**

As conveyed previously, NJBA strongly objects to the finding that HUC14 sub-watersheds have a deficit water availability and disagrees with the council's definition for "water deficit" areas. See page 22. Water deficit should be dependent on NJDEP's water allocation for municipalities and water purveyor. Although the Council instituted a Water Use and Conservation Management Plan Pilot Program, what is necessary is a Model Water Use and Conservation Management Plan, which the Council assists municipalities to implement through Plan Conformance, as recommended on page 23.

### **Economic and Fiscal Impact Assessment of the Highlands Act and RMP**

NJBA recognizes that the "Fiscal Impact Assessment of the Highlands Water Protection and Planning Act and RMP" (FIA) and the related "Peer Review" report issued by the Bloustein School of Planning and Public Policy (Rutgers University) are not the subject of the current public comment process. However, since the FIA is a component of the RMP Monitoring Program, NJBA believes it is appropriate to provide some comments here.

First, NJBA notes that the Peer Review report states:

"The peer review assesses whether the FIA's conclusions are supported by the data and analytical techniques used in the study. In addition, the Rutgers team was tasked with making recommendations for economic and other metrics to be tracked as part of the ongoing RMP Monitoring Program.

The peer review and metric recommendations are intended for use by the Highland Council and other interested parties as a means of providing a deeper understanding of and insight into the findings of the FIA, in order to further inform decision-making regarding the implementation of the Act, RMP and RMP Monitoring Program." (Page i).

NJBA requests clarification as to how the Council will address and respond to the issues and findings of the Peer Review report.

The Peer Review report supports NJBA's previously expressed concerns that the Highlands regulatory framework affects the region's economy. The Peer Review report cautions against the FIA's conclusion that the RMP has had little or no impact on the Highlands region economy: "Thus, while we cannot definitively state that the overall conclusions of the FIA – i.e., that the Highlands Act and RMP have generally had little to no impact on the economy of the Highlands Region – are incorrect, there are a number of areas of concern that we believe weaken the basis for this conclusion." (Page 2).

Similarly, the Peer Review report points out the timing of the RMP's adoption in 2008, the Great Recession of 2007-2009 and subsequent recovery, and effects on employment and land development. The report states:

“Following recession losses, employment recovery to prior levels would not necessarily require new or significant land development within the evaluation period, and explicit limitations on new development might therefore not have detectable impacts on employment growth. Thus, while the finding that the Act and RMP have not had an effect on employment change during the recession and recovery may be accurate, but it is also likely that this is a premature assessment.” (Pages 4-5).

Similarly, the Peer Review report's critique of the methodology used for the FIA Report also highlights the overall lag of the implementation and the “slow pace of RMP conformance”. (Page 5.) The report indicates that the analysis of property sales is flawed and suggests using more “sophisticated approaches to assess changes in real estate prices that occur as a result of restrictive environmental and other land-use regulations.” (Page 12.) The report also identifies several “unsupported inferences/inaccurate representations” as presented in the FIA. (Page 14.)

The Association strongly agrees with the Peer Review report's recommendation that, in lieu of the issued Fiscal Impact Assessment, the “topics for more focused analysis could be determined by the Highlands Council based on concerns of residents, local businesses, and other stakeholders”. (Page 25.) However, contrary to the Fiscal Impact Assessment's conclusion that the Highlands Act and RMP have had little to no impact on the economy of the region, NJBA members have experienced first-hand the economic repercussions of the same on their business decision-making, particularly for pursuing development activities.

Sincerely,



Carol Ann Short, Esq.

C: Robert J. Bracken, Wynfield Corp.  
Stephen Shaw, Shaw Built Homes, LLC

Enclosure

## **DWSG Comments on DRAFT**

### Highlands Regional Master Plan Monitoring Program Recommendation Report Baseline Report: 2017

#### **Carbonate Rock (Karst) Issues**

##### Draft Report

The draft baseline report calls for a systematic approach to karst issues. This includes:

- Critical issues for model ordinances (p. 12)
- Development of carbonate rock area guidance manual (p. 12)
- Establishment and maintenance of karst inventory (p. 12)
- Develop unified approach to stormwater design in karst (p. 18)
- Coordinate with USGS and NJGWS on carbonate rock mapping (P. 18)

##### Response

Mapping carbonate rock and associated karst areas is a core mapping function of both the USGS and the NJGWS. This mapping is well underway. NJGWS staff are willing to meet with Highlands staff and share mapping information.

While NJGWS karst mapping efforts do not cover all of the Highlands, they include a significant portion of these areas. In 2017, NJGWS has drafted a report on karst features along Wallpack Ridge in the Delaware Water Gap National Recreational Area which may prove useful with karst issues within the jurisdiction of the Highlands Council

As a practical note, there are some land use considerations when any parcel of land is mapped with a geologic hazard. Identifying a property as likely to contain karst features may have implications for land owners and developers. The NJGWS has dealt with such issues before when mapping landslides and abandoned mines. The Highlands Council should carefully consider the implications. However, development of model ordinances is beyond the responsibility of NJGWS.

#### **Net Water Use Analysis**

##### Draft Report

The draft baseline report has a large section on water withdrawals, consumptive use, and net availability (pp. 91-108). The draft baseline report contains water data through 2011. The updated water supply plan includes data through 2015.

The draft baseline report has a section on ‘Water Supply Existing Areas Served’ which is an overlay of water supply purveyor areas with Highlands municipalities (pp. 120-124).

### Response

DWSG staff will make updated data available to the Highlands Council. DWSG staff can make the most recent coverage of purveyor service areas available to the Highlands.

### **Water Deficits**

#### Draft Report

The draft baseline report calls for:

Where water resources are stressed, management strategies are necessary to reduce and, where feasible, eliminate deficits and ensure that supplies are not further depleted. The Highlands Restoration: Water Deficits program consists of the following sub-programs:

- Analysis of Net Water Availability
- Verification of Net Water Availability
- Strategic Approaches to Mitigating Water Deficits
- Development of Municipal Water Use and Conservation Management Plans
- Development of HUC14 Water Management Strategies
- Coordination with the NJDEP Water Allocation Program (p. 21)

### Response

The Highlands Council uses a different standard for evaluating new water availability than does DWSG. The Highlands Council also evaluates water deficits on a HUC14 basis whereas DWSG uses a HUC11 basis. These differences lead to different analyses. This is especially significant in comparing results of DEP’s water supply plan to the Highlands Council’s results.

It may not be possible to reconcile the two approaches given the different implementation needs. This will require additional policy considerations.

## **Water User Fees and Rate Comparison**

### Draft Report

The draft baseline report calls for:

“Determine feasibility of enacting a water user fee imposed on water purveyors who derive water from Highlands Regions sources and dedicating funds raised by such fee to assist in compensating landowners in the Highlands Region whose future land use expectations have been impacted by the Highlands Act.” (p. 24)

“Collaborate with the NJDEP to determine existing water use rates for all public community water supply systems using Highlands water, categorize the systems for comparison purposes, and assess the relative efficiency of water uses among common classes of public community water systems.” (p. 25)

“Collaborate with the NJDEP, NJDA and Rutgers Cooperative Extension Service to determine existing water use rates for all agricultural and other self-supplied irrigation uses using Highlands water, categorize the uses for comparison purposes, and assess the relative efficiency of water uses among common classes of purposes.” (p. 25)

### Response

These three items call for examining water use by users outside of the Highlands but partially or wholly depending on Highlands water. These are state-wide issues that should be examined closely for policy concerns and efficacy. Comparing water use rates for all users of Highlands water, from older cities in northeaster New Jersey, to suburban areas, to small towns in the Highlands, will probably reveal a wide range of costs. What is the purpose of doing this? Note that comparing water rates will probably not give information on relative efficiencies.

## **Ambient Groundwater quality network**

### Draft Report

The draft baseline report calls for:

“Improve existing monitoring networks and use additional data sources, in coordination with the NJDEP, NJGS and USGS, for monitoring and evaluating both natural conditions and anthropogenic factors in water quality.

“Coordinate with the USGS to review existing USGS logistical regression models

for estimating septic densities based on median nitrate concentrations which may be further tested and refined with additional data collection and modeling.

“Work in conjunction with the NJGS and USGS to design an improved ambient groundwater quality modeling network in support of refining models for estimating septic densities.” (p. 25)

### Response

These concerns appear to arise from recent issues associated with determining an appropriate Highlands septic density and the appropriateness of using a logistical regression model of groundwater nitrate concentrations as compared to additional monitoring. Whether to depend on current monitoring, on modeling, or to install additional monitoring wells is a policy call that needs to be made by DEP and Highlands Council management.

If the decision is made to increase groundwater modeling NJGWS staff are willing to work with Highlands and USGS staff to determine an appropriate number of additional wells. However, this will require a policy call on how much better an answer is desired. Too small of an increase in monitoring wells may not result in a significantly better estimate of background nitrate concentrations. Too many additional monitoring wells may be wasteful. This is a very hard question involving appropriate sample size and it should be answered only after careful consideration of necessary precision.

These questions need to be researched and answered before making any changes to the AG-WQMN. Defining these questions will be partially policy-driven but other changes to the network need to be tailored to answer the questions.

Until any changes are made, NJGWS staff can work with the Highlands Council using existing datasets.

### **Coordinating permit issues**

#### Draft Report

The draft baseline report calls for:

“Continue to coordinate with NJDEP on water allocation decisions and project reviews that demand public water and/or wastewater utilities, particularly regarding sensitive resources.” (p. 30)

## Response

DWSG staff meet regulatory with Highlands Council staff to coordinate reviews. A draft DWSG-SOP was never officially finalized but is used as guidance. DWSG intends to maintain the open lines of communication and coordination. DEP staff meet monthly with Highlands Council staff to discuss coordination of all issues of mutual concern.

## **Water Supply Plan**

### Draft Report

The draft baseline report sees the New Jersey water supply plan as a program issue. (p. 23)

## Response

DWSG see the draft water supply plan, and forthcoming final version, as a summary of current withdrawals and uses as well as a guideline for development of future water supplies. The Highlands Council was consulted and their comments on the draft plan will be taken into consideration in developing the final plan.

## **Science and Research Agenda**

### Draft Report

On page 203, the 4<sup>th</sup> item from top of page references a Lake Management study for Lake Hopatcong and Greenwood Lake to “preserve ecological integrity of the lakes, their water quality and water resource potential.”

## Response

Suggested changes in lake operating plans must consider downstream implication. For Lake Hopatcong this needs to consider impacts on Lake Musconetcong and the required dilution at the MSA treatment plant. For Greenwood Lake any modification must take into account the passing flows required to meet the water rights of the North Jersey District Water Commission.

## **Highland RMP Program section**

### Draft Report

On page 27 under the Highland RMP Program the 5<sup>th</sup> and 7<sup>th</sup> bullet points both refer to a build-out analysis.

Response

Should these be combined?

**Water and Wastewater Utilities**

Draft Report

Page 30 lists the Recommendations for water and wastewater utilities

Response

Add an additional recommendation:

“Prioritize Municipal WMP development and identify those priorities to NJDEP

**Domestic Sewerage Facilities Capacity and Demand**

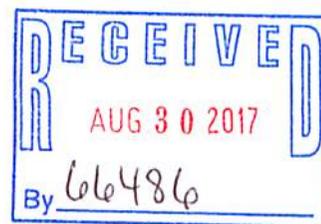
Draft Report

Page 112 discusses capacity and demand status.

Response

This approach is not how Capacity Analysis is done for the rest of NJ. Reason for a different approach?

Comments to Highlands Council, 8/17/17, regarding Procedures Resolution.



My name is Deborah Post, Chester Township.

The RMP says Monitoring was supposed to be on-going and begun immediately. This Council waited 7 to 8 years to even begin monitoring.

Monitoring was not meant to “facilitate” revisions to the RMP. That’s malarkey. Objective 10A5a states it was to “insure the RMP was meeting its goals”. I recommend reading pages 416-7 of the Council’s Regional Master Plan. The procedures proposed in this resolution twist monitoring into something it was not intended to be, so this Council could conveniently avoid the proper RMP review process.

The RMP does not mention a Monitoring Recommendation Report. It specifies a Monitoring Review Report. Monitoring was never meant to be the RMP amendment recommendation process.

The Highlands Act clearly states that it was this Council’s job to review the RMP every six years. Six years was up back in 2014, that was three years ago. And let’s not forget the RMP itself was finalized years after the Act directed. Because this Council didn’t bother to obey the law, technically, the RMP is null and void.

The professed interest in public comment is a farce. This Council set up TACS, held a TAC meeting, and then wrote a TAC report that reflected absolutely nothing that was said in the TAC meeting and failed to include in the report any of the written comments submitted during the TAC meeting, and then never held the promised final TAC meeting to agree on conclusions. The staff and consultants just didn’t like what they heard, so they hijacked the process. This is corrupt.

The last bullet point on your counsel’s memo contradicts the resolution you are voting on.

That bullet point says that the procedures must be adopted before any amendments may be adopted while your resolution says that the procedures will be adopted along with other amendments.

You have a catch 22. And that is because the Monitoring report gimmick employed here was never contemplated in the RMP or the Highlands Act.



# SOMERSET COUNTY PLANNING BOARD

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## MEMBERS

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Christopher Kelly  
Vice Chairman

Marian Fenwick

Albert Ellis

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Freeholder Director

Patrick Scaglione  
Freeholder Liaison

Matthew D. Loper  
County Engineer/  
Board Secretary

## ALTERNATE MEMBERS

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1<sup>st</sup> Alternate

Vacant  
2<sup>nd</sup> Alternate

Mark Caliguire  
Freeholder Alternate

Adam Slutsky  
County Engineer Alternate

Walter Lane, AICP/PP  
Director of Planning

John M. Lore, Esq.  
Deputy County Counsel  
for Planning

Cynthia Mellusi  
Office Manager

September 8, 2017

Margaret Nordstrom, Executive Director  
New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road (Route 513)  
Chester, NJ 07930-2322  
Fax: (908) 879-4205

## RE: **Highlands Regional Master Plan Monitoring Program Recommendation Report**

Dear Ms. Nordstrom:

On behalf of the Somerset County Planning Board, I would like to thank you for the opportunity to provide comments on the draft *Highlands Regional Master Plan Monitoring Program Recommendation Report*. It is our understanding that the intent of this report is gather information on issues and trends to support potential amendments to the Regional Master Plan. It should be noted that the portion of Somerset County in the Highlands Area includes the municipalities of Bedminster, Peapack and Gladstone, Far Hills, Bernardsville and Bernards. A 1,010 acre area in Bedminster north of Pottersville Road and west of the Peapack and Gladstone boundary is in the Highlands Preservation Area.

Overall, the County finds this draft report to be comprehensive and well written. The following are our comments concerning the Highlands Regional Master Plan Monitoring Program Recommendation Report.

### **Agriculture**

There was recommendation on page 198 of the Summary of Recommendations to amend the Regional Master Plan definition of disturbance to include agriculture. Any change to this definition is and has been a serious concern of farmers in the state as well as the Somerset County's Agricultural Development Board. No change should be made to this definition without consulting and coordinating with the State Agricultural Development Committee, the New Jersey Board of Agriculture, the New Jersey Farm Bureau and the Natural Resource Conservation Service.

### **Water and Wastewater**

The County has a number of concerns in the Water and Wastewater section of the Report. Water and Wastewater Utilities are lumped together in a way that terms and statements are applied in a manner that makes it difficult to ascertain whether the writer is referring to wastewater or water supply systems. The terminology

- Mission Statement -

The County of Somerset is committed to excellence and innovation in public service, promoting the well-being of all residents and communities by providing effective, efficient and responsive leadership.

*Somerset County Is An Equal Opportunity Employer*

used in the text is inconsistent with standard language used in applicable rules and regulations. In fact, the laws, regulations and rules that apply to each of these systems should be referenced in the text, since they are very distinct and specific to each.

On page 30 the first bullet under Summary of Findings of related indicators indicates the extent of the mapped water supply service area has increased. However the reason for this is not provided and can be complex potentially attributed to the following: ground water contamination requiring conversion from private well to public water systems or other ground water supply constraints; change in the methodology for delineating or defining water service areas. The second bullet attributes the decrease in wastewater EAS to more accurate mapping. However, it should be clear that a change in the method for delineating Wastewater service areas has also taken place, affecting the size of the service area. The third bullet does not recognize the critical impact rainfall patterns have on wastewater flow. Dry weather patterns are the primary factor; coupled with more efficient plumbing fixtures and population decline in much of the Highlands Region.

The map on page 111 is unclear. The map legend should correlate the capacity data with Wastewater facility-specific sanitary sewer service areas. From the graphic, it is difficult to understand how service areas are defined. We are unable to tell if the mapped Wastewater Service Areas on page 111 are consistent with the Sewer Service Areas adopted for Somerset County's Highlands municipalities due to the scale and quality of the map. If sewer service areas are defined as individual tax parcels or facilities/building footprints currently served, then this definition should be provided.

There is no estimate of future additional wastewater flows or water demand from vacant potentially developable land, future infill and redevelopment in the document. Is this because sanitary sewer service areas are defined as existing parcels or buildings served? Future new wastewater flows/water demand resulting from redevelopment, infill and/or cluster development is not addressed in the document.

Scattered throughout the document is reference to a build-out analysis that appears to have been performed for "conforming" municipalities. However, neither change in population growth between 2002 and 2012 based on census trends, nor estimates/projections of future municipal population growth based on the aforesaid build-out analysis are provided in the document (see tables beginning on page 148). Existing and projected population (and household growth) are a key determinant of future wastewater and water supply demand. Change in acres of sewer service area and water service area from 2008 - 2016 provided in these tables is not a determinant of future wastewater and water demand in and of itself. Future Service Area must be distinguished from Existing Areas Served, then Future Service Area must be coupled with vacant potentially developable land and associated allowable development densities and land use types and estimates of growth in designated redevelopment areas in order to predict future sewer and water needs within the Highlands area, which this report does not appear to address.

### **Future Land Use**

In addition to the identification of parkland as a component of green infrastructure, opportunities for including the implementation of green infrastructure in Highland Designated Redevelopment Areas should be explored.

### **Transportation and Air Quality**

Any site design guidelines developed as part of the Green Streets Planning and Walkable/Bicycle Friendly Site Design should be consistent with the Complete Streets concept. Any green streets should support all modes of travel.

### **Regional Planning**

The *Regional Master Plan* has numerous issues and policies which overlap with *The Plan 2015* developed by Together North Jersey, including economic and community development, the environment and infrastructure. A goal of the Highlands Regional Master should be to coordinate and cooperate with Together North Jersey on areas of mutual concern.

We look forward to working collaboratively with the Highlands Council and all of our planning partners to refine and advance the recommendations of the *Highlands Regional Master Plan Monitoring Program Recommendation Report*. Should you have any questions or need additional information, please contact Walter Lane, Director of Planning at (908) 231-7178.

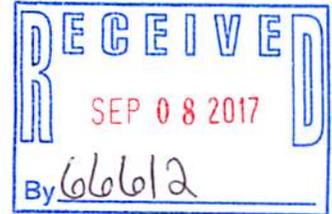
Thank you for your consideration.

Sincerely,



Bernard V. Navatto, Jr.  
Chairman, Somerset County Planning Board

Cc: Somerset County Board of Chosen Freeholders  
Somerset County Planning Board  
Walter Lane, Director of Planning



***William R. Edleston LLC***

**Attorney-at-Law**

*Member N.J. & N.Y. Bars*

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September 8, 2017

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**Lawoffice@edlestonlaw.com**

New Jersey Highland Council

Attn: MPRR Comments

100 North Road

Chester, NJ 07930

Via facsimile 908-879-4205

RE: Borough of Bloomsbury

Monitoring Program Recommendation Report (MPRR) Comments

To Whom it May Concern:

You have previously received a comment from the Township of West Milford in connection with the MPRR, in which there is a comment period until September 10, 2017. This comment is provided by the Borough of Bloomsbury, which is located entirely in the Highlands Preservation Area. The Borough incorporates many of the sentiments expressed by the Township of West Milford.

The Borough of Bloomsbury is one of the smallest municipalities in the state consisting of 0.95 square miles with a population of 866, which is projected to remain steady. The Borough has public water extended to the properties within its corporate limits, but does not have public sewer.

The opportunity for any further development in the Borough is non-existent under current regulations.

The Borough joins in several of the general comments of the West Milford Township and its position is also that before any further recommendations, restrictions, rules and requirements are adopted, there must be a dialogue between the Borough and the Highland Council before any of these restrictions, rules or requirements are promulgated.

The Borough also believes that the State and legislature should appropriate sustainable funding to compensate the Borough for lost revenue or provide an alternative mechanism to minimize the restrictions so that any development that could be realized can be realized.

This response is submitted with a request that you listen to the Borough's plight and address its concerns accordingly and is being sent at the direction of the Mayor and Bloomsbury Council.

Very truly yours,

/s/William R. Edleston

William R. Edleston  
Borough Attorney

cc: Mayor Martha Tersigni  
Lisa A. Burd Reindel, Municipal Clerk/Administrator  
Senator Michael Dougherty  
Assemblyman John Dimaio  
Assemblyman Eric Petersen  
Executive Director Margaret Nordstrom  
Chairman Jim Rilee

**WARREN COUNTY PLANNING DEPARTMENT  
WAYNE DUMONT, JR. ADMINISTRATION BUILDING  
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DAVID K. DECH  
PLANNING DIRECTOR



Telephone: (908) 475-6532  
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planningdept@co.warren.nj.us

September 8, 2017

Margaret Nordstrom, Executive Director  
New Jersey Highlands Council  
100 North Road (Route 513)  
Chester, NJ 07930-2322

Re: Public Comments on the Highlands Regional Master Plan  
Monitoring Program Recommendation Report

Ms. Nordstrom:

On behalf of the Warren County Planning Department, please accept these comments concerning the Monitoring Program Recommendation Report (MPRR) which provides the first baseline evaluation of the 2008 Highlands Regional Master Plan (RMP) and the Council's progress in achieving the goals of the RMP through implementation of policies and programs. The following comments pertain to the general nature of the proposed programs, indicators, and policies that are discussed in the MPRR.

### **Programs**

It is apparent that a number of programs discussed in the RMP are non-existent, have very little participation, or are repetitious of existing programs administered by other agencies. For example, Lake Management Plans, Steep Slope programs, scenic resource protection, and historic preservation are small components of RMP implementation and need to be developed. Yet, most municipalities have steep slope and historic preservation ordinances in place where appropriate to address those particular features. It would seem that developing another program that repeats what is in existence or handled by another State agency is not necessary and unnecessarily repetitive. A better measure or indicator of plan consistency would be if the municipality has an ordinance/plan addressing these particular features in accordance with the other state program's guidelines and rules or in accordance with State statute.

## Transfer of Development Rights

The inability to implement a viable Transfer of Development Rights program should be a major concern. As was stated in the MPRR, in 2010 an amendment to the Highlands Act was passed that allows the establishment of receiving zones anywhere in the State of New Jersey. To date, no receiving zones have been established. The Science and Research agenda section that discusses TDR states that a market demand analysis should be conducted to determine if there is market demand to support TDR receiving areas. This market demand analysis should have been completed well before the Act and RMP were adopted as well as other impacts that TDR may have on existing state law and programs should have been analyzed such as the affordable housing requirements in both the sending and the receiving municipalities. Two years ago, I had expressed concerns over the TDR program in comments addressing the Regional Master Plan Monitoring process. It is clear that the Act intended for a robust analysis to be completed before the RMP was adopted to recommend receiving zones and capacity. The Highlands Act states that *“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.”* According to the Act at section 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 as 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. From the outset it is apparent that no meaningful attempt was made to identify land appropriate for receiving zones for TDR. 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. The Plan was adopted before it met this statutory requirement.

TDR has been an ineffective method to deal with growth in the Highlands and in the State. It can be argued that in general, many cities desire growth and will take reasonable measures to

facilitate and accommodate new growth. For that reason, a voluntary TDR receiving zone system cannot work. Incentives, as mentioned in the RMP and the MPRR are helpful but are the incentives enough to make the program successful? Obviously they are not. The voluntary sending program works because many landowners are willing to sell their land's development rights especially when the development potential has been diminished as a result of an Act that seems to embrace TDR. If TDR is to become an effective growth management tool, a strictly voluntary system for receiving zones should be revisited.

## **Transportation**

The Transportation section of the MPRR asserts that the Council has an "undefined role" in "influencing strategic plans for other agencies". The MPRR also raises the two Highlands Act exemptions in the Preservation Area #9 and #10 "eliminate Highlands Act or RMP consistency reviews such that the Act generally has no effect on transportation projects." In their entirety the exemptions say:

"Exemption #9. Repair of transportation or infrastructure systems: The routine maintenance and operations, rehabilitation, preservation, reconstruction, or repair of transportation or infrastructure systems by a State entity or local government unit, provided that the activity is consistent with the goals and purposes of this act and does not result in the construction of any new through-capacity travel lanes;"

"Exemption #10, Transportation safety projects: The construction of transportation safety projects and bicycle and pedestrian facilities by a State entity or local government unit, provided that the activity does not result in the construction of any new through-capacity travel lanes;"

I would suggest that the exemptions are fair and do not go far enough in allowing much needed transportation projects to proceed. We need to recognize that transportation relates to moving people and freight from point A to point B, within and through the Highlands region in a safe and efficient manner. The exemptions allow for only repair of infrastructure and for safety projects provided that no new travel lanes are constructed. In effect, this eliminates projects that may require roadway capacity expansions to improve safety and relieve congestion. When combined with the limitation on new impervious surface of ¼ acre, virtually no expansions to the roadway system can take place. Consequently, the RMP should not be a required regulatory component of the approval process for transportation projects. Highlands Council review should be advisory only. The responsible agency for the project will decide if the comment/recommendations are appropriate and change the scope/design if warranted.

## **Air Quality**

Regarding Air Quality, the MPRR implies that the policies contained in the Highlands Act and RMP are responsible for northern New Jersey having fewer unhealthy Air Quality Index days since 2004. Any improvement in air quality was more likely the result of better air quality control technology on stationary sources and motor vehicles within the northern NJ region and regions west of NJ.

Furthermore one of the recommendations is to “coordinate with the NJDEP and USEPA on “raising the bar” in the Highlands Region and creating additional guidelines for municipalities, commercial and industrial operations within the region” ...”This may also include coordination with US Green Building Council, Energy Star, etc. to identify additional incentives ..... to work toward building design that goes beyond state and federal air quality standards”. While this may be a laudable goal, the question is why and to what additional benefit? New Jersey already has stricter air quality regulations that place the state’s businesses in a competitive disadvantage. To impose stricter standards on municipalities, commercial, and industrial operations within the region would be overkill in an already overregulated State. As an indicator, what are the benefits and costs of implementing higher standards?

### **Future Land Use**

The terms “appropriate land use”, “compatible land use”, are used throughout the plan. The plan or indicators should define what “appropriate” and “compatible” mean.

The MPRR states that clustering is not utilized and seeks alternative methods to help foster implementation. While acknowledging the potential use alternate wastewater systems in cluster developments is one tool to help facilitate clustering, lets step backward and look at the RMP’s standard for clustering which is 80 percent of the total project area to be set aside in perpetuity for conservation and/or agricultural purposes and in areas served by public or community on-site wastewater systems the standard is 90%. While the standards are intended to preserve land areas in an undeveloped state, is the standard realistic? Does the standard prohibit clustering as it is just too difficult to attain environmentally, economically, and marketability? As a program the standards need to be adjusted to a standard that is appropriate to the land area in question. Maybe an 80% cluster is infeasible but a 55% cluster is. Wouldn’t a 55% cluster be better than no cluster at all?

### **Sustainable Economic Development**

The MPRR advocates economic development that sustains and promotes agriculture, historic resources, recreation, tourism, redevelopment and “appropriate” development in the planning area. While all are components of a sustainable economy, the RMP tends to over rely on the tourism aspects. Unless the tourism industry evolves into an equivalent economic driver that the NJ Shore areas, Adirondacks, Poconos, etc., have, can tourism have an effective role in the Highlands economy? To sustain a tourism economy will infrastructure projects for wastewater and transportation be allowed to expand in the Highlands region including the Highlands Preservation Area? All of the complementary industries will need infrastructure support such as lodging, eateries, amusements, touring, waste management etc. An analysis needs to be conducted to determine how the region can accommodate and promote tourism as a viable industry while creating jobs with a livable wage.

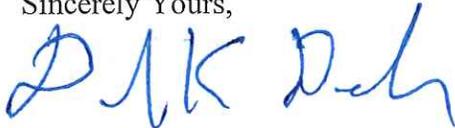
**Plan Conformance.**

From the outset the plan conformance process seemed to be onerous, lengthy and costly. The conformance process for Counties was unrelated to the jurisdiction, practices, and approaches of County government and their planning boards. The proposal in the MPRR to redefine the plan conformance process and standards for counties is supported.

Lastly the MPRR recommends expanding the plan conformance grant program to address countywide economic development, stormwater management, resource management, and agricultural development issues. It is recommended that the program be expanded to address county land preservation and transportation issues as well.

Thank you for the opportunity to comment.

Sincerely Yours,



David K Dech  
Planning Director

cc. Warren County Board of Chosen Freeholders  
Warren County Department of Land Preservation  
Warren County Planning Board



# HUNTERDON COUNTY PLANNING BOARD

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Page Stiger  
Chair

Sue Dziamara, AICP, NJPP, CPM, Director  
Department of Planning, Economic Development & Land Use

September 8, 2017

Margaret Nordstrum, Executive Director  
New Jersey Highlands Council  
100 North Road  
Chester, New Jersey 07930-2322

## **RE: Draft Monitoring Program Recommendation Report**

Dear Ms. Nordstrum:

Hunterdon County welcomes the opportunity to comment on this important draft document which will be used for potential amendments to the Highlands RMP. Please see our comments below:

### Economic Development

- We applaud the Highlands Council's efforts to ensure long-term and sustainable economic development within its region, regardless of the model it employs to do so, so long as the goals, process, and potential tools employed are delineated, which they are very clearly in the Regional Master Plan. In particular, the commitment to grow tourism within its territory is noteworthy and will likely yield significant impact in a region such as The Highlands, especially since tourism guidance and resources from The State of New Jersey are scarce. The development of a comprehensive economic development plan should also be well received, as it will generate consensus about, and make clear what the parameters, are for economic growth in the area.
- As always, however, the devil will be in the details. The plan to approach getting these details together is sound and so we look forward to hearing more about what the next steps will be in putting a comprehensive long term plan together. A representative group of economic development professionals, planners and others from around the area, working with Highlands personnel with a commitment to create a sustainable plan, should be able to help deliver a model that will work for all the entities within the Highlands region.

### Future Land Use

- The recommendation to encourage the use of alternative wastewater treatment systems for cluster development is an important one. The use of several different types of alternative systems have recently been approved by the NJDEP.
- The updated Affordable Housing Technical Report should stress the importance of siting affordable housing units in areas of existing infrastructure capable of handling this additional development.

### Agricultural Resources

- We support the recommendation to amend the Highlands RMP to update the definition of "disturbance" to include agriculture.

### Water and Wastewater Utilities

- Septic Maintenance programs undertaken by Highlands Region municipalities should be of a voluntary nature only. Any mandatory programs would create unfunded mandated costs to both the municipality and its residents.
- The Build-out Analysis for Non-Highlands Approved Service Areas in Hunterdon County will be completed by the Hunterdon County planning department, not the Highlands Council staff.

*Our mission is to enhance the quality of life for all Hunterdon County Residents*

<http://www.co.hunterdon.nj.us/planning.htm>

County's Comprehensive Plan: <http://www.hunterdonceds.com>



Historic, cultural, archaeological & scenic resources:

- Goals in this section are stated clearly and concisely.
- A fair amount of this section concerning the issues that need to be addressed appear to mirror /duplicate SHPO efforts. The report indicates that a lot of work needs to be done (resources to be identified, education/outreach networks to be created, etc...) but does not state clearly who will be undertaking the work.

Please do not hesitate to contact me if you have questions regarding our comments or need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Sue Dziamara".

Sue Dziamara. AICP, NJPP, CPM  
Director of Planning, Economic Development & Land Use

cc: Hunterdon County Board of Chosen Freeholders  
Denise Doolan, Clerk of the Board  
Kevin Davis, County Administrator  
Hunterdon County Planning Board



DEPARTMENT OF ENGINEERING AND PLANNING  
*Sussex County Administrative Center*  
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FAX 973- 579-0513

## County of Sussex

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September 8, 2017

Margaret Nordstrom, Executive Director  
New Jersey Highlands Council  
100 North Road (Route 513)  
Chester, NJ 07930-2322

Dear Ms. Nordstrom:

We are submitting comments on the Monitoring Program Recommendation Report (MPRR), as requested by your agency. The MPRR provides indicators and measures to assess the changes occurring in the Highlands region, and its current status. One objective is to evaluate how local governments are implementing its policies of the Highlands Regional Master Plan or achieving its goals, whether by mandatory compliance (as required in Preservation Areas) or voluntary actions. The following comments are submitted to further ongoing communication and provide input from County government in the Highlands region:

County jurisdiction: The MPRR includes summary discussions on numerous subject matter topics and goals covering a variety of areas which range from Transportation to Wastewater to Land Use. In the "Summary of Recommendations", there is little distinction between Preservation Area and Planning Area or between State, County, and Municipality implementation. It is critical that the limited scope of County jurisdiction and Statutory authority be recognized. We support the revision of County Plan Conformance guidelines to reflect the County's limited scope.

Prior to recommending any specific amendments to the RMP concerning the County Conformance Process and Requirements, we suggest the Highlands Council provide for consultative meetings with representatives of Highlands Counties to review and collaborate on current and/or proposed changes to the county conformance requirements of the RMP. Additionally, input as may result from meetings with the Highlands Counties be given

consideration during the development of proposed RMP amendments related to county plan conformance.

Defer to Statewide regulations: Throughout the MPRR, there are recommendations to develop guidelines, evaluation criteria or standards that are specific to the Highlands region. For example, “Evaluation of Transportation Projects”, “Highlands Specific RSIS”, or “Septic Maintenance BMPs” are listed as recommendations, all of which are currently regulated by other State agencies. Development of new and standalone practices specific to the Highlands region appears to place further burdens onto already strained resources of Municipalities and Counties and should be avoided.

Realistic Goals for Implementation: The original focus of the Highlands Water Protection and Planning Council was on water resources, continued expertise and guidance in this area can be valuable in planning for the future. The MPRR would be more effective if there were greater focus on a few select topics particularly relevant to the Highlands mission. Inclusion of such a broad range of redundant and off-topic complex subjects should be avoided. Development of goals should be focused and mindful of resources and staffing limitations experienced at all levels of government. We would also recognize that within the Highlands Planning Area, implementation of Highlands Regional Master Plan should remain voluntary. The Summary of Recommendations should identify which actions are voluntary and be drafted with language and wording reflective of that.

Coordination among Agencies: The RMP should rely on existing subject matter experts from other government regulatory agencies for topics beyond the Highlands core mission. This would serve to streamline government oversight, clarify and simplify regulation, and avoiding conflict and delays between agencies and functions.

The Sussex County Agriculture Development Board (SCADB) has provided input relative to agricultural impacts of the MPRR which are expressed below:

Amended RMP Definition of Disturbance

The MPRR includes a recommendation to amend the RMP definition of disturbance to include agriculture. Disturbance of soil is necessary and vital to most agricultural operations and production, without any other information contained in the report, we feel this recommendation should be reconsidered. The SCADB was unable to find the basis for this recommendation in the MPRR or what measures were used to develop this recommendation. There appears to be no link from the indicator analysis or milestone reporting to justify this amendment. Further clarification on this recommendation is necessary. Additionally, as agriculture is explicitly exempt from the definition contained in the Act and RMP, this appears to be in conflict with the RMP's goals and objectives. We suggest the Highlands Council could review the recent Appellate Decision, *State v. Quaker Valley Farms, LLC*. Including "agriculture" within the scope of the definition would create an undue burden on the agricultural industry and result in additional hardships on the agricultural community. We also suggest collaborating with the New Jersey Department of Agriculture, the State Agriculture Development Committee, Rutgers Agricultural Extension Offices, New Jersey Farm Bureau, NRCS, and other related other agencies.

Thank you for the opportunity to provide comments on the Highlands MPRR.

Very truly yours  
**SUSSEX COUNTY**



Bill Koppenaal, P.E.  
Administrator, Department of Engineering & Planning/Sussex County Engineer

cc Gregory V. Poff II, County Administrator  
Alice Brees, Principal Planner  
Autumn Sylvester, Principal Planner



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION NATURAL & HISTORIC RESOURCES

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BOB MARTIN  
*Commissioner*

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KIM GUADAGNO  
*Lt. Governor*

Thank you for this opportunity to comment on the MPRR. The NJ Department of Environmental Protection (NJDEP), Natural and Historic Resources Group (NHRG) is submitting these comments in response to the Highlands Council draft Monitoring Program Recommendation Report (MPRR) regarding the section "Forest Resource Management and Sustainability" on pages 13, 14, and 197 in the MPRR.

Multiple references and recommendations were found in the MPRR pertaining to the development of Highlands-specific Best Management Practices (BMP's) for forestry activities (see pages 13, 14, and 197). Specific recommendations are made to incorporate this separate set of BMP's into Forest Stewardship and Forest Management plans as a supplement to the existing *NJ Forestry and Wetlands BMP's*, 1995 (BMP manual).

NHRG does not recommend the strategy of adopting separate, additional BMP's for specific portions of the state. We strive to maintain a comprehensive BMP manual to effectively guide management activities while protecting resources throughout the entire state. It is our experience that the BMP manual developed at the state-scale is effective at protecting the state's natural resources when applied properly. The creation of multiple, geographically separate sets of BMP's is duplicative and unnecessary. Further, it could confuse implementers as to which BMP's to follow in different portions of the state, resulting in the misapplication of scientifically sound BMP's.

It should be noted that *NJ Forestry and Wetlands BMP's*, published in 1995 is currently in the process of being reviewed and revised. The engineering concepts presented in the current manual have been found to be sound in terms of protecting water and other natural resources during forestry operations. Proposed changes to the current NJ BMP manual include additional details, clarifications and recent efforts of the NJFS and DEP Division of Land Use Regulation Program (LURP) to incorporate the BMPs into the Freshwater Protection Act (N.J.A.C. 7:7A) and Flood Hazard Area Control Act Rules (N.J.A.C. 7:13) regarding management practices under and approved forest management plan rather than an overhaul of engineering concepts. We are in the process of assembling internal and external stakeholders that will provide input on the revisions to the manual and participation from the NJ Highlands Council is welcomed.

Specifically on page 14 under Science and Research Agenda - Forest Sustainability:

*"For long-term sustainability of the forest resources in the Highlands Region, there must be proactive management of deer populations, non-native invasive species, and reduction in the rate of forest fragmentation. The Highlands Council should:*

- *Develop incentives to encourage invasive species control and deer management.*
- *Develop and implement Highlands Forest Best Management Practices to supplement current NJDEP BMP Forestry Manual.*
- *Develop models to evaluate and determine the value of carbon sequestration."*

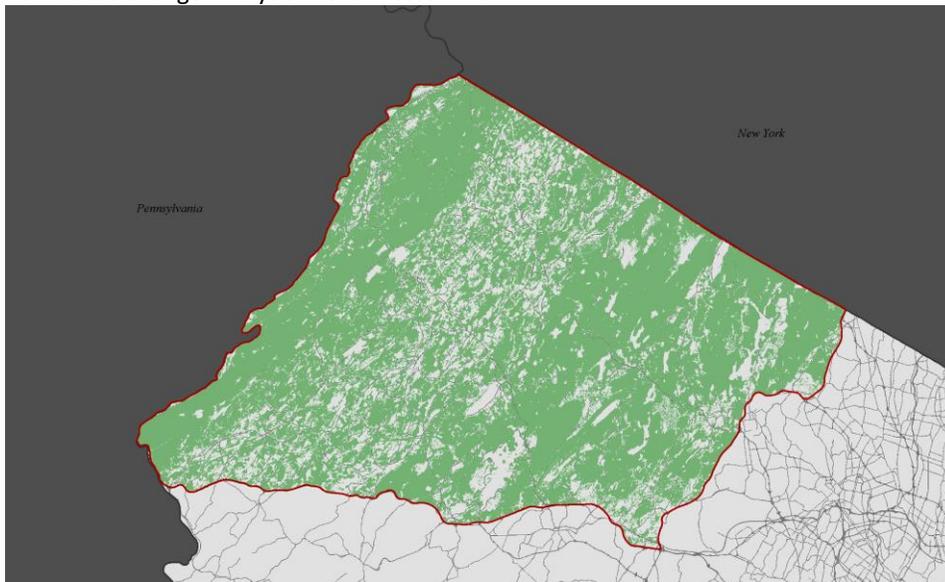
The wording regarding forest sustainability is vague, confusing, and may result in negative impacts to wildlife habitat. Furthermore, creating a forestry BMP manual that attempts to address forest fragmentation is inconsequential because sustainable forest management does not result in forest fragmentation. For that reason, we recommend clarifying the definition of forest fragmentation. While some sources lump agriculture,

development, and silviculture in general statements about forest fragmentation (Alverson et al. 1994), most of the scientific literature defines forest fragmentation as the changing of an area of forest into a permanent non-forest class, such as residential development, roads, or agriculture (Small and Hunter 1988, Askins et al. 1990, Welsh and Healy 1993). Furthermore, cutting, burning, or otherwise managing forests and allowing trees to regenerate is not forest fragmentation (DeGraaf 1993, Rodewald and Yahner 2001).

We are also concerned about the lack of recommendations pertaining to implementing or planning for active management in order to keep the forests sustainable. Forest disturbance, whether it be through prescribed burns or silviculture, is critical in providing habitat in the Highlands for many of NJ's threatened and endangered species. Based on an analysis of the change in land use-land-cover in northwestern NJ (see map and table below), the amount of mature forest between 1986 and 2012 has remained constant; about half of the emergent wetlands and shrubby habitat in 1986 converted to forest through natural succession compared to the one tenth lost to development. Furthermore, active forest management is needed if we aim to restore the 40% coniferous (hemlock) forests that have been converted to mixed forest.

Again, we appreciate the opportunity to comment on the MPRR. Please reach out to us if you need further clarification.

NJ Habitat Change Analysis: Northwestern NJ



Habitat Type	Total Acres	Net Change						NET
		Agriculture	Urban	Succession	Conversion	Disturbance	Other	TOTAL
Up Forest Con	17,798	0.4%	-3.0%	8.6%	-43.3%	-0.4%	0.1%	<b>-37.5%</b>
WetEmerge	10,917	-1.3%	-1.8%	-43.4%	0.0%	13.8%	-2.7%	<b>-35.4%</b>
Shrub Upland	31,812	18.0%	-9.4%	-45.2%	0.0%	5.4%	-1.0%	<b>-32.1%</b>
Wet Forest Con	1,778	0.5%	-1.1%	6.4%	-15.0%	-0.5%	0.1%	-9.8%
Upland Forest Dec	251,236	0.4%	-4.2%	3.7%	-1.5%	-0.7%	-0.1%	-2.5%
Shrub Wetland	9,198	12.1%	-1.2%	-10.9%	0.0%	4.3%	-2.1%	2.3%
Wetland Forest Dec	34,571	0.1%	-2.3%	15.1%	-1.1%	-4.7%	-0.8%	6.2%
Upland Forest Mix	24,960	0.5%	-2.4%	14.4%	46.2%	-0.5%	0.2%	<b>58.4%</b>
Wetland Forest Mix	1,461	0.7%	-0.9%	20.8%	44.9%	-2.0%	0.3%	<b>63.9%</b>
Agriculture = changed from habitat type to agriculture (-) or vice-versa (+)								
Urban = changed from habitat type to urban (-) or vice-versa (+)								
Succession = changed from emergent to shrub/forest or shrub to forest								
Conversion = changed forest type (Con, Mix, Dec)								
Disturbance = changed from shrub to emergent or forest to shrub/emergent								
Other = changed hydrology (upland/wetland) or from habitat to non-habitat natural (-) or vice-versa (+)								

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- Welsh, C. J. E. and W. M. Healy. 1993. Effect of even-aged timber management on bird species diversity and composition in northern hardwoods of New Hampshire. *Wildlife Society Bulletin* 21:143-154.



## State of New Jersey

DEPARTMENT OF AGRICULTURE  
HEALTH / AGRICULTURE BUILDING  
PO Box 330  
TRENTON NJ 08625-0330

CHRIS CHRISTIE  
*Governor*  
KIM GUADAGNO  
*Lt. Governor*

DOUGLAS H. FISHER  
*Secretary*

August 30, 2017

New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road (Route 513)  
Chester, NJ 07930-2322

Dear Highlands Council:

The New Jersey Department of Agriculture (NJDA) offers the following comments on the draft Monitoring Program Recommendations Report:

- Overall we found the report to be confusing as it randomly followed the outline of the Regional Master Plan (RMP). Some topic areas were included, while others were not.
- The Recommendation sections under the Topic Areas were also confusing since it was our understanding that the focus of this report was to identify appropriate indicators for the main Topic Areas. Again the recommendations for the Program Areas skipped around. It is clear that generating the report was a tremendous amount of work but the format of the report and where the information came from (RMP, staff or public) was not clear.
- It was unclear why one of the indicators under the Agricultural Resources Topic Area was the Open Space Program. Language should be added clarifying that the Program protects both open space and farmland.
- We do not believe that 95% of the ARA is preserved farmland as stated in the Agricultural Resources Recommendations section, page 34, and in the Agricultural Resource Indicators section, page 127. The 95,508 acres of reported preserved land in the ARA includes open space and preserved farmland but is being compared to a figure for farmland within the ARA (99,921 acres), not to the ARA itself.
- The page 33 discussion of the Highlands Council's roles as a Regional Clearinghouse for Farmland Preservation, Stewardship and Technical Assistance should mention that this will be performed in coordination with county agriculture development boards and the SADC.

- The sections seem to consist of random facts, recommendations and program issues. Some sections appear to be incomplete.
- We suggest that traffic circulation related to significant agritourism venues is added to the Transportation & Air Quality section.
- We strongly agree with the cluster development recommendations.
- We recommend that a woodland acquisition program administered by the SADC is added to the Landowner Equity Topic Area.
- Emphasis on Agricultural Retention Plans should be included under Municipal Plan Conformance in the Implementation section.
- The Agricultural Resources Indicators only focused on farmland and preserved farmland. We identified other indicators during the TAC meetings.
- Under the Municipal Plan Conformance Indicator section the table only listed two Ag Retention Plans completed and did not identify the total number of applicable municipalities. We believe that there were at least ten municipalities that were required to complete these Plans as part of Plan Conformance.
- The term “Farm” Conservation Plan should be used. Not “Agriculture” Conservation Plan.

We understand that this report involved a great deal of work, but it was very frustrating to read and follow. There is a lot of good information in the report that needs to be formatted in a way that clarifies what is already in the RMP, appropriate indicators for the Program Areas of the RMP and suggested recommendations to improve the RMP.

Thank you for allowing us to comment.

Sincerely,

Monique Purcell  
Director, Division of Agricultural & Natural Resources



168 West State St. – Trenton, NJ 08608 – Phone: 609-393-7163 – Fax: 609-393-7072 – Email: mail@njfb.org

New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road (Route 513)  
Chester, NJ 07930-2322

Thank you for the opportunity to comment on the Highlands Regional Master Plan Monitoring Program Recommendations Report. New Jersey Farm Bureau has been an active organization in the development of the Regional Master Plan and strongly supports the efforts to track the impact of the plan and the act on the economy of the region as well as the goals objectives outlined in the plan.

The recommendations report touches on many areas of the plan and has some solid indicators outlined. The recommendations are useful and are a good starting point for tracking the plans impacts. Building on the report we offer the following comments and recommendations.

**Resources:Natural:**

With the publication of Forest Stewardship rules for private landowners it is important that the Highlands plan looks at how public lands in the highlands region are managed. Tracking the acres of lands managed under stewardship plans will be important going forward.

We question the recommendation for BMP's for forestry in the highlands As the DEP and State Forester already have that responsibility when they approve woodland management plans, landowners are supposed to follow the divisions harvest and management practices. There is nothing in the report to show those practices and future updates do not meet the needs of the region already.

**Water Resources:**

Efficient use of water, it is a bit confusing to have both agriculture and irrigation numbers combined. There are agricultural water certifications that should be broken out to establish the use and change in use to track trends in efficient use of water. This data could come from implementing the recommendations se that calls for better collaboration with NJDEP, NJDA and Rutgers Cooperative Extension Service

Summary of findings' Water use: it was interesting to note the reduction in consumptive uses of water (down27%) in the highlands region

**Water and Waste Water Utilities:**

Strongly support the recommendation for alternative waste water treatment plans this will have broad impacts in other sections of the report, (Future Land Use, Landowner Equity, Sustainable Economic Development)

We agree with the need to better monitor existing septic systems and septic failures, the burden of clean ground water should not be solely focused on new septic systems.

There needs to be a process to address business including farm business expansion of waste water systems. Better coordination of DEP rules and the Highlands RMP, when encouraging businesses to grow or stay in the region.

### **Agricultural Resources:**

The monitoring areas of the report are a good start, the land in agriculture preserved land indexes we question the 95% of the Agricultural Resource (ARA) being preserved

We would like to see the restoration of the farming assistance program. We did expect to see some more detailed reporting of the benefits of the program, Number of farms helped, acres of land impacted, etc. \$418,000 was spent in three counties and the results of the grants should be shared. If the program restoration would need a legislative fix, that should be one of the recommendations.

We recommend adding these additional indicators to better understand the health of the agriculture economy in the region.

- Number and nature of Right to Farm complaints since 2008 (CADB and SADC data). NJDA can work on this
- Market value of crops 2007 vs. 2012 (Ag 2012 Census).
- Economic value of agri-tourism and direct marketing to towns and counties. NASS
- Comparison of acres/numbers of major commodities 2008-2012. NASS
- Number of new farm conservation plans developed and implemented (NRCS and Soil Conservation District data).
- Number of scale of projects that have used the Agriculture Development process for new buildings and farm expansion.

### **Transportation and Air Quality:**

The transportation program issues highlight that transportation is not addressed as it relates to tourism in the region, but then there is nothing in the recommendation section to address the growing need for improved road safety and traffic impacts during the different seasonal tourism peaks. There is a need for coordination across towns and counties, the need for expanded public transportation to rural areas, bike friendly roads and other beneficial programs that can facilitate improving tourism and agri-tourism in the region.

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 affecting the Highlands agricultural industry

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

### **Future Land Use:**

We support thereports goals and focus on low impact development and also cluster and center development. We do feel strongly that the plan and the report needs to focus on better ways to use the state regulations that include non contiguous cluster and other planning tool to preserve open lands/farmland and still permit appropriate development in the region.

Stronger emphasis needs to be placed on TDR opportunities within the highlands region, center designation and infill development that can use TDR or non contiguous development should be highlighted and encourage projects should be measures of success.

The monitoring report should also reflect;

- Number of towns in the areas identified in the RMP as suitable for Receiving Zones that have considered TDR; number that received grants to do a Feasibility Study
- Number of TDR programs resulting.
- Number and nature of funding sources for the Highlands Bank's new land conservation easement purchase program. HLC

### **Landowner Equity:**

We fully support the recommendations to revisit the 2008 TDR technical reports and review the existing credit valuation formula.

We suggest looking beyond simple transfer of TDR credits and look at alternative uses for credit transfers, such as waivers, water and septic permits,

Recommend having an online tool for landowners to get an idea of TDR credits a property has. Keep the process open.

The report should track the 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). SADC, CADBs can help with this.

Numbers of exemptions 1 and 2 granted and locations: county, town, and on the number on active farms. NJDEP data Trained municipalities are able to issue some exemptions now.

There needs to be a new land preservation program that would result in the purchase of forest easements This is enabled by RMP Policy 1A4 (p. 139) so that forest land owners have a way to recoup their equity and give an ecological value to any appurtenant woodlands. This would be operated by the SADC as easement purchase is the backbone of the Farmland Preservation program.

We support the call for a water user fee to help fund the TDR bank and land preservation programs in the region.

The report should track the appraisal values of preserved lands pre and post highlands dual appraisal so landowners can see the impact to land values the rules and regulations caused.

We also support extending the dual appraisal process beyond the 2019 current deadline.

**Sustainable Economic Development:**

The report emphasizes both eco and agri-tourism, but there are no hard numbers for tracking the businesses their growth or success and failures. We support the recommendation to monitor the data contained in the Fiscal Impact analysis (FIA)

Sustained economic development needs to look at the businesses and industries in the region.

The plan should use the FAI to drive decisions about housing, expansion, transportation and infrastructure investment.

In that vein we think it is very important for the MPRR to make sure that towns with agriculture utilize the tools and agricultural policies in developing Agriculture Retention and Farmland Preservation plans.

The report shows that only 2 towns have done those plans, more towns need to complete them and begin implementing them this will help improve the role of agriculture as part of the future economy of the region.

This includes encouraging town to adopt and upkeep Right to Farm ordinances in accordance with the SADC model Right to Farm ordinance.

Thank you for your consideration of our comments.

We know the staff and consultants worked hard on the report, it is long, detailed and sometimes confusing. We hope our recommendations can be used to improve the report and the regional master plan going forward.

## **RMP Monitoring Comments, September, 2017**

These comments follow from and extend those on the subject of Cultural Resources that were included with the response of the NJ Highlands Coalition filed with you this month.

First, we emphasize the need for procedures concerning cultural resources to be inserted by amendment in multiple other sections of the RMP. And we urge the Council to implement all of the cultural resource-related procedures currently required by the Plan's stated purposes, as well as those to be added after these amendments are passed.

Second, we have come to realize that Cultural Resource protections will be best served if the Highlands Council is not the keeper of a new Highlands-area inventory, but rather takes full advantage of its ideal role as collector of information for that inventory.

The inventory already exists, in the form of the NJSHPO database of information related to the New Jersey Register of Historic Places. That database, which is on their web site, is an index not just of all the properties state-wide that have actually been listed on the state and national registers, but also of every property on which there has been correspondence about possible eligibility for listing. The descriptions of the properties, and the details of the correspondence, are not on the web site, though the complete information is publicly available at the SHPO office in Trenton. It should be noted that archaeology sites may be mentioned sketchily or not at all, in order to protect them from looting (that information is available on a need-to-know basis). The web site presents information organized by county and then by municipality; some sites cross municipal boundaries and are listed more than once. This means that data from the Highlands region is easily accessible, and software tools could make it even more so. The web site is kept in very timely fashion, but a staff that has extensive experience in doing so.

If the Council decides to use this existing resource, it would be free to concentrate on its own unique position as data collector. It would be simple to require, for every request for the Council's action such as waivers, approvals, or conformance petition,

that the applicant present complete, formal survey-level information about cultural resources on its property. Yes, they should mention sites that are already Register-listed, but more to the point, they should identify sites that have never been recognized. These reports will constitute the Council's contribution to the inventory. The Council will keep a digitized copy of its own records, as it undoubtedly does now, and send the cultural resources information to SHPO, where it will become publicly accessible.

It seems to us that there is no reason for the Council to maintain a separate cultural resources inventory for the Highlands. The boundaries of the Highlands area are arbitrary in a number of ways; they were devised in light of political reasoning and the state's home-rule policy, whereas cultural development has been for the most part independent of those boundaries, and pre-dates many of them. Even geographical features may not have played their expected parts in cultural transmission (the Delaware was a cultural barrier, the Hudson a facilitator). And if the resources themselves will be evaluated by state-wide standards, there is no reason to create a separate Highlands register or recognition program.

With this work-saving decision made and the Council freed from any need to manage an inventory, they should be able to take on the chore of implementing the language already in the Plan, which calls for cultural resource protection practices on the part of individuals and municipalities that have not been designed or carried out. These practices are described in some detail in the above-mentioned NJ Highlands Coalition comments; we hereby urge the Council to adopt them.

**Marion o. Harris**

Marion O. Harris, Chairman

**New Jersey Highlands Coalition**  
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September 10, 2017

**To:**

New Jersey Highlands Council  
Attn: MPRR Comments  
100 North Road (Route 513)  
Chester, NJ 07930-2322  
Fax: (908) 879-4205

**Subject: Monitoring Program Recommendation Report (MPRR) Comments**

Dear Margaret Nordstrom and Council members/staff:

On behalf of the New Jersey Highlands Coalition, its individual and organizational members ([http://njhighlandscoalition.org/HTML/about\\_affiliates.html](http://njhighlandscoalition.org/HTML/about_affiliates.html)) thank you for your consideration of our comments. A great deal of thought and effort has gone into preparation of these comments, which we believe will assist in helping the MPRR and the Regional Master Plan become more effective in meeting the goals of the New Jersey Highlands Water Protection and Planning Act. We are happy to work with the Council in implementing many of these proposed amendments and other proposals.

Sincerely,

Julia Somers  
Executive Director  
New Jersey Highlands Coalition

**New Jersey Highlands Coalition**  
**Comments**  
**Monitoring Program Recommendation Report (MPRR) (Draft)**  
**September 10, 2017**

**Contributors to the Comments:**

*George Cassa, Co-Owner, Shannon's Fly & Tackle, Trustee, Raritan Headwaters Association*  
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*Wilma Frey, M.L.A., M.P.A., Senior Policy Manager, New Jersey Conservation Foundation*  
*Amy Hansen, Policy Analyst, New Jersey Conservation Foundation*  
*Marion Harris, Chairman, Morris County Trust for Historic Preservation*  
*Alan R. Hunt, Ph.D., Executive Director, Musconetcong Watershed Association*  
*William S. Kibler, Esq., Director of Policy and Science, Raritan Headwaters Association*  
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**Natural Resources Topic Area (Pgs. 10 – 20)**

Contributors:

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**RMP Program: Forest Resource Management and Sustainability (pgs. 13-14)**

Emile DeVito, PhD

*“Recommendation: Incorporate results of Ecosystems Services Valuation and Forest Management Guidance document into future amendments of the RMP.”*

We support.

*“Recommendation: Develop Highlands Specific Best Management Practices (BMP) Manual for forestry activities to be incorporated into future Forest Stewardship Plans and Forest Management Plans for Highlands forests.”*

**We support, with the caveat that this document needs to distinguish between public and private forests in the Highlands.** The standards for public forests must be as broad and strong as possible, taking into account the full spectrum of Green Acres goals and objectives for preserved lands, including protections for all rare plant and animal species (Special Concern, Threatened, Endangered, S1, S2, S3, as well as the overall context for the management of public lands in the Region and the State.

Strong Highlands-specific standards for the private forests in the Highlands should be developed, that fully incorporate DEP Highlands rule standards for water and ecosystem protections, but they should not necessarily impose the same exacting standards for all rare species protection that are necessary on lands held in the public trust. For example, it is cost-prohibitive to require a private landowner to survey for all special concern (S3) plant species. However, private forestry plans should protect all S1, S2, and T and E species of plants and animals, as these are the species that are exceedingly rare.

*“Recommendation: Update Forest Resources Areas Mapping for the Highlands Region, based on GIS mapping policy and reconsider the use of Forest Resource Area as a mapping unit and instead, rely upon the Total Forest Area data layer to delineate the extent of forest for the Region.”*

We support.

***Proposed New Recommendation:*** (maybe this goes into the Science and Research Agenda...)  
*Incorporate into the forest area mapping the existing historic forest mapping GIS data layer (originally created by CC Vermuele in the late 1800s), as this data layer is significantly*

*correlated with undisturbed and least-disturbed forest soils (as opposed to soils with a post-agricultural legacy). These historic or legacy forest patches are often of high ecological and biodiversity value, even if in otherwise fragmented forest areas, since their soil substrate was not likely disturbed by tilling. This data layer will be extremely useful to ecological restoration planning efforts.*

**Science and Research Agenda:** (pages 202-203)

**Forest Sustainability:**

*“Develop incentives to encourage invasive species control and deer management.”*

We support, but incentives to reduce the rate of forest fragmentation, which is also noted as a forest sustainability issue, should be noted: eg. land preservation through the Council’s Program, Green Acres, state, municipal and nonprofit programs, plus the Council’s HDC Program (-- if the easement would be strict enough to preserve forests....)

*“Develop and implement Highlands Forest BMP to supplement current NJDEP BMP Forestry Manual.”*

We support. See comment above, re public vs. private lands.

*“Develop models to evaluate and determine the value of carbon sequestration” of Highlands forests.*

We strongly support, and suggest that public and private lands should be distinguished in the evaluation.

**Forest Restoration:**

*“Investigate mapping methodologies to identify lands where it would be most appropriate to attempt forest restoration. Develop guidance for reforestation based on specific site characteristics.”*

We support, and here is where the CC Vermuele historic mapping would be most useful. Forests on legacy soil degraded only by ill-conceived logging practices, as opposed to highly degraded forests on post-agricultural soil, should be the principal target for ecological restoration. Post-agricultural forests and existing agricultural lands could still be restored to forests in order to establish contiguous canopy, stream buffers, etc., but attempts to restore the native biodiversity of herbaceous and shrub layer would be costly and problematic.

**Forest Mitigation:**

*Recommendation: “Field test the Functional Ecosystem Evaluation Methodology to assess usability, functionality and accuracy of the valuation determination.”*

We support.

**RMP Program: Restoration of Streams and Riparian Areas (pgs. 14-16)**

William S. Kibler, Alan R. Hunt

*“Recommendation: Clarify and refine language in certain policies and objectives related to Highlands Open Water Protection Areas and buffers, particularly regarding development applications and buffer functionality.”*

We support. We agree that “[t]he language of certain policies and objectives is confusing and requires clarification” (p. 15). We encourage the Highlands Council to implement the Highlands Open Water definition uniformly across the Preservation and Planning Areas for Category One waters with the associated 300 foot riparian buffer (see N.J.A.C. 7:38-3.6(e)). For example, Division of Land Use delineations for freshwater wetlands and State Open Waters should also require applicants to utilize the definition of Highlands Open Water when delineating water resources throughout the Highlands area. Agricultural use within a Highlands Open Water buffer must be considered a “disturbance” under the RMP. Additionally, “development” needs to be understood—and defined within the RMP—on a spectrum. While urban areas and farms do not have the same impact on waterways, they are both long-term, man-made changes to the landscape, and are therefore developed. Neither a farm nor a golf course is an undeveloped area in a natural state.

*“Recommendation: Work with municipalities to incentivize the development of stream corridor and/or subwatershed based Stream Corridor Protection/Restoration Plans.”*

We support, but the recommendation should include working with non-profit organizations and other local stakeholders.

*“Recommendation: Facilitate coordination between multiple municipalities that share HUC14 subwatersheds to encourage collaboration (sharing available funding and other resources) in the development of subwatershed based Stream Corridor Protection/Restoration Plans.”*

We support, but the recommendation should include working with non-profit organizations and other local stakeholders.

*“Recommendation: Periodically review and refine, as necessary, the guidance documents available to municipalities for development of stream corridor restoration plans.”*

We support. If the “stream corridor restoration plans” in this recommendation are the same as the “Stream Corridor Protection/Restoration Plans” in the two previous Recommendations, then the same language and formatting should be used to avoid confusion.

The guidance documents must include requirements that Stream Corridor Protection/Restoration Plans must address the projected impacts of climate change.

**Science and Research Agenda:** (page 16)

*“**Riparian Integrity:** Undertake a full recalculation of the five indicators of riparian integrity that were used for the 2008 Ecosystem Technical Report . . . that were expressed at the HUC14 subwatershed level.”*

We support.

*“**Expand Ambient Biological Monitoring Network in Highlands Region:** . . . The intent of this agenda item is to coordinate with NJDEP to expand and establish a consistent AMNET to include additional stations in the Highlands Region.”*

We support in principal. It would be more effective to coordinate with DEP and local organizations to expand and improve the AMNET. Several local organizations have existing biological monitoring networks that provide quality data more often than AMNET can. For example, Raritan Headwaters has a biological monitoring site in every one of the Highlands HUC14s in its watershed. Those sites provide Tier D data to DEP and the data are used by DEP when compiling the 303(d) list. RHA collects data from every site every year, whereas the AMNET sites provide data only every five years. Similarly, the Musconetcong Watershed Association collects data from monitoring sites which is entered into WQX for the National Data Portal by cooperative agreement with EPA. Working with local organizations would provide more high quality data for the Council’s use and would help address the resource limitations that have thus far prevented expansion of the AMNET.

***“Highlands Open Waters and Riparian Areas Inventory: The Highlands Council should develop methods for continued development and refinement of Highlands Open Water and Riparian Areas inventories with an emphasis on identification of headwaters streams and headwaters seeps and springs.”***

We support. We encourage the Highlands Council to identify Highlands Open Waters in the Preservation and Planning Areas with the associated 300 foot riparian buffer. This activity should begin with identifying Highlands Open Waters associated with Category One waters first (see N.J.A.C. 7:38-3.6(e)). This is especially critical for protecting headwaters which are intermittent streams, and which may not be evident on current NJDEP maps, such as NJGeoweb. Some information sources include USDA County Soil Maps, which include streams, but are only available in print and have not been digitized for GIS. Also, the Stroud Water Resource Center has developed a high resolution stream network in its Model My Watershed online map, which has been very useful at identifying headwaters intermittent streams in the Musconetcong watershed.

**RMP Program – Critical Habitat Conservation and Management:**

Emile DeVito, PhD

Regarding *Forest Resource Management and Sustainability*, we strongly support the recommendations and the science and research agenda proposed on page 14.

Regarding *Critical Habitat Conservation and Management*, we strongly support the recommendations and the science and research agenda proposed on page 17. It is especially important to include ALL of the NJDEP Natural Heritage Program *Natural Heritage Priority Sites* in the redefinition of Critical Habitat, as was originally intended

Also, during the process of developing the *Highlands Region (specific) BMP Manual for Forestry Activities* proposed in the Forest Resource Management recommendations, special emphasis must be placed on the development of forestry BMP guidelines for all Critical Habitat, including wildlife habitat, vernal pools and buffers, and Natural Heritage Priority Sites.

We strongly request an additional recommendation that ALL Natural Heritage Priority Sites *on public lands* be treated as State Natural Areas, and that any forestry activities proposed within a Natural Heritage Priority Site on public land be reviewed and approved by the State Natural Areas Council.

We strongly request an additional recommendation that forestry activities proposed in Critical Wildlife Habitat, Vernal Pools and Buffers, and Natural Heritage Priority Sites *on private lands* adhere to special BMPs developed specifically for these critical areas in the proposed Highlands Region BMP Manual.

Regarding the summary of recommendations beginning on page 197, we strongly support all of the recommendations listed under both the Critical Habitat Conservation and Management RMP program and the Forest Management and Sustainability RMP program.

We support all the recommendations proposed under the Science and Research Agenda, with special emphasis on the Forest Sustainability recommendations regarding deer management, invasive species control, and carbon sequestration.

Overabundant deer are the single greatest threat to the ability of the preserved Highlands forests to continue to provide key ecological services. Overabundant deer destroy the native tree seedling, shrub, and herb layer in the forest, and aid in allowing weak-rooted annual invasive weeds to colonize the forest. Once the native herb/shrub/seedling layer is decimated by deer and invaded by alien weeds, the pH of the forest floor rises, alien earthworms consume the complex organic soil layer which houses sequestered carbon. With the consumption of the organic soil layer by earthworms, CO<sub>2</sub> is released to the atmosphere, underlying mineral soil becomes exposed, further attracting weeds instead of native plant species, and the erodability of soil increases. With the sponge-like organic layer reduced or gone, higher sheet flow runoff occurs instead of infiltration of water. Tiny, first-order streams become eroded and channelized, and siltation of downstream reservoirs increases.

The goal of the Highlands Regional Master Plan is to protect water; it is time to recognize and act upon the serious threat that overabundant deer pose to both the maintenance of ecological services and water quality protection provided by intact forests.

### **Natural Resources Topic Area**

#### **RMP Program: Carbonate Rock Areas**

Dave Peifer (Wilma Frey from notes of phone conversation),  
Alan R. Hunt

*“Recommendation: Categorize and maintain an inventory of karst features identified through geophysical investigations conducted during project reviews.”*

We support. To protect water quality in carbonate rock areas, more information is needed to understand how surface and groundwater interact, such as in the Musconetcong watershed. We note that while all karst is carbonate rock, not all carbonate rock is karst.

*“Recommendation: Coordinate closely with NJGS and USGS when carbonate rock mapping is updated.”*

We support, but emphasize **that the recommendation regarding carbonate mapping by NJGS and USGS should be unequivocal.** This mapping is essential; the Highlands Council needs to be proactive and commit to it. The Council should provide the matching funding required, and then work cooperatively with the NJGS and USGS on the project.

*“Recommendation: Compile a database of municipal carbonate rock ordinances already enacted on a local level. Working with municipalities that have carbonate rock to enact such ordinances may be more applicable than implementing a review or checklist item through Highlands Project Review.”*

We support municipal enactment of strong carbonate rock ordinances. Clinton Township and Washington Township (Morris County) municipal ordinances are good. However, Highlands Project

Review should continue to include substantive review of carbonate rock issues where a municipal ordinance is not in effect.

*Karst Features Inventory (p. 198). “Establish an inventory of karst features identified through geophysical investigations during project reviews.”*

We support. Site specific carbonate rock and karst maps which are associated with projects under Highlands Council review should be digitized and added to the Highlands Council Interactive Map.

**RMP Program: Lake Management Areas** (pg. 18-19)

Wilma Frey

Marion Harris

*“Recommendation: Encourage lake communities without lake management plans to develop and implement a Lake Management Plan using the Highlands Council guidance document and grant program.”*

We support. Although many Highlands lakes suffer from problems involving water quality, nonpoint source pollution and ecological integrity, as well as dam maintenance issues, they also offer striking scenic beauty and recreational resources. Highlands Council guidance could assist with both solving problems and protecting resources. In addition to identifying and protecting natural resources, every lake community management plan should be required to include a survey of cultural resources and a plan for their protection.

*“Recommendation: Work directly with lake management communities and counties to pursue lake management plans that span multiple municipalities.”*

We support.

*“Recommendation: Assist municipalities in identifying funding opportunities, including the USEPA Section 319 (Clean Water Act, Section 319, Nonpoint Source Pollution Program) program for lake remediation activities.*

We support (hoping Section 319 survives the current Administration in Washington, D.C.).

*“Recommendation: Continue to maintain a Highlands Region Lake Management plan database.”*

We support.

*“Recommendation: Prepare a Best Practices Manual for dam and lake maintenance.”*

We support, with the assumption that the manual will prioritize ecological concerns, as well as safety and water quality.

*“Recommendation: Create a Highlands Financing and Administrative Handbook for dam and lake maintenance and operation, addressing creative public and private financing programs as appropriate for the lake or dam ownership.”*

We support.

### **Science and Research Agenda**

*“Undertake a lake management study to focus on Lake Hopatcong and Greenwood Lake. The study should focus on preserving the ecological integrity of the lakes, their water quality, and water source potential.”*

We support, but urge that the study also address protection of the historic, archaeological, scenic and recreational resources of the lakes and their surrounding landscapes.

### **Natural Resources Topic Area**

#### **Proposed New RMP Program: Steep Slope Protection Areas** (pg. 19)

Wilma Frey

Comment: Although the MPRR states that “no current program exists,” in the 2008 Highlands Regional Master Plan, Steep Slopes is Subpart C of Part I, Natural Resources. It is co-equal in the RMP with Subpart A- Forest Resources, Subpart B – Open Waters and Riparian Areas, Subpart D – Critical Habitat, Subpart E – Land Preservation and Stewardship, Subpart F – Carbonate rock (Karst) and Subpart G – Lake Management. Steep slopes protection and management is clearly an issue of key importance to the Highlands Region, and it warrants attention equal to that of these other resources and issues. Establishing a separate program would provide better recognition of both the critical nature of steep slopes and the complexity of its attributes, which range from devastating erosion and subsidence potential, to exhilarating recreational opportunity, to unique habitat for specialized flora and fauna, to outstanding scenic attributes, both in terms of observation points and views toward unbroken mountain ridgelines.

The Council has already provided a firm (and expensive) underpinning for a Steep Slopes Program with its outstanding 2-foot LiDAR mapping of the entire region.

*“Recommendation: Maintain a database of steep slope protection ordinances, ridgeline ordinances, or other such regulations already in place in various Highlands municipalities.”*

We support, but the ordinances should not be required to be from Highlands municipalities. Good ideas can come from elsewhere – other localities, counties, or states.

*“Recommendation: Coordinate with any municipality that wishes to implement such protections in addition to the Highlands Land Use Ordinance.”*

We support.

*Recommendation: Provide model ordinance language to municipalities interested in protection of ridgelines.”*

We support - however, the ordinance language, and other ordinances, should also be made available to counties in the Highlands, private organizations, the Highlands Scenic Design Advisory Board and local stakeholders.

**New Proposed recommendation:** That the Council coordinate its Steep Slopes Protection Areas Program closely with its Scenic Resource Protection Program.

**Science and Research Agenda:** *Addressing green infrastructure initiatives in Steep Slope Protection Area.*

We support.

### **Topic Area Water Resources (pgs. 20-25)**

Contributor:

William S. Kibler

### **RMP Program: Highlands Restoration: Water Deficits (pgs. 22-23)**

*“Recommendation: Prioritize the development of municipal-wide WUCMPs [Water Use and Conservation Management Plans] through plan conformance implementation. Develop a system for prioritization and coordinate outreach efforts to municipalities to aid in the development and implementation of WUCMPs.”*

We support, but the recommendation should include working with non-profit organizations and other local stakeholders. Additionally, DEP must consult with the Council on all new water allocation permits and on all permit renewals, not just those with major modifications.

*“Recommendation: Update net water availability based on data from completed WUCMPs.”*

We support.

*Existing Water Use Rates. Coordinate with NJDEP to determine existing water use rates for all public community water supply systems using Highlands Water and assess the relative efficiency of water uses among classes of systems. (p.198)*

In general, we support. However, 1) we encourage the Highlands Council to estimate water use rates from historical usage, unlike the methods in the draft NJ Water Supply Plan which utilized an estimated future rate which was 20% lower (about 100 gpd per person) than the historical rate of individual water consumption (about 125 gpd per person), and 2) water use rates for private potable wells must also be included in this assessment as some watershed in the Highlands region have water

deficits due primarily to the abundance of potable private wells, as in the Lower Musconetcong watershed.

*“Recommendation: Continue monitoring water withdrawals throughout the region using data cataloged by the NJGS.”*

This is a first step, however relying on NJGS data is inadequate to address the intent of the Highlands Act. NJGS monitoring wells are too few to monitor water withdrawal usage. For example, the 42-mile long, 156 square mile Musconetcong watershed has two NJGS monitoring wells. With much of that watershed underlain with carbonate rock, more monitoring well information is needed to understand the localized impacts of water availability and withdrawal on groundwater availability and surface water flows – anecdotal evidence indicates that some surface water streams are losing base flow; however, the two NJGS monitoring wells are far from these sites and show no appreciable changes in water level. We encourage the Highlands Council to develop a more robust monitoring program, which monitors both groundwater and surface water volume, especially in carbonate rock areas, and seek partnerships for establishing groundwater monitoring sites (e.g. NJ Wildlife Management Areas, municipal public lands) and non-profit organizations. Other useful information may be available through the NJDEP well drilling permit program on well depth, depth to water, and need for replacement wells (e.g. due to an original well going dry).

*“Recommendation: Prior to the adoption of any revision to the New Jersey Statewide Water Supply Plan, consult with the NJDEP concerning the possible impact of the Plan on the region, including the improvement of the efficient use of Highlands water resources both within and outside the region.”*

We support. However, this consultation should occur while the Statewide Water Supply Plan is being drafted, not after it has been released for public comment. The Plan as currently proposed addresses neither water quality nor the water needs of aquatic ecosystems. The Council must ensure that the RMP continues to address those two needs, regardless of the deficiencies of the Statewide Water Supply Plan.

*“Recommendation: Develop an RMP sub-program to directly address PGWRAs [Prime Ground Water Recharge Areas].”*

We support.

*“Recommendation: Develop avoidance/minimization/mitigation strategies and policies associated with development in PGWRAs.”*

We support.

*“Recommendation: Develop site design guidelines for development in PGWRAs, including permissible uses.”*

We support.

*“Recommendation: Develop municipally-based guidance for the local identification of municipally-important groundwater recharge areas.”*

We support.

**Science and Research Agenda:** (page 23)

*“Approach USGS to determine the feasibility of updating the Low Flow Characteristics of Streams in the Highlands Region report to determine if any measurable change has been observed in the base flows of the Highlands Region.”*

We support. Include (1) a long-term trends analysis of base flows; and (2) a projection of base flows 40 or more years out to account for the likely impacts of climate change. To the extent possible this analysis should include river tributaries and streams, in addition to a watershed or basin level flow assessments, because of the localized impacts of water withdrawals.

*“Evaluate and suggest locations for new gauging stations that would allow for a more simplified analysis of streamflow conditions in the Region. Potential locations may be based on the following criteria:*

*Location of current gauging stations  
Type of gauging station  
Installation of stations on more critically vulnerable/important streams (i.e. C1, trout production, etc.)  
Other recommendations of the USGS.”*

The focus should be on a more accurate analysis of stream flow, rather than a more simplified analysis. However, we can support this recommendation as long as a more “simplified” approach is at least as effective and accurate as the current analysis.

*“Identify potential funding sources to support the installation, operation and long-term maintenance needs associated with new gauges situated in the region.”*

We support. With the lower cost of continuous flow monitor stations, there is increased feasibility for measuring flow in river main stems as well as streams and intermittent streams. Highlands Council could partner with non-profit organizations to deploy and monitoring continuous flow stations.

**RMP Program: The Efficient Use of Water (pgs. 23-25)**

*“Recommendation: Prioritize development of municipal-wide WUCMPs through Plan Conformance implementation. Develop a system for prioritization and coordinate outreach efforts to municipalities to aid in the development and implementation of WUCMPs.”*

We support. The Council should include a recommendation to help coordinate development of WUCMPs among neighboring municipalities, as most HUC14s overlap municipalities and most municipalities include more than one HUC14.

*“Recommendation: Encourage integration of water use efficiency strategies into WUCMPs, such as:  
Supply-side conservation  
Demand-side conservation  
Utility rate schedules that encourage customers to make efficient use of water and discourage*

*excessive use*

*Beneficial reuse of reclaimed water  
Recycling of water”*

We support the integration of water conservation strategies into the WUCMPs, but such strategies should be mandatory in any municipality that includes all or a portion of any HUC14 in deficit.

*“Recommendation: Since irrigation practices associated with golf courses have a relatively large impact on water use in the region, research and develop best management/conservation practices for inclusion in golf course management plans. These practices can also be considered when reviewing water allocation permits associated with golf courses.”*

Since the volume water used on golf courses is extremely large, and the use is almost entirely consumptive, best management/water conservation practices should be mandatory in any new or renewed water allocation permit.

*“Recommendation: Continue coordination with the NJDEP on water allocation permit actions.”*

We support if the coordination between the Council and NJDEP includes all permit actions, whether the permit is new or is being renewed.

*“Recommendation: Continue coordination with the NJDEP on water allocation permit actions.”*

We support if the coordination between the Council and NJDEP includes all permit actions, whether the permit is new or is being renewed.

*“Recommendation: Continue monitoring water withdrawals throughout the region using data catalogued by NJGS.”*

We support. However, the Council must take action in those HUC14s that remain in deficit. Also, relying on NJGS data is inadequate to address the intent of the Highlands Act and a more robust groundwater monitoring network needs to be implemented.

*“Recommendation: Continue to ensure, through the project review process, that all proposed new development incorporates LID design, relies on stormwater for irrigation purposes to the maximum extent practicable, and includes water conservation measures in site layout and structures (e.g., water efficient landscaping, rain collection systems, use of gray water); and new commercial development uses internal recycling or beneficial reuse of reclaimed water to the maximum extent practicable.”*

All projects should be required to reduce their water consumption, reuse stormwater on site, and recycle water for beneficial reuse “to the maximum extent possible.” At a minimum, clearly define the phrase “to the maximum extent practicable” for purposes of the RMP and ensure that water conservation measures are used on all sites.

*“Recommendation: Develop and/or provide educational materials to Highlands municipalities regarding water use efficiency and conservation practices for distribution. Educational materials should also be made publicly available on the Highlands Council website.”*

We support. Coordinate outreach with and provide these materials to NJDEP and appropriate regional non-profits.

*“Recommendation: Determine feasibility of enacting a water user fee imposed on water purveyors who derive water from Highlands Region sources and dedicating funds raised by such fee to assist in compensating landowners in the Highlands Region whose future land use expectations have been impacted by the Highlands Act.”*

We do not support. The courts have clearly and repeatedly held that “future land use expectations” are not a taking and therefore not compensable. Offering a hand out every time someone is impacted by a regulatory or zoning change would bring essential government functions to a halt. However, we would consider a proposal to enact a water user fee to compensate Highlands landowners willing to sell their property for preservation purposes, or willing to place an agricultural or conservation easement on their property.

*“Recommendation: Collaborate with the NJDEP (all uses) and the NJDA (agricultural uses) to select the most appropriate metrics for water use efficiency.”*

This collaboration should be broader and might be a good use of a Technical Advisory Committee (TAC). Include in the TAC water authorities, such as the New Jersey Water Supply Authority and the North Jersey District Water Supply Commission, water utilities, academics, and non-profit organizations such as watershed associations.

*“Recommendation: Collaborate with the NJDEP to determine existing water use rates for all public community water supply systems using Highlands water, categorize the systems for comparison purposes, and assess the relative efficiency of water uses among common classes of public community water systems.”*

We support. Water use rates for private potable wells must also be included in this assessment as some watersheds in the Highlands region have water deficits due primarily to the abundance of potable private wells, as in the Lower Musconetcong watershed.

*“Recommendation: Collaborate with the NJDEP, NJDA, and Rutgers Cooperative Extension Service to determine existing water use rates for all agricultural and other self-supplied irrigation uses using Highlands water, categorize the uses for comparison purposes, and assess the relative efficiency of water uses among common classes of purposes.”*

We support.

### **RMP Program: Water Quality Restoration (pgs. 25)**

*“Recommendation: Coordinate outreach efforts to conforming municipalities regarding implementation of the grant-funded Highlands Stormwater Management Program components.”*

We support. The Highlands Stormwater Management Program must ensure that municipalities address current and predicated future effects of climate change.

*“Recommendation: Following the guidance set forth in the NJDEP Stormwater Best Management*

*Practices Manual, identify high priority HUC14 subwatersheds and a pilot study area for which to develop a Regional Stormwater Management Plan. Further steps would include the identification of participants, data gathering, and the development of implementation and evaluation strategies.”*

We support.

*“Recommendation: Facilitate coordination between multiple municipalities that share HUC14 subwatersheds to encourage collaboration (sharing available funding and other resources) in the development of subwatershed based Stream Corridor Protection/Restoration Plans.”*

We support.

*“Recommendation: Identify if any watershed-based management plans associated with the Highlands Region have been developed and/or implemented.”*

There are watershed-based management plans in the Highlands, so perhaps the recommendation should be to collect and catalog all existing watershed-based management plans in the Highlands, update their implementation status, coordinate support for their implementation, and prioritize for development of a plan those watersheds within the Highlands that presently lack a management plan. For example, the Musconetcong River has a federal designation as Wild & Scenic, and has a River Management Plan administered through the Musconetcong River Management Council.

#### **Science and Research Agenda:** (page 25)

*“Improve existing monitoring networks and use additional data sources, in coordination with the NJDEP, NJGS and USGS, for monitoring and evaluating both natural conditions and anthropogenic factors in water quality.”*

We agree that existing governmental monitoring networks are insufficient to provide the level of information to management water availability and quality in compliance with the Highlands Act. We encourage the Council to work with non-governmental partners, some of which have robust monitoring networks and 10+ year monitoring programs. Many of these utilize Citizen Scientists, such as the Musconetcong Watershed Association’s River Watcher program and other similar programs. Non-profits can help improve monitoring networks by collecting high quality data at more monitoring locations less expensively than NJDEP or NJGS.

*“Coordinate with the USGS to review existing USGS logistical regression models for estimating septic densities based on median nitrate concentrations which may be further tested and refined with additional data collection and modeling.”*

USGS’s current regression model has proven to be inadequate and the Council should not rely on it. A new regression model should be developed, tested, and peer-reviewed before revisiting the septic density issue. The Council should not adopt any regression model or outside report on nitrate concentrations that has not been peer reviewed. The Council should recognize that median nitrate density is not the sole factor in determining development densities in the Highlands.

*“Work in conjunction with the NJGS and USGS to design an improved ambient groundwater quality*

*modeling network in support of refining models for estimating septic densities.”*

While septic density can be an important lens to interpret groundwater quality protection needs, estimating septic densities is only one of the many reasons to improve the groundwater monitoring network in the Highlands, and one of the less important reasons at that. Design an improved groundwater monitoring network to collect data for a variety of potential pollutants. Use the data to prepare an analysis of temporal and spatial trends in groundwater quality and quantity in the Highlands.

*“Determine, based on sufficient available data, where water quality improvements would be beneficial. Develop and implement watershed-based management plans based on the results.”*

We support the development and implementation of watershed-based management plans where they are needed. However, the Highlands Act directive to “protect, restore, **and** enhance the quality and quantity of surface and ground waters” (emphasis added) is not geographically limited to those places in the Highlands with “sufficient available data.” Where existing data aren’t sufficient, it is incumbent on the Council to collect sufficient data and then use that data to improve water quality.

## **Water & Wastewater Utilities (pgs. 26-31)**

Contributor: Elliott Ruga

**Highlands Act Goals:** Water and wastewater utilities are human engineered infrastructure that, depending on policy, can either promote or limit development. The Highlands Act, on the other hand, vastly limits development otherwise made possible by engineered systems by the presence of functioning natural ecological systems—the higher functioning natural systems (prime groundwater recharge, high integrity forest, vernal pools, critical habitat, etc.), the greater the limits put on engineered systems to promote growth and development. The policies that will limit water and wastewater utilities are set forth in the Highlands Act, which states:

*“(E)ncourage, **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, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts (thereof);”*

Under *Highlands Act Goals* of this chapter of the draft MPRR, the bolded section above is omitted, arguably because the adopted State Plan is so obsolete as to be irrelevant. However, the Highlands Council, no matter how well intended here, may not merely delete sections of the Highlands Act, especially if the section asserts where the regional body must be consistent with state-level policy. In the least the Highlands Council might incorporate a justification for ignoring the legislature’s mandate whether in the body of this section, or as a footnote: *Until an updated State Plan is adopted,*

*the Council cannot be held back from responding to the majority of the Highlands Act mandates. Currently there is no state-level plan with which the Highlands Regional Master Plan, per the Highlands Act, shall be consistent.*

**Highlands Regional Master Plan:** In listing the fundamental goals and objectives the RMP addresses in discussing water and wastewater utilities, the following are prominent in the RMP yet are omitted from the draft MPRR: Limit current and future water system demand in areas that are dependent on Current Deficit Areas or Existing Constrained Areas for sources of water; prohibit or limit the extension of water and wastewater utilities into the Protection Zone, Conservation Zone, or Environmentally Constrained Sub-Zones in the Planning Area; promoting cluster development and TDR receiving zones, where appropriate, as a requirement of extending utilities into the Protection, Conservation and Constrained Sub-Zones; prohibiting water transfers between subwatersheds; promotion of recycled and re-used water for non-potable uses.

**Highlands RMP Programs:** The MPRR omits the programs responsive to the fundamental goals and objective listed above.

**Wastewater System Maintenance:** We support this program and its elements. However, as noted in the RMP (Issue Overview p. 276) very few municipalities have adopted septic system maintenance ordinances, they are difficult to enforce, and failing septic systems often are a financial hardship on the part of the homeowner to replace. Yet the impacts to water resources, particularly in older Lake Communities, can be devastating.

**Indicators:** The indicators provided yielded interesting, but hardly useful findings, and little insight as to whether or not the Highlands Act's goals and objectives are being met for this topic. That most of the water supply EAS lies within the ECZ of the Planning Area, and that most of the wastewater EAS lies within the ECZ of the Planning Area, is hardly noteworthy. That since adoption of the RMP, an overall decrease in wastewater EAS might elicit further investigation, but that it was found to be due to more accurate mapping of EAS, not so much. And so on with Public Community Water System Capacity and Demand, and Domestic Sewerage Capacity and Demand.

**Recommendations:**

*Develop procedures that improve coordination with WMP partners to accelerate development and adoption of WMPs.*

We support.

*Update EAS data for both wastewater and water utilities on a regular schedule.*

We support.

*Continue to coordinate with NJDEP on water allocation decisions and project reviews that demand public water and/or wastewater utilities, particularly regarding sensitive resources.*

This is a statutory requirement of NJDEP.

*Identify and prioritize areas that are in need of upgraded infrastructure.*

We support.

*Investigate opportunities for creating grant programs to assist with infrastructure upgrades.*

We support.

Overall, this topic has been shown to be a missed opportunity. If the indicators were more reflective of showing how well the **Water and Wastewater Utility** programs succeeded in meeting the fundamental goals and objectives of the Act and the RMP for this topic, there would be more meaningful recommendations to make at this time.

### **Topic Area: Agricultural Resources (Pgs. 32 – 35)**

Contributor:

Amy Hansen, New Jersey Conservation Foundation

*"MPRR Recommendation: Promote sustainable agriculture and the expansion of agricultural uses and opportunities within the framework of protecting the Highlands Region."*

**Comment: We suggest that the RMP promote organic agriculture in the Highlands Region through education and technical assistance as a way to fulfill multiple Highlands Water Protection and Planning Act resource protection and sustainable economic goals, including especially protection of water quality, biodiversity, human and environmental health.**

The Environmental Quality Incentive Program (**EQIP**), within the Natural Resource Conservation Services (**NRCS**) menu of programs, can provide monetary assistance towards transitioning farms to organic, as well as maintaining or creating buffers and installing efficient irrigation systems and cover crops. Financially, this makes sense, as organic continues to be the fastest growing agricultural sector in the United States and around the world.

Organic agriculture is appropriate for the Highlands Region, utilizing cultural, biological and mechanical methods to promote soil health, provide fertility, suppress disease and manage insects and weed pests without relying on routine inputs of synthetic fertilizers and pesticides. Organic farmers use management techniques such as crop rotation, cover cropping and the promotion of beneficial insects to control pest populations and disease. Natural materials rather than synthetic materials are used for fertility and pest control. Organic livestock must be fed organic feed, have outdoor access and be housed in a manner that allows them to engage in their natural behaviors. Organic livestock health care emphasizes prevention of disease and prohibits the use of antibiotics and hormones. Organic products must not be bio-engineered (genetically modified), subjected to irradiation or produced with sewage sludge (biosolids).

Based on current agricultural land-uses, more needs to be done to control erosion, to reduce sedimentation in streams and the transport of on-farm input into waterbodies. Cover-cropping, relay-cropping, wide spread implementation of riparian buffers, and the conversion of poorly-managed row crop land into permanent, productive cover (e.g. hay, pasture) can help control soil erosion. The USDA NRCS has previously developed targeted implementation of farm conservation practices on a

watershed basis through its Regional Conservation Promotion Program, and farms preserved through the State Agricultural Development Committee are eligible for SADC conservation funds. Targeting these resources to the Highlands Area could have a measurable impact in water quality.

*"MPRR Recommendation: Integrated Crop Management and Integrated Pest Management (IPM): maintain and expand the program for farmers throughout the Highlands Region."*

Comment: We strongly recommend first prioritizing a transition to organic agriculture as noted above, and then the reduction of synthetic pesticides, herbicides, etc. through IPM.

*"MPRR Recommendation: Market Development/Niche Crops: develop and promote new markets for Highlands agricultural products (new products, value-added products, and niche crops) and develop and promote agritourism initiatives and activities."*

Comment: We support marketing assistance that promotes Highlands' products within already existing venues, including farmers' markets. Many farmers have experienced a decrease in farmers' market attendance due to the over-abundance of such markets. Other regions have developed farmers' market networks to promote best practices on market management, operating weekday markets, and reducing duplication/overlap of marketing venues, primarily through grant funds provided to develop a regional farmers market organization, such as the New York City Green Markets or the Washington DC Fresh Farm markets. Research into the benefit of cooperatives could be useful for Highlands farmers. In Pennsylvania, the Lancaster Farm Fresh Coop successfully supports local farmers while selling to customers, both retail and wholesale, in the tri-state area. We encourage Highlands Council to offer competitively awarded grants to non-governmental organizations to provide marketing assistance and training. It's important these resources be offered on a regional basis and any regional branding efforts be linked with regions that resonate with consumers (e.g. a scenic region like the Highlands versus the political boundary of a County).

*"MPRR Recommendation: Value Added Facilities: The Highlands Region serves as an important source of fresh, high quality, local food for northern New Jersey. The Highlands Council should advocate for and assist with the siting of value added facilities responsible for aggregating, processing, and distributing multiple products grown in the Region and beyond."*

We support. It's important these resources be offered on a regional basis. Otherwise, overlapping brand identities or distribution/marketing facilities will undermine the potential success of any single entity. For these reasons, non-profits, cooperatives, or marketing alliances are often involved in coordinating these efforts. Resources for developing these types of facilities are available from the USDA Rural Development Value-added program and from the SUDA Agricultural Marketing Service Local and Regional Food Division, which provides consulting services for facility design.

*"MPRR Recommendation: Agricultural Loan Bank: Coordinate with SADC to establish an Agricultural Loan Bank to collateralize debt for farm equipment purchases based on the pre-Act value of the subject property where said value was adversely impacted by the Highlands Act."*

Comment: Instead of creating a new agricultural loan bank, more education could be provided to farmers regarding existing loan opportunities from the federal Farm Service Agency and Farm Credit East, a regional commercial entity. Both of these organizations can provide equipment loans. However, land purchase capital is more restrictive. USDA FSA can only provide land purchase loans for farms which are 1/3 the size of the state average, so about a 30-acre farm, and has a maximum lending cap of \$300,000. Farm Credit offers farmland purchase loans at a rate of 6-7% with a high down payment (30% or higher). For a farm of 100 acres, a 30% down payment can be over \$300,000. Securing fencing for larger-sized parcels, especially for a livestock production, capital for farmland purchase is a major barrier. This is especially acute for beginning farmers who lack collateral. Non-traditional financing options could help support agricultural types which have higher up-front costs, such as fencing and water for livestock, and longer than a one-year business cycle, such as with livestock and orchards, but which can reduce soil erosion through use of permanent cover. Innovative financing models, including exploration of an Agricultural Loan Bank, could help facilitate expansion of organic and sustainable agriculture in the Highlands region.

*"MPRR Recommendation: Agricultural Advisory Committee: Establish an Agricultural Advisory Committee of the Highlands Council."*

Comment: If an Agricultural Advisory Council is established, it is important that it include organic farmers in its membership, and include cross-sector representation in order to address the marketing and supply-chain issues faced by farmers, (e.g. marketing diversification specialists, consumers, retailers, and distributors). The Council should include representatives from both the Northeast Organic Farming Association of New Jersey (NOFA-NJ) and the Foodshed Alliance. The latter is working for increased access to farmland and affordability with a diverse group of partners. The Council could provide information to farmers about the availability of EQIP and loan programs, and assist with transitioning farms to organic or at a minimum, facilitating decreased use of synthetic pesticides and fertilizers, and identify processing, distribution, and marketing gaps and needs. Resources for forming this type of advisory committee are available from the Johns Hopkins Center for Livable Future's Food Policy Council Network.

*"MPRR Recommendation: Science and Research Agenda: Agricultural Property Values: Measure the change in median per-acre value of property sales and assessed value for preserved and non-preserved farmland."*

Comment: We suggest checking with the State Agriculture Development Committee (SADC) to see if they have these numbers already.

### **Additional comments on the MPRR:**

The MPRR Natural Resources Topic: Forest Sustainability Program recommendations that "there must be proactive management of deer populations," and that the Council should "Develop incentives to encourage invasive species control and deer management," are also applicable to Agricultural

Resources, as farmers contend with strong deer pressure in the region. We support both recommendations.

We also support MPRR Recommendations regarding the Restoration of Streams and Riparian Areas Program (p. 15), which urge coordination with municipalities to incentivize the development of stream corridor and/or subwatershed-based Stream Corridor Protection/ Restoration Plans, and assisting municipalities in identifying areas where existing development, land disturbances or land uses within Highlands Open Waters buffers Riparian Areas have removed or substantially impaired natural vegetation and have significantly reduced or impaired the functional values of Highlands Open Water buffers. We add that it is important that non-profit organizations and other local stakeholders be included in the plans.

Also on p. 15, the MPRR notes, in “Program Issues,” that agricultural use is not currently considered a “disturbance” even when it occurs adjacent to the banks of a Highlands Open Waters feature. **We recommend that in the area where a stream buffer should be located, agricultural use should be considered a disturbance, and that the agricultural land be replaced with the required amount of stream buffer.**

**General comment:** We support additional farmland preservation in the Highlands Region, especially using the federal Agricultural Land Easement program, which requires an impervious cover limit. Limitations on impervious cover protect water quality and improve stormwater management effectiveness and success.

#### **Other Beneficial Agricultural Programs:**

The national Sustainable Agriculture Research and Education (**SARE**) program offers grants and provides a wealth of agricultural information, targeted by US region. <http://www.nesare.org>

Important research and agricultural practices are taking place on some farms that help to sequester carbon. The Marin Land Trust (**MALT**) in California is a great source of information on this topic. <http://www.malt.org/protected-lands/carbon-farming>

Grass fed beef operations are expanding in the Highlands Region and Carbon Farming is an exciting example of a win-win solution for farmers and the environment. Although rotational grazing is of course already practiced, the carbon sequestration being achieved by the addition of compost to the soil is a very promising tool in the fight against climate change. The [Marin Carbon Project](#) – a consortium of ranchers, scientists, nonprofits, agencies and policymakers – has shown that a one-time addition of compost to well-managed rangeland improves soil health and water retention, which nurtures better growth for pasture grasses. Healthier grasses are able to draw more carbon from the atmosphere and fix it in the soil, where it won’t contribute to global warming. Farmers are collaborating with scientists, who are performing exacting research, which shows the potential of these practices. <http://www.marincarbonproject.org/>

**Carbon farming** is a set of practices that reduce or reverse a farm or ranch’s greenhouse gas emissions. Carbon farming practices include: **Rotational grazing** – moving livestock from pasture to pasture allows the land to heal and grasses to regrow; **Woodland and stream restoration**; **Methane capture**: dairies operate methane digesters, which capture methane from their cows’ manure and transform it into energy that powers their operations; and **Spreading compost on rangeland**.

**Economic Incentive:** In 2014, the American Carbon Registry, a group that certifies carbon offsets, used results from the Marin Carbon Project to approve a protocol for adding compost to rangeland. Through the new protocol, ranchers who spread compost on their pastures can now sell carbon offset credits through voluntary carbon markets.

### **Topic Area: Historic, Cultural, Archaeological, and Scenic Resources (Pgs. 36 – 39)**

Contributors:

Marion Harris, Chairman, Morris County Trust for Historic Preservation

Wilma Frey, Master of Landscape Architecture and MPA, Harvard University

George Cassa, Founder, AHH, Association for Historic Hamlets

Judy Sullivan, Esq., President, Ramapough Conservancy

#### **Historic, Cultural and Archaeological Resources Protection Program**

*“MPRR Recommendation: Amend the Plan Conformance Program (including model municipal documents) to make the review of impacts on historic, cultural, and archaeological resources a **required component**, in compliance with the stated goals, policies, and objectives of the RMP.*

We enthusiastically support.

*“Recommendation: “Consider amending the language of the RMP to more strongly reflect the intention of the Highlands Act goal to “preserve...historic sites and other historic resources.”*

We support. Further, we note that the Highlands Council has the authority to identify historic and cultural resources, as part of a Highland resource area, in the Planning and Preservation areas ((N.J.A.C. 7:38-1.1(d)) and should utilize this authority fully in furtherance of the RMP goals.

*“Gather information related to historic preservation efforts in each Highlands municipality and county and prepare, and keep up-to-date, an inventory of Certified Local Governments, historic preservation plans, surveys, and ordinances.”*

We support. Please add **for Highlands municipalities and counties**.

*“Recommendation: In cooperation with SHPO (State Historic Preservation Office), initiate an education and outreach program for the Highlands Region, as described in the RMP.”*

We support.

*“Recommendation; In coordination with the NJ Historic Trust, establish a mechanism for tracking public spending on historic, cultural and archaeological resources. “*

*We support.*

**Comment:**

By Marion Harris

Cultural resources is an umbrella term that covers historic resources, archaeology, scenic byways and vistas, cultural landscapes, and all manifestations of human impact on the world.

We are making two points:

1. Cultural resources cannot be separated from the natural resources with which they are permanently connected; each is the context for the other, and neither exists without the other.
2. Where the current RMP includes extensive, thorough, detailed plans for natural resource protection procedures, its mentions of cultural resources (except for the scenic vista section) are just generalities, and need to be developed by amendment into precise programs of action.

Further, the natural resource protections have been carried out systematically since the RMP went into effect, but no such practice has been implemented with respect to cultural resources, although it could have been, because the generalities in the plan - and the language of the Act - provide enough guidance to authorize it.

Several of the current Recommendations mention specific ways to include information and recognition of cultural resources. But these suggestions are pretty tentative, and should go a lot farther if they are to accomplish any actual protection.

The idea of tying cultural resource inventory-taking to conformance is top-notch – an excellent place for Highlands Council grant funding. But the requirement shouldn't stop with identifying resources; the conformance process should be amended to require the municipality to include a cultural resources element in its master plan, and to require the establishment of establish a historic preservation commission by ordinance (as well as an environmental commission).

That's just one example of the way the RMP should be amended to integrate cultural resource protection processes into the RMP text. Every land-use application to the Council – as for waivers or map adjustments – should be required to include a professional description of any cultural resources on the site. This is a matter for Implementation.

In view of the complementary nature of natural and cultural resources, there are also many points in the RMP text where the impact on cultural resources may be relevant; the plan should be amended to include cross-referencing language. A list of those points, which probably isn't exhaustive, includes: Water Resources, Water & Wastewater Utilities, Agricultural Resources, Transportation (these

categories create their own cultural resources as time passes), Future Land Use, Lake Management, Recreation, Tourism (all kinds).

The drafters of the Highlands Act understood the mutual reinforcement of natural and cultural resources. We should take full advantage of their understanding.

### **Archaeological Resources Protection**

Contributor: Judith Joan Sullivan, Esq., President, Ramapough Conservancy

Comment:

Native American and Indigenous Peoples sites are embarrassingly scarce on the NJ portion of the National Register of Historic Places. Other states have hundreds of listings. Federal agencies, recognizing historically poor treatment of indigenous resources and peoples, have recently increased their efforts to protect both the present and "past" culturally important sites and landscapes of native peoples. New Jersey, one of the first colonies in America, should be especially vigilant about protecting these heritages. It is vitally important to recognize that indigenous peoples are one with the land, a concept Europeans often have difficulty grasping.

**Proposed Recommendation:** The RMP should increase the importance of processes and funding for recognizing, mapping, protecting and preserving Native American and Indigenous Peoples sites, landscapes, rock shelters, cemeteries, etc. that are located in the New Jersey Highlands Region.

### **Scenic Resources Protection Program**

Contributor:

Wilma Frey, Master of Landscape Architecture, Harvard Graduate School of Design

The public values and responds to the scenic beauty of the Highlands. The Region's scenic resources are clearly noted and recognized in New Jersey's Highlands Act, and in the Regional Master Plan. However, these scenic resources unfortunately have thus far not received - through the DEP Highlands rules, the RMP or Plan Conformance - the level of recognition and protection they richly deserve. This situation must be remedied.

***We urge and support inclusion of a Mandatory Scenic Resources Component in the Highlands Land Use Ordinance.*** Just as we support the Draft MPRR recommendation to make the review of impacts on the Historic, Cultural, and Archaeological resources a required component of Plan Conformance, ***we urge that the Plan Conformance Program be amended to require identification of scenic resources and review of impacts upon them.*** Scenic resources education, as described below, including identification and inventory at the local level, would provide the foundation for the review of impacts.

The Monitoring Program Recommendations Report (MPRR) includes two recommendations for scenic resource protection that we support, and one that we do not.

**1. We Support Scenic Resources Education:** We strongly support the MPRR recommendation for “*Scenic Resources Education - the development of a municipally-oriented outreach effort to assist in the identification and nomination of potential Highlands Scenic Resources.*”

Scenic resources should be identified at the municipal level, *as a required component of Plan Conformance*. Identification of these scenic values at the local level could also be expected to eventually lead in some instances to their nomination, designation and inclusion in the Council’s Inventory of Regionally Significant Highlands Scenic Resources.

**2. We support the recommended Highlands Scenic Resources Inventory Update:** Currently, the Inventory consists solely of public lands preserved at the state and county levels. While the inventory should be “monitored and updated... as lands are preserved,” in addition, the definition of scenic resources to be included needs to be updated to incorporate the more complex and inclusive definitions and categories of scenic resources, as described in the 2008 Scenic Resources Procedure document. Scenic Resources comprise a wide spectrum of values beyond preserved lands.

Obvious immediate additions to the Scenic Resources Inventory would include the Appalachian National Scenic Trail, New Jersey’s portion of the multi-state long-distance Highlands Trail, the Musconetcong National Wild, Scenic and Recreational River, the Middle Delaware National Wild and Scenic River; numerous reservoirs, including Wanaque, Monksville, Boonton, Splitrock, Echo Lake, Clinton, Canistear, Oakridge, Spruce Run and Round Valley; the Morris Canal; D.O.T. designated State Scenic Byways, including the Western Highlands Scenic Byway (Rt. 515/94) in Sussex County and the Warren Heritage Scenic Byway (Rt. 57) in Warren County,, and rail-trails, including the Sussex Branch Rail-Trail, Patriot’s Path and the Paulinskill Trail, among many other potential features. It is high time to recognize and seek to protect the Highlands’ treasured viewpoints and views of sweeping valleys and broad scenic vistas; rugged ridges, forested mountain slopes and summits, historic unspoiled villages, stone barns and historic churches, their white steeples creating exclamation points in the rural landscape.

**3. Procedure for Nomination, Evaluation, and Inventory of Highlands Regionally Significant Scenic Resources:** *We do not support the MPRR recommendation that the 2008 Procedures be reviewed at this time to determine if modifications are appropriate.* There has never been a serious or sustained effort to implement these procedures, so there is no way of knowing how well they might work. Instead, the Highlands Scenic Design Advisory Board needs to be appointed, and implementation efforts initiated at last.

**4. We support a RMP amendment for a section on recreation as a major category of interest.** Recreation, when managed properly, can contribute to economic development in the region with minimal environmental impact.

**Topic Area: Future Land Use (Pgs. 46 – 53)**

Contributors:  
Wilma Frey  
George Cassa

**Land Use Capability Analysis Program** (pg. 50)

Wilma Frey

*“The Highlands Act requires that the Highlands RMP include a resource assessment that determines the amount and type of human development and activity that the Highlands Region can sustain while still maintaining overall ecological values. Furthermore, the Act requires a Smart Growth component that, based on a resource assessment, plans for appropriate development, redevelopment, and economic growth. Currently, the RMP relies on the Land Use Capability Zone Map to address both of these requirements.”*

*“MPRR Recommendation: Develop a plan and schedule to update the Land Use Capability Map Series region-wide based on the availability and updates of the base datasets used.”*

Comment: We support.

*“MPRR Recommendation: Update the LUCZ Map to create a three-map LUCZ set depicting past and present on-the-ground conditions, as well as a map reflecting areas appropriate for future growth.”*

**Comment:** Although we support creating a **two-map** set depicting past and present on-the-ground conditions, **we do NOT support the creation of a regional map reflecting areas appropriate for future growth.** See comment below.

*“MPRR Recommendation: Based on the resource assessment conducted under the Land Use Capability Map Series, establish a region-wide Smart Growth Capability Map depicting areas within the region that are appropriate for future development and redevelopment activity, and areas that are more appropriate for conservation and protection.”*

**Comment:** We strongly oppose this recommendation, and urge the Council to continue to rely on the RMP Land Use Capability Zone Map of the Planning Area, plus designation of Highlands Centers in conforming municipalities, and designation of Redevelopment Areas, to address the Act’s Smart Growth component requirement.

The Existing Community Zone, which comprises a significant portion of the Highlands, identifies the Planning Area as the general area where any new development should be directed. The Environmentally Constrained Existing Community Zone, a small subset of the Planning Area, identifies those portions of the Planning Area that are significantly constrained by environmental limitations and that are therefore **not suitable** candidates for Smart Growth Development. By inference, the remainder of the Existing Community Zone holds that possibility. The Highlands Council has already designated 15 Highlands Centers totaling 15,551 acres within the Conforming Planning Area and 11 Redevelopment Areas totaling 179 acres within the Preservation Area, as part of its implementation of Smart Growth in the Highlands.

Creation of a Smart Growth Capability Map would squander precious and limited Council staff time, and such a map would be almost impossible to create, given the multiplicity of different attributes that might be desired by various businesses or industries.

In addition to the Land Use Capability mapping that already exists and is available on the Council's website, the Council might prepare a **Smart Growth component document** for business and industry that outlines the various land use and functional criteria that should be considered when looking for a development site in the Highlands region and that specifies how to address RMP goals, policies, objectives and requirements, and could also offer individual assistance as possible. Businesses are required to engage with municipalities regarding municipal planning, zoning and building requirements, as well as with counties, regarding issues under county jurisdiction, plus State agencies, including the NJDEP and NJDOT. The Highlands Council is merely another step along the way, and should not be required to provide special services to commercial business or industry.

The Council should not be obligated to propose or locate sites for private business. The overriding purpose of the Highlands Council, and the function of its staff, is to serve the public interest, preserving, protecting and enhancing water quality and supply, forests, farmland, and other natural and cultural resources of the Region critical to the future of the State of New Jersey..

#### **Redevelopment Program** (Pg. 50-51)

Contributor: Wilma Frey

*“MPRR Recommendation: Develop and adopt procedures for designating Highlands Redevelopment Areas within the Planning Area.”*

Comment: We support this recommendation, and urge that the procedures must ensure that the proposed redevelopment conforms to the Goals, Policies and Objectives of the Regional Master Plan.

*“MPRR Recommendation: Adopt Highlands Redevelopment Procedures as an addendum to the Regional Master Plan through the established Highlands Regional Master Plan amendment Procedures.”*

Comment: We concur with this recommendation.

#### **Low Impact Development (LID) Program** (Pg. 51)

Contributor: Wilma Frey

*“Incorporating LID strategies, such as pervious pavement, bioretention basins/rain gardens, vegetated swales, green roofs and cisterns into site design should be required for proposed development in the region.”*

*“Recommendation: Develop and adopt procedures for Highlands Project Review that include an existing features analysis and a site's ability to incorporate LID or mitigate impacts off site.”*

Comment: We concur, but urge caution in the evaluation and/or approval of off-site mitigation. The mitigation standards must support a strict interpretation of Highlands RMP goals, policies and objectives. We refer to proposed guidance in the following recommendation, which we support.

*Recommendation: Develop guidance for Highlands-specific LID pertaining to site design and stormwater management.*

Comment: We support development of a formal project review guidance document to synthesize the Goals, Policies, and Objectives of the RMP for minimum standards required of a project submission for Highlands Council review.

*Recommendation: Develop an objective grading or ranking system for the use of LID strategies.*

Comment: We support the development of objective standards to assess the extent and effectiveness of proposed LID strategies during project review. Give it a try!

*Recommendation: Identify parkland as a vital component of green infrastructure that contributes to the overall health of the region.*

Comment: Substitute “Permanently preserved public and nonprofit lands” for the word “parkland” and we will concur.

*Recommendation: Coordinate with the Department of Community Affairs and the Residential site Improvement Standards Board for the development of standards specific to the Highlands Region.*

Comment: We concur.

### **Cluster Development Program (Highlands Center Designation)** (pg. 51-52)

Contributor: Wilma Frey

*“Recommendation: Amend the RMP to incorporate a Highlands Center Designation Program and guidelines adopted in accordance with RMP Amendment Procedures.”*

We concur. However, the guidelines must be carefully written to ensure conformance with RMP GPO that seek to protect water, forests, natural and cultural resources.

*“MPRR Recommendation: Incorporate procedures for cluster and non-contiguous cluster development within the Highlands Center Designation Program and guidelines, including the use of smart growth principles, and low impact development techniques that consider existing community character with respect to architectural style scale, massing, and arrangement.”*

We concur in general with this recommendation, but suggest that it be amended as follows: “...Highlands Center Designation Program and guidelines, including the use of smart growth principles, low impact development techniques, **and design guidelines** that consider existing community character with respect to **the natural and human landscape character**, architectural style, scale, massing, **materials** and arrangement.”

*“MPRR Recommendation: Revisit the cluster and non-contiguous cluster development program in the RMP to encourage use.”*

We would encourage use of the cluster development program **only after the smart growth principles, low impact development techniques, and design guidelines noted above are in place.**

*“MPRR Recommendation: Encourage the use of alternative wastewater treatment systems for cluster development in areas that are not currently served by traditional systems. (Ensure coordination with the NJDEP.)*

**We oppose this recommendation,** except for its use in the Existing Community Zone of the Planning Area, The use of alternative wastewater treatment systems should be neither encouraged nor permitted in the Preservation Area or in the Protection Zone, except in the case of existing small dense developments where septics are failing, eg. hamlets, villages, or the Lake Community Zone.

*“MPRR Recommendation: Establish guidelines for the designation of core, node, village, freight, and hamlet center typologies, particularly incorporating the potential for smaller scale cluster development and the use of alternative wastewater treatment systems. (Ensure coordination with the NJDEP.)*

**We oppose this recommendation.** Its objective appears to be to designate growth points throughout the entire Highlands Region. Since the overriding objective of the Highlands Act is to protect and preserve the forested watersheds that supply two-thirds of New Jersey’s population, we do not support recommendation that seek to facilitate increases in population and development in the Highlands Region. We particularly oppose any such proposals that would involve the Preservation Area or the Protection Zone.

*“MPRR Recommendation: Assess the Highlands Region for State Development and Redevelopment Plan and de-facto centers that may not voluntarily conform to the RMP (i.e. Dover, Morristown, Washington Borough ). Establish procedures to recognize the importance of these centers to the region by providing planning assistance grants and conformance incentives.*

**We do not support this recommendation.** While the idea may be to try to improve planning and programs in these municipalities, implementation of this recommendation would undercut Plan Conformance. It would enable the recipient municipalities to receive Highlands grants and other incentives without conforming to the RMP. Since all such defacto centers would be in the Existing Community Zone, the Goals, Policies and Objectives would be appropriate for them, and not onerous. The proposal is unfair to the municipalities that have already conformed, or that intend to conform, as it would divert limited funding and other resources to non-conforming municipalities.

## **Housing and Community Facilities Program (pg. 53)**

Contributor: George Cassa

***“MPRR Recommendation:*** *Review the authority provided to the Highlands Council by the Fair Housing Act to determine what responsibility the Council has towards the adoption and implementation of standards to regionally provide affordable housing, in line with regional concerns.”*

We support this recommendation.

***“Recommendation:*** *Update the draft Affordable Housing Technical Report of the RMP to provide technical assistance to municipalities, and adopt it through the RMP Amendment Procedures process.”*

We concur with this recommendation.

***“Recommendation:*** *Amend the RMP to incorporate the updated results of the Affordable Housing Technical Report as well as to reflect the changes in affordable housing laws and regulations since RMP adoption.”*

We concur with the above recommendation, subject to our comments below.

***“Recommendation:*** *Work with municipalities to continue to support the implementation of the Fair Housing Act, and incorporate any legislative revisions into the RMP, as appropriate.”*

We do not support this recommendation as stated, Furthermore, the issue of Fair Housing is not currently before the state legislature, but rather is in the Court system. We state our concerns below.

**Comment:**

In the upcoming months, many Highlands communities will learn the results of a now-pending Fair Share plan certification process taking place in the Superior Court System, which will affect future land use in the Highlands Region. This process is likely to challenge the integrity of sound planning principles, and in particular the principle of affordable housing consistency with the Highlands RMP, even in conformed municipalities, to a significant degree. This challenge arises from the Supreme Court’s March 2015 Affordable Housing decision, which the Council explicitly addressed in August 2015, with a general overview of its Affordable Housing Update grant program and instructions that were distributed to all conforming municipalities. The RMP should be amended to reflect Council’s position on Affordable Housing, as follows:

**Proposed New Amendment:**

**Amend the RMP to Acknowledge Executive Order 114 and Re-Establish A Memorandum of Understanding with An Agency Authorized to Implement the Fair Housing Act.**

**Comment:**

Executive Order 114, adopted in 2008,, directed the Highlands Council and the Council on Affordable Housing (COAH) to "enter into a joint Memorandum of Understanding" to assist COAH in developing third round growth projections within the Highlands Region. Executive Order 114 remains in effect unless it is expressly withdrawn by the current Executive. Although COAH is no

longer a functional State Agency implementing the Fair Housing Act, the MOU remains in place to guide the NJ Superior Courts in their role of implementing the Fair Housing Act.

It is of utmost importance that the MOU be brought to the attention of the Courts, because the document provides guidance to the goals, policies and the objectives of the Highlands Regional Master Plan with their legal weight, as intended by the Highlands Act, in determining the region's capacity for growth and development that is balanced with natural resources protection, including water -- thus supporting the long term sustainability of the Highlands and over two-thirds of the State's population that depends on the Region's critical water supply.

In 2011, the MOU between the Highlands Council and COAH was challenged in the Appellate Division by the Fair Share Housing Center, primarily on the grounds that Executive Order 114, the RMP, and the MOU were each adopted without following the legal processes set forth in the Administrative Procedures Act. The Court subsequently ruled in affirmation of the validity of the Highlands Regional Master Plan, Executive Order 114, and the MOU. Therefore, the MOU remains in effect. To comply with EO 114, an MOU should be re-established between the Highlands Council and an agency having the authority to implement the Fair Housing Act, and the RMP should be amended to reflect this MOU.

**Proposed RMP Amendment: The RMP Should Be Amended to Clarify Eligibility Criteria and Procedural Requirements for Legal Representation under the Highlands Act**

**Discussion:**

The Highlands Council's 2008 Plan Conformance Guidelines (excerpt below) identify three (3) criteria that must be met for a municipality to be eligible to request legal representation from the Highlands Council.

*“(g) Legal Representation. The Highlands Council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an action or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, provided that:*

- 1. The municipal or county master plan and associated regulations have been approved by the Highlands Council as being in conformance with the Regional Master Plan;*
- 2. The Highlands Council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the Regional Master Plan; and*
- 3. The act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.”*

Conforming Highlands municipalities will likely have already satisfied the first two criteria as conditions of conformance. However, the third criterion – that the municipality must be subject to a

specific offending application for development – limits conforming municipalities’ access to legal assistance from the Highlands Council to only relatively narrow, case-by-case situations, such as a builder’s remedy lawsuit, in which a conforming municipality is compelled to defend its conformed planning and land use decisions in the face of a specific Highlands development application.

We recommend that the 2008 Conformance Guidance should be updated to clarify and expand the definition of an “... act or decision of the local government unit that is the subject of the cause of action” to include NJ court directives that do not arise from individual applications for development, but instead occur as a result of a broad challenge [by development or other interests] to the validity of all Highlands Housing Element/Fair Share Plans that have been developed in accordance with Highlands Council guidance and that have been deemed consistent with the RMP by the Highlands Council. This new guidance should be incorporated into any revision of the Regional Master Plan.

The RMP should be amended to clarify that an “application for development” is not limited to the strict definition of that language as applies to municipal actions under the MLUL, but it can also include NJ Superior and Supreme Court actions that in effect support open-ended applications for region-wide development. A conforming municipality should not have to wait until a developer brings a specific challenge to avail itself of legal assistance from the Highlands Council. If the affordable housing proposal brought by or on behalf of development interests indicate the potential for significant inconsistency with the goals, policies, and objectives of the RMP, a conforming community should be able to pre-emptively request legal assistance.

In order to comply with the Council’s review requirements for changes to local enabling ordinances, the RMP should be amended to include a schedule for revising a municipality’s Highlands Housing Element/Fair Share Plan (**HE/FSP**) to reflect any changes arising as a result of a court-approved Affordable Housing Obligation (AHO), which must be submitted to the Council for a determination of consistency with the RMP. The RMP should also be amended to specify the procedure necessary for a municipality to request legal assistance from the Council if the Council determines that the court-approved AHO in a revised FSP is not consistent with the RMP because it does not reflect the Council’s build-out analysis, mapping data, or any other data or assumptions.

Finally, the RMP should be further amended to identify and specify the actions that must be taken by a conforming municipality if its approved Highlands HE/FSP, which has been suitably updated with changes as necessary to Plan Conformance Planning Modules 2, 3, and 7, and which has been found by the Highlands Council to be consistent with the RMP, does not reflect the final AHO established by settlement or court decision. **It should be made clear in the RMP that any HE/FSP with an Affordable Housing Obligation that cannot be implemented under current conformed zoning will be deemed inconsistent with the RMP.**

Further, we note that COAH has previously estimated affordable housing demand on East-West regions made up of multi-county units. For example, affordable housing demand in Hunterdon County is based upon population growth and job growth in Hunterdon, Somerset, and Middlesex counties. If job growth occurs in New Brunswick, affordable housing requirements for all

municipalities in Hunterdon, Somerset, and Middlesex counties increase. This creates development pressure that otherwise would not be driven by housing demand (New Jersey’s westernmost counties of Warren and Hunterdon are experiencing population decreases) and thus undermines the intent of the Highlands Act. The Highlands Council should work to revise this multi-county approach to affordable housing allocation to more accurately reflect the decreased development potential of the Highlands region. Affordable housing need should be based upon the local municipality’s population growth and job growth. If required by law to have a multi-county region, the Highlands Council should advocate for a Sussex-Warren-Hunterdon affordable housing region.

**Proposed Recommended Amendment re DEP Permits: All DEP Permits for Development in Conforming Municipalities Must Be Consistent With the Validity Period of the Underlying Municipal Approvals.**

**Comment:** The DEP has recently demonstrated a willingness to renew permits for expired and undefined projects. We urge that the Highlands Council be willing to stand in court with conforming Highlands municipalities and defend the premise that no permit for any undefined or lapsed project associated with an expired development application will be deemed consistent with the RMP. The RMP should be amended to reflect this policy.

**Topic Area: Landowner Equity (Pgs. 54 – 59)**

Contributor:

Mark Lohbauer

*“Recommendation: Guidelines for monitoring Highlands Council preserved lands:”*

We concur that the development of guidelines would enhance long-term stewardship of conservation easements. We would further propose that there should be a dedicated source of funding to pay for the monitoring of those easements. Without a source of funding for the monitoring system, the reliability of the monitoring program would be poor, leading to the likelihood that the easement terms would be violated.

*“MPRR Recommendation: Expand incentives for TDR receiving zones: (Alternate avenues of credit use, and increased financial incentives.*

While we concur with the recommendation to expand incentives in order to create more TDR receiving zones, we disagree with the proposed alternate avenues of credit use. The concept of giving Highlands Development Credits to municipalities for them to distribute to developers is problematic, because it would eliminate the revolving nature of that credit. Payment made by a developer under that circumstance would be made to the municipality, rather than to the HDC Bank. The value of those credits would thus be lost to the local municipal budget, rather than becoming available for re-use in the HDC Bank. We believe that a better approach would seek ways for the State of New Jersey to offer incentives to eligible municipalities to establish TDR receiving zones. The State would have

the ability to offer towns that establish TDR receiving zones such incentives as an increase in municipal aid, or allowance of higher priority ranking to such municipalities making competitive applications to the State for grant funding. Finally, we would also suggest that if the community seeking the incentive is within the Highlands Region, it must be compliant with the RMP in order to qualify for incentives.

*“MPRR Recommendation: HDC purchase program (amend the RMP to reflect the adoption of the HDC Purchase Program):”*

We concur with this recommendation.

*“MRPP recommendation: Expand landowner equity topic area to include land preservation.”*

While it is practical to combine the subjects of land preservation and land acquisition together, we believe that the emphasis of this recommendation is misplaced. Preservation of land is a primary goal of the Highlands Act [Section 10. b. (2)], second only to protection of water resources. Landowner equity is not expressed as a goal of the Act under Section 10; in fact, the term “landowner equity” is not expressed at all within the Act. To place the priority goal of land preservation within a topic area of landowner equity would re-order the importance of these subjects. We see the accomplishment of landowner equity as an important tool among many to achieve land preservation. We also recognize that all parties are entitled to equity, including the present and future citizenry of the State, for whom the land is being preserved. In order to remain consistent with the Highlands Act, we would recommend that this topic area be renamed “Preservation and Equity,” a title that recognizes that preservation is the Council’s goal, and the means to achieve it must be equitable for all, landowners and citizens alike.

*“MPRR Recommendation: HDC Purchase Program (amend the RMP to reflect its adoption)”*

We concur with this recommendation.

*“MPRR Recommendation: Support dual appraisal methodology indefinitely.”*

We recognize that the dual appraisal method has been an effective device to preserve open space, as it permits higher purchase offers to be made for the land sought to be preserved than would otherwise be allowed if only one appraisal were available. We support the goal of preservation of open space, and agree that the extension of this methodology would facilitate more preservation.

*“MPRR Recommendation: Update preservation priority RMP datasets.”*

We concur with this recommendation.

*“MPRR Recommendation: Reevaluate monetary value of the Highlands Development Credit”.*

We concur with this recommendation.

*“MPRR Recommendation: Interagency Coordination-TDR.”*

We concur with this recommendation.

*“MPRR Recommendation: LEED certification.”*

We concur that there would be greater incentive to take advantage of Highlands TDR programs if they were given a value that applies to LEED certification.

*“MPRR Recommendation: Review and update non-residential HDC allocation methodology.”*

We concur that non-residential properties require an improved HDC allocation methodology that would be more equitable; currently non-residential properties receive allocations that are several times greater than residential properties, without justification for the extreme differential. We encourage the Council to collaborate with the State Agricultural Development Committee in seeking more equitable solutions for the compensation of non-residential property owners.

**Beyond the stated recommendations of the MPRR on Landowner Equity, we would encourage your consideration of these additional recommendations:**

**Proposed Recommendation: Dedicated sources of funding for land preservation and stewardship:**

This concept was expressed in the text of the topic of Landowner Equity, but not offered in terms of specific recommendation. We urge that each of the items listed on page 56 (a Highlands water user fee; a reserve fund; a program to secure significant federal funding; a program to seek unique funding sources; a rate surcharge on public water systems using Highlands water; and a Highlands Conservation Trust) be included among your specific recommendations. We would go further to argue that the causes of land preservation and stewardship are so important to the people of New Jersey that the Highlands Development Credit Bank, and the proposed “reserve fund” and “Highlands Conservation Trust” should all be funded by appropriation from the State’s General Fund. In fact, we would encourage the initiation of a statewide referendum question to authorize such a dedication of funds.

**Proposed Recommendation: Secure significant federal funding.**

With regard to the program to secure significant federal funding, we would encourage the Council to specify that several federal funds (the Land and Water Conservation Fund; the Forest Legacy Program; the Highlands Conservation Act Program; the Department of Agriculture Environmental Quality Incentives Program, and the Agricultural Conservation Easement Program) are currently available to support Highlands projects, and should be utilized.

### **Topic Area: Sustainable Economic Development (Pgs. 60 – 63)**

Contributors:

Mark Lohbauer

Wilma Frey

### **Highlands Act Goals**

*“The Highlands Act charges the Highlands Council with the following goals related to **sustainable economic development** in the implementation of the Highlands RMP...”*

**WF Comment:** We note that the seven bullet points listed as goals relevant to sustainable development do not include among them the protection of the region’s water supply. We question – how one can have **sustainable** development without a reliable water supply? And how one can have a reliable water supply without protecting the source of that water - the forested watersheds and underground aquifers of the Highlands? It is clear that the meaning of the word “sustainable” needs to be very carefully considered in the MPRR, and any proposed changes to the RMP. The word sustainable also needs to be considered in another context – that of “smart growth.” Sustainability need not involve actual **growth**, whether smart or not. Sustainability should mean the ability of the established population of the region to be able to sustain themselves and, to the extent that their children wish to remain in the Region, their families, while the resources of the Region that are essential to the State - most particularly water quality/supply - are similarly sustained.

### **Highlands Regional Master Plan**

**WF Comment:** We agree with the statement that *“the RMP’s approach to sustainable economic development in the Highlands Region is focused on fitting economic activity within the unique places that comprise the Highlands Region. The goals enumerated in the RMP call for public investment in facilities and institutions, pursuit of agriculture, tourism, and recreation as economic drivers, expansion of innovative technologies, and support for local development initiatives, such as downtown revitalization.”*

We note that Highlands tourism has been specifically identified to include ecotourism, agritourism, historic and cultural tourism (including eg. museums, public gardens), and scenic tourism.

*“MPRR Recommendation: Highlands focused tourism program; coordinate with the NJ Division of Travel and Tourism to establish a Highlands-focused tourism program”*

We concur with this recommendation, and encourage the Council’s collaboration to extend also with the federal National Park Service, the NJ Department of Environmental Protections Division of State Parks, and with private commercial entities in the Highlands that stimulate destination visits. As we note, below, the State Parks are at the heart of Highlands-based tourism, and they already maintain useful data on their visitors that the Highlands Council could use to target audiences for marketing campaigns.

A collective campaign featuring federal, state, county and privately-owned profit and non-profit attractions and destinations throughout the Highlands would be an effective way to communicate with returning and potential new visitors; to raise their awareness of historic, recreational, entertainment, lodging, shopping and dining opportunities in the region; and to stimulate longer and more frequent visits.

The Highlands Council would be the best entity to bring all these government and private entities together in a common tourism marketing effort, and by doing so, maximum marketing impact could be achieved with a minimal cost to participating entities. Key to such an effort would be to build a clear brand that ties all of these destinations together, and we believe the brand should be based on the “Highlands” name. This would require coordination with other parties now using other names for all or parts of the region (“Skylands” and “Gateway”) to adopt the common brand of the tourism program.

*“MPRR Recommendation: Economic coordination: expand upon Highlands Council efforts to partner with other entities in support of sustainable economic development in the region.”*

We concur with this recommendation. We believe that the Council’s funding of municipal sustainable economic development plans and agricultural grants are both effective ways to partner with municipalities to foster planned economic development that is consistent with the Highlands Act and the RMP. We would encourage more such grants. As mentioned above, we would urge a coordinated partnership with pertinent federal, state, county and municipal agencies, as well as destination-based private commercial and non-commercial entities, to achieve common branding and better marketing of tourism in the region. We believe that economic development should have specific goals of providing local employment opportunity for residents, and fostering planned recreational/entertainment/historic/retail commerce that both meets the needs of local residents, and creates effective destinations that attract tourism visitors.

*“MPRR Recommendation: Pursue legislation to modify the NJEDA Grow NJ Assistance Program in the Economic Opportunity Act of 2014 to include Highlands redevelopment areas, and Highlands Designated Centers.”:*

While we concur that appropriate development and redevelopment areas within the Highlands Planning Area should be eligible for State development incentives, we do not agree that the Grow NJ Assistance Program is appropriate for the Highlands. Grow NJ promotes the development of particular commercial uses: logistics, manufacturing, energy, defense, maritime businesses in a port district, or aviation businesses in an aviation district. Availability of funds for smaller enterprises, such as business incubators, is limited. It is intended to promote development of large-scale employers that require access to multiple forms of commercial transportation. This sort of development would be difficult to accommodate in the Highlands, and is unlikely to be consistent with Highlands Act and RMP goals. We believe that State programs that incentivize downtown commercial district enhancement would be more appropriate for the Highlands.

*“MPRR Recommendation: RMP amendment: add a section to the Regional Master Plan to address recreation as a major category of interest.”*

We concur with this recommendation. It is not, however, clear where exactly a recreation element should be placed in the RMP. The RMP contains Programs for Historic, Cultural and Archaeological Resources Protection and Scenic Resources Protection. Both Tourism and

Recreation are clearly tied to these two programs. Active and passive outdoor recreation – camping, hiking, rock climbing, hunting and fishing, bicycling (road and mountain biking), canoeing/kayaking/boating – are closely tied to protection of the natural environment of the region – its forests, waters, and landscapes – as are, to an even greater extent, wildlife viewing, nature study and nature photography. It is these outdoor pursuits that the New Jersey Highlands is uniquely positioned to offer to both residents of other parts of New Jersey and the greater New York metropolitan area. Any Economic Development Plan must give full consideration to these outdoor recreational pursuits.

*“MPRR Recommendation: Smart Growth Map-Future Economic Development: establish a region-wide Smart Growth Capability Map depicting areas within the region that are appropriate for future economic development and redevelopment activity.*

Comment: Any map that is developed should be the **end result** of municipal, regional, and region-wide economic planning that is proposed in the next two recommendations; it should not precede that planning. Such a map should be evaluated for its consistency with the Highlands Act and Regional Master Plan, and be vetted with a series of public hearings, prior to adoption by the Council.

*“MPRR Recommendation: Regional Economic Plan Development: coordinate with Highlands counties and destination marketing organizations (DMOs) to develop regional economic plans.”*

Comment: We concur with this recommendation, although we believe that a critical partner in such an effort would be Highlands municipalities; they must participate in such a planning process. Non-profit organizations, such as land trusts that open lands to the public, museums, arts organizations, recreational and trail groups, etc. should be involved as well. As we have stated above, we believe that the Council’s funding of municipal sustainable economic development plans is essential, and would be a key component of any broader regional plan. Any municipal or regional plans should be evaluated for their consistency with the Highlands Act and Regional Master Plan, and vetted with public hearings prior to adoption by the Council.

*“MPRR Recommendation: Develop a Comprehensive Economic Development Plan for the Highlands region:”*

We concur with this recommendation. Thoughtfully planned development is always preferable to random development, and with the restrictions that the Highlands Act imposes on development in the region, it becomes even more important that the limited development that is allowable be sustainable, consistent with planning goals, and not redundant. We think that any identification of “economic development potential” needs to be carefully framed in terms that are consistent with the goals of the Highlands Act, which serve to restrict most development.

We urge that any proposed development must be “Highlands-appropriate,” particularly in the matter of scale. The Highlands is not a large region: its entire 860,000 acres, including all its towns and subdivisions, is barely larger than the more than 800,000 acres of federally preserved (and

undeveloped) land in the White Mountain National Forest in NH and ME. Our Highlands “mountains” are small ones – barely reaching 1400 feet. This landscape, beautiful as it is, can easily be overwhelmed with large structures and facilities, and its character totally lost. This has already occurred in the case of recent recreational development in Sussex County, as well as other commercial development. Every effort must be made to not permit development that degrades or destroys important Highlands resource values, including scenic values.

We note that the Council proposes to include the Fiscal Impact Assessment (FIA) within the economic profile of this Comprehensive Economic Development Plan; we emphasize that the FIA relies exclusively on the measurement of components with a dollar value, and does not measure the social value of preservation, or its avoided costs. No comprehensive plan should ignore the value of these social impacts, which form the basis for the Highlands Act. Finally, we urge that the comprehensive plan should be evaluated for its consistency with the Highlands Act and Regional Master Plan, and receive public hearings, prior to adoption by the Council.

*“MPRR Recommendation: Tourism data collection:”*

We concur with this recommendation, and encourage the Council to take advantage of existing data already captured by other agencies that may be pertinent. We note that the several State Parks within the Highlands all maintain data on their visitors, including number of annual visits, home zip code of visitor, and in some cases, tourism/recreational activity preferences of the visitor. This existing database would be highly relevant to the goals of a focused tourism program in the RMP.

*“MPRR Recommendation: Regional economic monitoring: establish a protocol to monitor data in the FIA, including total employment, building permits, housing sale values, commercial sales, vacant land sales, household income, equalized property values, assessed property values, and property tax revenues.”*

We concur with this recommendation. We would add that the protocol should also monitor:

- The amount of Highlands water distributed by public and private water purveyors to NJ residents and businesses each year;
- The avoided costs of water treatment, determined by comparison of water treatment costs for Highlands water, versus non-Highlands water produced in NJ;
- The number of tourism visits to the Highlands per year;
- The average spending per tourist visit for that year;
- The estimate of total tourism spending in the Highlands per year.

*“MPRR Recommendation: Cost-benefit analysis:”*

We concur, although we would urge that traditional cost/benefit analysis will be inadequate to determine the social benefits (and avoidance of detriments) associated with preservation. As Albert Einstein famously said: ***“Everything that can be counted does not necessarily count; everything***

*that counts cannot necessarily be counted.*” A callous measure of developed value of land versus undeveloped might ignore the extraordinary value of clean, potable water that is treated for free by our forests, rather than at great expense. Water utilities spend 19 times more money on water treatment chemicals alone than the federal government invests in protecting source watersheds. We believe that the value of a plentiful supply of clean, safe drinking water is incalculable to New Jersey society. The Highlands is capable of providing that invaluable resource only by preserving the natural systems that produce it. We urge that any analysis evaluate the social profit of preservation that inures to our region, to the people of the entire state of New Jersey, and to future generations in perpetuity that must be acknowledged within a fair and appropriate measure of cost and benefit of preservation.

### **Implementation (Pgs. 64 - 69)**

Contributor:

Julia Somers

### **Indicators (Pages 65 – 66)**

*Indicator: Municipal and County Plan Conformance*

Comment – It is dismaying that more conformance petitions have not been approved, given the amount of time that has passed since adoption of the RMP. The statement is made in the Report that, “To date monitoring results indicate *significant progress* [emphasis added] on municipal Plan Conformance, with 61 petitions submitted and 50 approved. ...“ Given that there are 88 towns in the Highlands, every one of which theoretically could be actively engaged in the conformance process, and given that the RMP was adopted in 2008 (9 years ago), this is a slow pace of adoption indeed, and it is the opinion of the NJ Highlands Coalition that the Council should not congratulate itself for this meager result. Full conformance is an absolute priority for successfully fulfilling the goals of the RMP.

The Report goes on to state, “For the few municipalities remaining outside of Plan Conformance, the full conformance process is less applicable and should be streamlined accordingly.” First, by the Report’s calculation, 27 is the number of municipalities not engaged in the conformance process, and that cannot be considered “few.” That is nearly ¼ of all Highlands municipalities are not engaged at all in the conformance process, nor is it apparent to the public that a concerted and strategic attempt has been made over the past seven years to engage these communities; in fact, observation suggests the reverse. The report goes on to suggest that for these 27 municipalities, “the full conformance process is less applicable and should be streamlined accordingly.” There has been no public discussion of this position, nor agreement by the full Council that a streamlined process should be applied to these communities.

The Report then states, “County Plan Conformance has seen mixed participation and limited results thus far, and should be altered to more directly address the legal authority and capabilities of counties

and particularly county planning agencies.” The Coalition agrees that this might be partly appropriate.

*Indicator Public Participation, Outreach, Interagency Coordination*

Comment – “It is apparent that efforts are needed to significantly expand the outreach and education component of the Highlands Council mission.” The Coalition strongly agrees with this statement.

*Indicator RMP Implementation Funding*

Comment – the NJ Highlands Coalition strongly encourages the Highlands Council to include non-profit 501c3 organizations among those it will provide funding through grants to help fully and more efficaciously achieve RMP goals. Limiting all Highlands Council grants (except for open space acquisition) to only county and/or municipal grantees ensures many opportunities are lost for implementation of the RMP. There are many successful examples of government grants being made available to 501c3 organizations.

**Recommendations (Pages 66 – 69)**

**Municipal Plan Conformance**

*Implementation Activity*

Comment – Again, we are dismayed by the slow rate of municipal conformance. While at first, conformance seemed to be actively pursued by Highlands municipalities, the rate startlingly dropped off several years ago.

*Summary of findings of related indicators:*

*Municipal Plan Conformance:*

Comment - We are pleased that at least 7 municipalities have adopted the Highlands Land Use Ordinance, but this number should be much higher.

*Program Issues*

Comment - Because there has not been a comprehensive public discussion by the Council about the 2008 Plan Conformance Guidelines and why the Council staff thinks that, as adopted, they are not suited to the municipalities that have not yet conformed (but are suited to the towns that are engaged in conformance,) it is impossible to agree with this statement. Without such public discussion and agreement, we disagree that “certain aspects of the 2008 requirements have also been found unnecessary and should be removed to ease the process of developing a complete Petition for Plan Conformance.”

*Recommendation*

Comment: Because we think the Council should undertake a concerted, strategic and planned effort to engage unconformed Planning Area communities in conformance, we disagree with your recommendation, which seems to “give up” on such conformance in the Planning Area and take the position that future development potential in the Preservation Area of towns that have not yet conformed is so “deminimus” that the Council should adopt “an approach by which a municipality could adopt a land use ordinance that would refer development applications to the Highlands Council, ...” Such an approach completely abrogates the Council’s responsibilities under the Highlands Act and is strongly discouraged by the NJ Highlands Coalition.

## **County Plan Conformance**

### *Implementation Activity*

Comment – the fact that five of seven (71%) counties have submitted petitions for Plan Conformance indicates there is some value to the process, even if it is to be streamlined.

### *Recommendations*

Comment – While it is correct to state that counties do not regulate land uses in the same way as municipalities, counties do have a considerable impact on county and municipal planning for roads and bridges, stormwater management in rows and on county owned property, open space acquisition including farmland preservation, management/design of county land holdings, including parks, among other things. While we can agree that a planning-based approach might be more effective in some cases, a regulatory-based approach is also appropriate to ensure some county-led land use management decisions meet RMP expectations.

Further if, as recommended, expansion of the county Plan Conformance grant program to specifically address county-wide economic development, stormwater management, resource management and agricultural development issues takes place, there will suddenly be tremendous competition for grant funds that have been limited to municipal grants to date; the Highlands Council should require more “bang for its buck” from the Counties in meeting Highlands goals/protections in return for receiving these grants.

## **Preservation Area Conformance**

### *Summary findings of related indicator*

#### *Municipal Plan Conformance*

Comment – it is DEEPLY troubling that a Preservation Area municipality (Mansfield) has not petitioned for Plan Conformance. How does the Council propose to address this illegal situation? At a minimum, the Council must engage in its binding call-up authority over all local land-use government approvals in Mansfield until such time as the municipality addresses conformance.

#### *Program Issues*

Comment – there are **eight** [bold emphasis added] municipalities that have not met the requirement to bring their master plan and regulations into conformance with the RMP. Again, how does the Council propose to address this situation? The NJ Highlands Coalition **STRONGLY** supports the Council applying its binding authority over local government approvals in the Preservation Area as “required under the Highlands Act.” You state that such action would be “neither desirable, nor particularly practical.” The Council does not have the authority to ignore this requirement of the Act. The Coalition disagrees with this recommendation. The Council will only need to take appropriate action once or twice for these communities to be reminded of the requirement and fulfil their obligation.

The Coalition also takes the position that a much more rigorous outreach program to municipalities is needed on the Council’s part to engage communities in the conformance process, including at least annual, targeted presentations to update municipal governing bodies on their conformance advancement and other Highlands activities.

### **RMP Monitory Program**

#### *Implementation Activity*

No comment.

#### *Program Issues*

No comment.

#### *Recommendations*

Comment – the New Jersey Highlands Coalition agrees with these recommendations.

### **RMP GIS Data Updates**

#### *Implementation Activity*

No comment.

#### *Program Issues*

No comment.

#### *Recommendations*

Comment – the NJ Highlands Coalition recommends there should be an ongoing archive to store any old or replaced GIS files and all meta data. This archive should always be available to the public.

## **Climate Change Impacts on the Highlands (Additional Section)**

Contributors:  
Doug O'Malley  
Amy Hansen

The Draft RMP-MPRR must, to a greater extent, acknowledge and address in its planning and policy recommendations the challenges the Highlands region – both its natural ecosystems and human communities – will face from the long-term impacts of climate change. Clearly, New Jersey's climate is changing. The state-wide temperature in New Jersey in 2012 was the highest in 118 years of records, while five of the warmest years have occurred since 1998, and nine of the ten warmest calendar years on record have occurred since 1990. Extreme weather rain events have been increasing, as well as overall precipitation levels. The number of hot and extremely hot days has continued to rise and they are projected to steadily increase over the course of the century. (Note: data citations are from the National Climate Assessment and Rutgers University). Planning for the Highlands must both incorporate the best available science regarding the anticipated impacts of climate change on the Region, and the Highlands Council must take an active role in developing and implementing programs to mitigate its worst effects.

***Proposed Recommendations:***

- 1) There is currently no evaluation of the positive effects the large tracts of forested lands in the Highlands can have on reducing the impacts of climate change. The importance of carbon sequestration by Highlands forested lands should be quantified and valued, especially because of the directly proportional relationship between carbon sequestration and forest acreage, as well as the size of the trees themselves.  
**Therefore, we support the proposed Science and Research Agenda item for “Forest Sustainability: Develop models to evaluate and determine the value of carbon sequestration.”**
- 2) The carbon value of Highlands forests, especially if left intact, should be included and utilized in all Regional Master Plan evaluations and consistency determinations of forested land preservation, all development projects and forestry plans. See item 1 above.
- 3) Any energy project proposed for the Highlands should receive a complete carbon analysis that employs a methodology similar to the one created by the Council on Environmental Quality during the Obama administration. The CEQ worked for years to create a systematic analysis of the carbon impacts of proposed energy projects, including “upstream” and “downstream” effects. This analytical model was recently used in court to successfully challenge FERC approval of a natural gas pipeline, when the court ruled that FERC had failed to fully account for the carbon impacts of the project. We recommend that a similar analysis model should be incorporated into Highlands decision-making and consistency determinations for any proposed energy projects.
- 4) We recommend that broader state energy goals, especially those created through revisions of the state Energy Master Plan, should be incorporated into Highlands Regional Master Plan Goals,

Policies and Objectives. Especially important would be reducing overall energy consumption by employing all energy-efficiency measures possible, as well as expanding the use of renewable technologies, including but not limited to solar, wind, geothermal and possibly small scale hydropower installations, in an environmentally responsible and sensitive manner that considers both ecological and cultural values. All such efforts should be consistent with RMP Goals, Policies and Objectives, as well as comply with Highlands Preservation Area DEP regulations, 5.

- 5) **Air Quality Program:** The RMP-MPRR states that “Clean air is a defining characteristic of the Highlands Region.” However, it also notes that “*The RMP defers to meeting NAAQS and State Energy Master Plan Goals, without defining specific practices or standards to go above and beyond state and federal guidelines.*

*The MPRR Proposed Recommendation is: “Coordinate with NJDEP and USEPA to identify specific causes of air quality pollution in the Highlands Region and specific activities the Highlands Council can take to work toward alleviating these problems, including air quality monitoring.”*

*The second MPRR Air Quality Proposed Recommendation is “Coordinate with NJDEP and USEPA on ‘raising the bar’ in the Highlands Region and create additional guidelines within the Region.”*

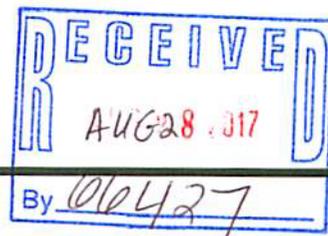
**Comment:** We concur and recommend that as part of any analysis of the Highlands viewsheds or scenic values, that efforts should be made to categorize the impact of smog – especially on hot summer days – on the air quality and visibility in the Highlands Region, as well as attainment levels for ozone of the Highlands counties and the direct relationship of ozone formation and burning fossil fuels.

- 6) **Flooding:** We recommend that all development proposals should address the potential impacts of small and large scale flooding, to be anticipated from climate change. Waterway buffer protections and mitigation properties should be properly valued and designed to reduce flooding impacts. The Highlands region is naturally pre-disposed to more rain and thunderstorm events than coastal areas of the state. New Jersey has mirrored data showing the Northeast with the highest increase in precipitation events in the US, with expected intensification of these extreme precipitation events over the course of this coming century.

7)

- 8) **Water Supply:** All Highlands aquifer water supply analyses should incorporate climate change predictions to include wider swings of extreme weather, incorporating both increased precipitation events and longer periods of mild and even extreme drought. Recent droughts and their impact on Highlands reservoirs, as well as the precarious current state of many Highlands aquifers, should be strong reminders that climate modeling should be incorporated into Highlands aquifer modeling and DEP permitting, which must take account of these analyses.

**Annette Tagliareni**



**From:** [REDACTED]  
**Sent:** Saturday, August 26, 2017 12:25 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]

**Subject:** Re: Public Notice: Public Hearings Scheduled for "Procedure for Considering Proposals to Amend the Highlands Regional Master Plan"

Good morning Margaret and Annette:

As you know, Washington Township did not adopt its Highlands Regional Master Plan because it was waiting for the nitrate dilution issue to be resolved. Since the final number and computations affect the number of acres and farms in Washington Township, we wanted it to be accurate. We would very much appreciate it if the Highlands would amend the Highlands Regional Master Plan you've approved for the 'old' nitrate computations to reflect the final determination for 'new' computations.

As usual, thank you for your assistance,

Scarlett Doyle  
Township Planner

**From:** Anna Godfrey  
**Sent:** Friday, August 25, 2017 2:25 PM  
**To:** [REDACTED]

**Subject:** FW: Public Notice: Public Hearings Scheduled for "Procedure for Considering Proposals to Amend the Highlands Regional Master Plan"

FYI

Eileen – you may want to forward this to your LUB members.

Nancy

**From:** [REDACTED]  
**Sent:** Friday, August 25, 2017 10:07 AM  
**To:** [REDACTED]  
**Subject:** Public Notice: Public Hearings Scheduled for "Procedure for Considering Proposals to Amend the Highlands Regional Master Plan"

Dear Mayor,

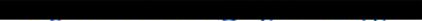
The Highlands Council has scheduled six public hearings to solicit public comment on a draft procedure for considering proposals to amend the Highlands Regional Master Plan. In addition, a 30 day written comment period regarding the procedure will close with the completion of the final public hearing on September 26<sup>th</sup>, as specified in the attached notice. Finally, Highlands Council staff are available to schedule meetings to discuss the draft procedures with you during this comment period. Complete details are available in the attached public notice. We welcome your attendance at *these hearings* and any comments you may have regarding the draft procedure.

Sincerely,

Margaret

**Margaret Nordstrom**  
Executive Director

**New Jersey Highlands Council**  
100 North Road (Route 513)  
Chester, NJ 07930-2322  
(908) 879-6737 ext. 101  
(908) 879-4205 Fax

  
[www.nj.gov/njhighlands/](http://www.nj.gov/njhighlands/)

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**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Thursday, September 07, 2017 6:08:12 PM

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Below is the result of your feedback form. It was submitted by  
[REDACTED] on Thursday, September 7, 2017 at 18:08:07

-----

<First Name>: Donald

<Last Name>: Donnelly

<Title/Role>: Forester / Forest Ecologist

<Municipality>: Mansfield

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: My comments pertain to the multiple references/recommendations found in the Indicators and Recommendations sections of the draft MPRR that suggest establishing “Highlands specific Best Management Practices (BMPs)” for forestry activities, which would be incorporated into forestry plans in the Highlands region. As a professional forester and forest ecologist who has worked on projects throughout New Jersey and the northeastern United States for over 25 years, I have witnessed both good and bad water quality protections employed during forestry operations, and I agree that the existing BMP manual used in New Jersey (NJ Forestry & Wetlands BMPs, 1995) can be improved by providing more details and better clarification on some topics. However, it is clear from the plethora of scientific research done in recent years on the subject, that the fundamental principles of water resource protection using forestry BMPs is a fairly universal strategy, regardless of the physiographic region that the forestry work occurs in. Specifically, the standardized concepts for water protection in a forestry context - which have proven to be very effective when properly implemented - require field adjustments at the time of implementation based on the site parameters encountered, such as percent slope and soil characteristics; and since the Highlands region contains a wide range of these variables, I fail to see how a Highlands specific BMP would be fundamentally different than the BMPs that are prescribed elsewhere in New Jersey (or for that matter, the United States). The key element for BMP effectiveness is not a lack of understanding on how to protect water resources, it is a lack of full and proper implementation of the BMPs. In this regard, the existing BMP manual can be clarified to remove ambiguity and conflicting terminology, and to incorporate references from recent research, and then there must be some enforcement for non-compliance – but, any revisions to the BMP manual need to be for statewide applic!

ation, not just the Highlands. In suggesting that the Highlands deserve higher water protection thresholds, these recommendations also imply that lower protective measures are appropriate in other parts of the state using different BMPs, which is unacceptable in my opinion. My specific comment is that the Council efforts would be better served by working with the NJDEP Forest Service to improve the existing BMPs for statewide use. Besides maintaining standards across the state, this will help to avoid regulatory conflicts within certain environmental laws, such as the Freshwater Wetlands Protection Act, where the existing BMPs are referenced and embedded for forestry applications. A literature review of recent BMP research, combined with a review of forestry BMPs that have recently been updated in other states, would provide guidance in updating the existing NJ BMPs to better meet Highlands objectives.

Thank You for the opportunity to comment.

Donald Donnelly

NJ Approved Forester

NJ Licensed Tree Expert #376

<Submit>: Submit

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**DEPARTMENT OF LAND PRESERVATION**

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September 8, 2017

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[REDACTED]

Re: Public Comments on the Highlands Regional Master Plan  
Monitoring Program Recommendation Report

Ms. Nordstrom:

On behalf of the Warren County Department of Land Preservation, please accept these Public Comments in response to the Monitoring Program Recommendation Report (MPRR) which provides the first baseline evaluation of the 2008 Highlands Regional Master Plan (RMP) and the Council's progress in achieving the goals of the RMP through implementation of policies and program. This Department oversees the County's open space, farmland, and historic preservation programs and therefore offers comments on the topics of Landowner Equity, Agriculture, Historic, Cultural, Archaeological, and Scenic Resources and Sustainable Economic Development.

**Landowner Equity**

*This Department generally supports the findings and recommendations contained in the Landowner Equity sections of the MPRR with some additional comments.*

The RMP appropriately recognizes that the Act "inevitably has an impact on reasonable landowner expectations regarding future land use and potential" and "provides several mechanisms that seek to mitigate such impacts, including a TDR program, land acquisition, exemptions, and waivers." (RMP Pg. 200) The MPRR, in turn, properly acknowledges that "[a]n essential component in the protection of the important natural resources of the Highlands Region is the preservation of privately owned lands" and thus "to ensure fairness to property owners, the Highlands Act calls for several means of recompose." (MPRR Pg. 54) Congruent with the Act and

RMP, the MPRR goes on to identify three primary means to redress the inequities born by affected landowners: Exemptions and Waivers, Open Space Program, and Transfer of Development Rights (Highlands Development Credit) Program.

Before proceeding to address each of these mechanisms in turn, a brief digression here is warranted. It is important to acknowledge that matters of equity are fundamentally questions of fairness. Questions of fairness to persons affected by the Act extend beyond the restricted use of one's private property and the concomitant reduction to that property's value. For instance, while some landowners may not be locals, many others are residents or local business owners whose employment and livelihood may also be negatively impacted by the Act. The RMP and MPRR appropriately address topics such as Agriculture, Future Land Use, and Sustainable Economic Development, but I recommend the Council consider these topics and others holistically and in relation to one another in terms of equity and fairness. In addition the Council should continue analyzing and monitoring how the Act may be affecting the economic prosperity and well-being of communities throughout the Highlands Region.

#### Exemptions and Waivers

The MPRR notes that the Act "includes 17 exemptions that address landowner equity concerns by allowing property owners to develop their properties without applying the enhanced environmental protections of the Act in a number of circumstances" and that the NJDEP Highlands Rules also include "four waivers that provide additional opportunities for landowner equity." (MPRR Pg. 54). While the MPRR goes on to detail exemptions issued by some municipalities, the Council and NJDEP, there does not appear to be a clear goal apart from simply administering the exemptions, nor any metrics for measuring whether such implementation is successful.

In terms of whether the Exemptions and Waivers program is being successfully implemented, the Council may consider adopting the following goals: (i) to effectively communicate the availability of such exemptions and waivers to affected landowners, (ii) to efficiently and fairly process these exemptions (when issued rather than exercised as of right), and (iii) to evaluate whether affected landowners find these mechanisms to be fair and helpful in addressing the Act's impacts.

I encourage the Council to continue educating local landowners, professionals, and officials about the exemptions and waivers that are available. Outreach could include periodic meetings with building contractors, architects, engineers, realtors, lenders, lawyers, and other professional groups. Additional easy-to-read guidance documents and online videos explaining the exemptions may also be helpful to landowners. Although the Act and exemptions have been around for quite some time, many people remain confused about what is permissible and labor under various misconceptions about how they may use or improve their own property. The success of such efforts could be measured based on the number of communications made and received, as well as surveys of stakeholders about their satisfaction with such efforts.

In addition, the Council may wish to consider using proxy measurements for the exemptions and waivers utilized. According to the RMP, "[t]he Highlands Council conducted an analysis of four of the most important exemptions to landowners" and "tens of thousands of acres throughout the Region could potentially be developed under these four exemptions [though] the actual potential may be constrained by existing site conditions, ownership issues, zoning and other factors." (RMP Pg. 126) While many of the exemptions pertain to specialized types of development, the analysis referenced in the RMP appears to have focused on exemptions #1, 2, 4, and 5 as being the most important to landowners. Therefore, while conclusions drawn from the

data may be limited and obtaining the data itself may be difficult, the Council might consider the following as proxies for successful implementation:

- (1) the total number of vacant buildable lots in the Preservation Area prior to the Act which may have been subject to Exemption #1 versus how many of these lots have since been used for the construction of a single family dwelling for the individual's own use or the use of an immediate family member;
- (2) the total number of vacant buildable lots in the Preservation Area prior to the Act which may have been subject to Exemption #2 versus how many have since been used for the construction of a single family dwelling in accordance with the disturbance and impervious coverage limitations contained therein;
- (3) the total number of buildings or structures in the Preservation Area prior to the Act which may have been subject to Exemption #4 versus how many have since been reconstructed; and
- (4) the total number of single family dwellings in the Preservation Area prior to the Act which may have been subject to Exemption #5 versus how many have since been improved with garages, driveways, swimming pools, septic systems, etc.

Although the accuracy of these ratios may be limited by available data, such comparisons may still provide some insights into how many affected landowners are availing themselves of the exemptions and waivers.

#### Open Space Program

The MPRR appropriately notes that: (i) the Open Space Funding Partnership Funding Program, having only recently been created, has not yet been incorporated into the RMP and that the underlying data used to identify critical lands has been updated, (ii) a "consistent program for monitoring, enforcement, and stewardship" of the conservation easements held by the Council is necessary to maintain these properties, and (iii) the RMP species support for extending the dual appraisal provision "to a minimum of five years beyond adoption of the RMP", though the Legislature has since extended this to June 30, 2019. (MPRR Pg. 59)

Regarding the above issues, this Department supports the MPRR recommendations, including, most notably, the recommendation to update the RMP to "specify indefinite support of the dual appraisal methodology." This Department has previously supported the two legislative extensions of the dual appraisal provision because it has been the most effective mechanism to provide affected landowners with compensation for the depreciation in property values attributable to the Act.

While this Department applauds the Council's efforts to establish this program, its continuation will not be viable without additional funding. As the MPRR notes, the Open Space Program was recently created and utilized PSE&G mitigation funding, and this is consistent with the RMP, which contemplated new and innovative land preservation programs. However, while the MPRR makes reference to potential sources of dedicated funding which are contemplated in the RMP (federal funding, water use fee, water supply surcharge, etc.), neither the RMP nor the MPRR appear to analyze the comparative advantages and disadvantages of these options. I realize such a comparative policy analysis may lay beyond the scope of this project, but encourage the Council to aggressively pursue an appropriate and dedicated funding source for its Open Space Program. Not only do land preservation programs like this address Landowner Equity through the

dual appraisal provision, but they have the added benefit of strengthening protections of natural and agricultural resources.

Although the MPRR focuses on the Highlands Open Space Program data, I recommend that it also consider data from the other land preservation programs which are active in the Highlands Region, such as NJDEP's Green Acres Program and the SADC's Farmland Preservation Program. These programs have also helped address issues of Landowner Equity, even if not funded through the Council. The MPRR should account for those landowners who received compensation through the Green Acres and Farmland Preservation programs via the dual appraisal provision because this reduces the number of outstanding landowners seeking equitable remedies for impaired property values.

#### Transfer of Development Rights

The Act required that the Council establish a regional Highlands TDR program and "contemplates that transferable development rights will be allocated to the owners of land which should not be developed at all or be developed at very low densities and impacts, and that voluntary TDR Receiving Zones for HDCs will be identified" (RMP Pg. 200). The Council adopted its TDR program as part of the RMP and established the Highlands Development Credit Bank, with the Initial Purchase Program being funded through Executive Order 114. However, the TDR program has not lived up to its promise of providing affected landowners with equitable compensation for the diminution in their property values resulting from the Act.

The MPRR appropriately acknowledges a number of deficiencies to the TDR program, including that: (i) the HDC Bank has operated as the only purchaser of credits and that a private market for credits has failed to materialize, (ii) the credit value has not been revisited since 2008 despite changes to the real estate market, (iii) no TDR receiving areas have been established to date, and (iv) the TDR Feasibility Grant program has yet to identify an area with sufficient demand to support a receiving area. (MPRR Pg. 57)

In light of the deficiencies identified above, this Department generally supports the MPRR recommendations to: (i) determine whether a change to the initial credit value is warranted, (ii) explore the feasibility of creating a variable-value for credits, (iii) determine whether a location adjustment for non-residential HDCs is warranted, (iv) examine whether the HDC Bank should use credits it currently holds to provide financial incentives to local governments that designate TDR receiving areas, and (v) consider requesting that the benefits of the TDR program be recognized under the LEED certification program. (MPRR Pgs. 57-58)

This Department supports the MPRR's recommendation to explore the feasibility of creating a variable-value for HDCs because there is a very large supply of credits and a very low demand for credits. However, in order to create variable-values, I understand that the Council would consider creating various sending districts, each presumably with its own credit value. While this may help address the credit oversupply problem, it may also have the potential to create inequities between sending districts. Therefore, in undertaking this particular recommendation, the Council is urged to also consider how such a mechanism might disparately impact landowners in different sending zones.

This Department supports the MPRR's recommendation to explore using existing HDCs as financial incentive to local governments that designate TDR receiving areas. I understand that the HDC Bank currently holds credits previously purchased from landowners, but that there is no market to purchase these credits from the bank because there are no receiving zones where they can be used. Conceivably, the Bank could transfer credits which it holds to those jurisdictions

willing to become receiving zones. Those jurisdictions could then sell the credits to developers seeking additional density. The apparent benefit of doing this would be to generate revenue to those jurisdictions, creating a financial incentive to become a receiving zone, without adding to the developers' cost like an impact fee would.

While this Department supports exploring this recommendation, the Council is urged to consider limiting such credit transfers to a particular number of credits and as an initial, one-time incentive in exchange for a jurisdiction agreeing to become a receiving area. The concern here is that the TDR purchases, once a market has been established, were envisioned to provide recurring source of funding for the purchase of additional HDCs. So while the transfers of existing HDCs from the Bank to a jurisdiction would provide receiving zone jurisdictions with a financial incentive, once a market is established with sufficient demand then the continuance of such a practice would come at the cost of the Bank purchasing additional HDCs from affected landowners. Nevertheless, provided it is properly constrained, this recommendation appears to have potential for incenting jurisdictions to become receiving zones.

To further measure and monitor the success of the TDR program, this Department believes that the MPRR appropriately compares the number of HDCs issued against the total number of HDCs outstanding. That is, the MPRR looks at the total number of HDC eligible properties, total number of HDCs, total HDC value, and total acreage. And in so doing, the MPRR estimates that "the Preservation Area of the Highlands Region has nearly 32,000 potential HDCs available, which are tied to over 2,000 properties and covering over 64,000 acres." (MPRR Pg. 173). However, as of February 1, 2017, it goes on to report that allocations have been issued to only "135 properties (6% of total eligible properties)... represent[ing] over 2,600 HDCs (8% of eligible HDCs) and 5,000 acres (8% of eligible acreage)." In addition, of the \$509 million total HDC value as shown in Table 1 on page 173 of the MPRR, only \$41,732,000 (8% of total HDC value) has been issued in HDC allocations.

In other words, nearly 13 years after the Act passed and nearly 10 years after the HDC Bank was established, it appears that only 6% of affected property owners have received compensation (for about 8% of the total HDC valuation) through the Highlands' Landowner Equity programs. Were full HDC compensation to be the goal, at this rate it would likely take over 125 years for affected landowners to be made whole. Considering that the TDR program was envisioned to be the primary mechanism for addressing Landowner Equity, this is extremely discouraging to landowners hoping to find equitable relief through the TDR program.

Nevertheless, while this Department supports comparing issued HDCs to the total number of outstanding HDCs, the total outstanding HDCs may be reduced from other land preservation programs (Green Acres, SADC, Nonprofit, etc.) and changes in ownership where HDCs may have been voluntarily forfeited. That is, the combined totals of HDCs which were purchased through the Highlands programs, retired through other preservation programs, and forfeited through voluntary transfer may provide the Council with a more accurate accounting of the total outstanding HDCs.

In addition to examining the percentage of affected landowners who have been addressed as described above, the Council may also wish to consider Landowner Equity across jurisdictional boundaries. For example, if a large majority of HDC purchases were to occur only in a particular municipality or county, this would not appear to be an equitable distribution of limited resources among those who have been adversely affected by the Act. That being said, I recognize that priority is given to preserving those areas having the most significant resource values. Therefore, in the MPRR, the Council may consider measuring HDC purchases in proportion to each jurisdiction's

resource values. Conceivably, the equitable distribution of limited funding should be somewhat proportional to each jurisdiction's resource values.

### **Agriculture**

*This Department generally supports the findings and recommendations contained in the Agriculture sections of the MPRR with some additional comments.*

The Act clearly finds and declares "the maintenance of agricultural production and a positive agricultural business climate should be encouraged to the maximum extent possible wherever appropriate in the New Jersey Highlands." Thus, the RMP and MPRR appropriately recognize that Agriculture is a vital component of the economy, culture, and landscape of the Highlands Region. As the MPRR notes, the RMP recommends a variety of programs to promote and support agriculture, but that there has been limited implementation of existing RMP programs. (MPRR Pg. 33-34)

Nevertheless, the MPRR goes on to make a number of recommendations which this Department strongly supports, including: (i) continuing and expanding integrated crop and pest management, (ii) developing and promoting new markets for Highlands agricultural products, (iii) developing and promoting agritourism throughout the Highlands region, (iv) supporting and assisting with the siting of facilities for aggregating, processing, and distributing Highlands agricultural products, (v) coordinating with the SADC to establish an Agricultural Loan Bank, and (vi) establishing an Agricultural Advisory Committee of the Highlands Council. Through the Grow Warren project, the County is currently studying its agricultural industry and, based on our preliminary analysis, it appears that many of these MPRR recommendations would be very helpful to our local farmers.

Consistent with the above recommendations, the Council may wish to consider exploring the potential for a cooperative "Highlands" regional branding and marketing effort. Such a coordinated marketing effort for Highlands foods and drinks would also support the establishment of a Highlands-focused tourism program, as recommended in the Sustainable Economic Development section of the MPRR. Facilitated by the Council or its proposed Agricultural Advisory Board, this effort could be overseen by a steering committee composed of representatives from Counties, Municipalities, Nonprofits, and (most importantly) local farms, restaurants, wineries, breweries, and other food related businesses.

In addition to measuring the number and acres of preserved and unpreserved farmland, this Department recommends that the Council also consider the number of farmers, the average age of farmers, and production values of farms as metrics for measuring the vitality and viability of continued agriculture throughout the region. While this data is available through the U.S. Census of Agriculture and other sources by county, the data is not further separated between Highlands' Planning and Preservation areas. Nevertheless, figures for counties within the Highlands Region may still provide helpful indicators for trends in regional agricultural resources.

Lastly, though not included in the Agricultural sections of the MPRR, there is a recommendation to "amend the RMP definition of disturbance to include agriculture and add language regarding Highlands Open Water buffer distance with respect to disturbance occurring in a non-functional buffer" on page 198 under the "Natural Resources Section." The MPRR should clarify whether this will have any impact on agricultural operations.

### **Historic, Cultural, Archaeological, and Scenic Resources**

*This Department generally supports the findings and recommendations contained in the Historic, Cultural, Archaeological, and Scenic Resources sections throughout the MPRR with some additional comments.*

The Council may wish to include New Jersey Scenic Byways like the Warren Heritage Scenic Byway and scenic railroads like the Delaware River Railroad in the Scenic Resource Inventory, if it has not done so already. There are also a number of parks, natural areas, greenways, and trails which are not only natural resources, but also cultural and scenic resources as well. In addition to federal, state, county, and municipal lands, there are a number of multi-jurisdictional resources like the Morris Canal Greenway, the Highlands Trail, the Warren-Highlands Trail, the 911-Memorial Trail, and others that the Council may wish to include in its inventory.

### **Sustainable Economic Development**

*This Department generally supports the findings and recommendations contained in the Sustainable Economic Development sections of the MPRR with some additional comments.*

The Act clearly finds and declares “that the New Jersey Highlands provides a desirable quality of life and place where people live and work; 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.” Thus, as the MPRR states on page 60, “A sustainable economic future must be crafted by balancing the resource protection mandates of the Highlands Act and the Regional Master Plan with the economic, fiscal, social, and cultural needs of the Highlands communities.” Nevertheless, concerns remain that not enough attention has been given to the economic and fiscal needs of the Highlands communities.

This Department believes that the MPRR appropriately recognizes that: (i) the RMP does not offer a comprehensive approach to economic planning in the Highlands Region, (ii) the RMP does not adequately address methods and strategies to redevelop grayfields and other areas with redevelopment potential, (iii) support for tourism as an industry in the Highlands Region is lacking, (iv) there is no consistent coordination of tourism programs and initiatives in the Highlands Region, (v) recreation, as a vital component of the tourism economy, has not been adequately addressed, and (vi) the RMP does not adequately support municipal (or county) efforts to create an attractive economic environment for businesses. (MPRR Pg. 62)

To better address the above concerns, this Department strongly supports the MPRR’s recommendations to: (i) develop regional economic development plans in coordination with Highlands counties and destination marketing organizations, (ii) establish a Highlands-focused tourism program in coordination with the NJ Division of Travel and Tourism, (iii) promote and expand recreational and cultural opportunities, (iv) create a Smart Growth Capability Map depicting areas within the region that are appropriate for future economic development and redevelopment activity, (v) develop a comprehensive economic development plan for the Highlands Region to identify economic development potential and strategies, and (vi) actively support agriculture as a sustainable Highlands industry and facilitate agritourism. (MPRR Pg. 62)

In addition, this Department strongly supports the MPRR’s recommendations to: monitor the data contained in the Fiscal Impact Analysis, expand the Council’s efforts to partner with other

entities to support sustainable economic development in the region, pursue modifications to the Grow New Jersey Assistance Program to include Preservation Area Highlands Redevelopment Areas and designated Highland Centers as “Qualified Incentive Areas”, and develop a cost-benefit analysis of the RMP. (MPRR Pg. 63)

In conclusion, while the Highlands Act remains unpopular and controversial with many of our constituents here in Warren County, this Department has not only received grant funding for preservation projects from the Highlands Open Space program, but the Highlands’ staff has also been helpful in assisting with SADC and Green Acres applications when issues arise. These preservation efforts not only protect the natural resources but provide landowners with fair compensation in return. In addition, Highlands’ staff has supported this Department’s efforts to both preserve and enhance our local agricultural and tourism industries. It is encouraging to see recommendations to further support these efforts in the MPRR. As such, the Warren County Department of Land Preservation supports many of the findings and recommendations contained throughout sections of the MPRR because this report appropriately acknowledges many of the RMPs limitations and endeavors to thoughtfully address them.

Thank you for the opportunity to comment.

Very truly,



Corey J. Tierney  
Preservation Director

- CC: Warren County Board of Chosen Freeholders  
Warren County Planning Department  
Warren County Agriculture Development Board  
Warren County Board of Recreation Commissioners

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September 7, 2017

Jim Rilee, Chairman  
The NJ Highlands Council  
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Chester, NJ

**RE: COMMENTS ON THE HIGHLANDS RMP MONITORING PROGRAM  
REPORT**

Dear Mr. Rilee,

I appreciate the opportunity to take part in this unprecedented review program as a member of the Technical Advisory Committee and a dedicated follower of Highlands issues and actions since before 2004. The report is particularly valuable as a good summary of what has been accomplished and what needs to be done. What happens now? In hopes of moving toward action on the issues of most concern to me and the Highlands farm community for whom I worked for many years, I will organize my comments putting the recommendations first that I consider the most urgently in need of development/change/deleting/ or attending to.

1. What has happened to actions encouraging/requiring the Agricultural Retention/Farmland Preservation Plan for which several dozen communities were offered planning money? The RMP Objective 3A4b proposes this Plan as the mechanism by which the RMP will be implemented in farm communities. It is a significant way for towns with important agriculture to review and adopt the provisions of the RMP that give strong support to the business of agriculture. The Monitoring Report lists other plans required for Plan Conformance also not developed by many towns and even considers creating a way to make them mandatory else the Highlands Council will take over the planning function of the town.

There is no mention of this critical plan except to note (p.192) that only 2 towns have completed them. A new recommendation should be added to those for Sustainable Economic Development re-describing this planning process and moving it to a required task instead of being only optional.

In a related matter only 12 towns have developed a Right to Farm ordinance acceptable to the Council. A strong Right to Farm ordinance is a critical sign that this town is supporting its farm community and its needs.

2. "A fuller understanding of the dynamics of the region's economy and the most optimal opportunities for development and deployment of Highlands agritourism initiatives" should be the first effort of a group set up to deal with the effects of BOTH agritourism and ecotourism that usually take place in the same locations. Because of public investments to preserve their farms and ecological amenities, some Highlands towns are overwhelmed with traffic and visitors causing the Highlands to be called "the new Shore". More facilities for the safety, accommodation, and enjoyment of these visitors are needed as well as policies and programs Highlands-wide to take advantage of the resources the RMP has made available.

For Sustainable Economic Development the report recommends a "comprehensive economic development plan for the HL region", a new section on Recreation and Eco-agritourism, "data related to tourism visitation and spending" and related investments, and a Highlands-focused tourism program. These are critically needed and should be developed and adopted before another tourism season.

There is nothing in the recommendations about the effects of overwhelming numbers of users of ecological amenities (parks, trails, passive open space etc) or concern about accommodations for them and their safety that now put the total burden on the towns.

Already Warren County is moving to develop a branding program Grow Warren that should be done Highlands-wide, not county by county. Highlands-wide ED plans and coordinated investments would be a more worthy investment of federal USDA and state resources

- 3 Under Water Quality Restoration research, the report recommends ""revisiting the USGS calculations of septic density". This was a major suggestion in every public meeting I attended as a TAC member and the DEP rules have changed substantially. More data would certainly be welcome but what does this research hope to accomplish?

Furthermore, Highlands municipalities were given build-out analyses based on the old DEP septic density rules which are now out of date. The Highlands Council must provide new build-out numbers and notify the towns of this change to encourage them to better plan for any development that might occur.

We applaud recommending identifying the septic system failures in the Highlands municipalities. From a “restoring water quality” point of view, it makes no sense to limit new, more efficient septic systems while failing systems continue to pollute the Highlands water resources.

We also applaud all the recommendations that encourage the use of alternate wastewater technology as not only the best way to resolve the failing septic problem but also make clustering possible. Those opposed to this should look to the Pinelands where these systems have been made possible.

- 4 I am delighted that you recommend setting up an Agricultural Advisory Committee to provide information and counsel to the Council on agricultural matters. You need to develop a formal way to consult on a regular basis with the agricultural support agencies in the Highlands: NJ Department of Agriculture, USDA Natural Resources Conservation Service, Rutgers Cooperative Extension, USDA Farm Service Agency, USDA Rural Development, the National Agricultural Statistical Service, and county agriculture development boards. They have great amounts of data that relate to the policies and objectives of the RMP and the Monitoring Plan says nothing about this.
- 5 The Report states that no clusters have been proposed in the Conservation Zone, one of the major ways supposed to recapture landowner equity. Revisiting the cluster requirements to find out why this tool is not being used is essential. I applaud the addition of the noncontiguous cluster which should be spelled out in the RMP Program section in full. Again, it is good to encourage alternate wastewater technology: it's the only way to do clusters without using up the most productive farmland.
- 6 Thank you for proposing to revisit the calculation of the opening price for HDCs. This is a major issue for many Highlands landowners. I oppose making HDCs bought by the HDC Bank available to towns developing Receiving Zones to sell and help pay for impacts of new development. The effects on demand for HDCs, which has been zero so far despite the large discount made to encourage the development community, must be examined before the market should be affected by such a give-away.
- 7 There needs to be an easement program set up so that forest landowners can receive some of the equity in their property through preservation that does not require them to sell fee simple. The Monitoring Plan says nothing about this and it is a major need of the thousands of woodland owners.

Forest resources need more flexibility, ability to restore, manage for products, wildlife, water retention, erosion control instead of just being regulated based on extent and connectivity. Management BMPs could

help if they are serious about reducing deer damage and invasive plant takeover as well as active management. Public forests need management plans as well as private landowners (see Sparta plan controversy). We welcome an effort to “update Forest Resource mapping” but there must be an assessment of the physical condition of the forest if it is to be a major requirement for water supply and quality, not just geographic extent.

There must be a relationship between the Woodland Management Plans required for appurtenant Farmland Assessment and the many types of forestry plans required by the RMP. There are too many different “plans” required of forest landowners. Please revisit, simplify, and especially, find resources to pay for them.

- 8 A water FEE for those users of Highlands water is long overdue. Besides using this to compensate landowners and to preserve more land, the money collected should be made available for forest management critical to water supply and quality.
- 9 I welcome the indefinite extension of the Dual Appraisal method of valuing property and the concept of using this as the basis for loans for farm equipment. Is yet another loan program from the SADC necessary given reports that the regular farm loan agencies have money readily available? This should be studied.

The research agenda should include compiling the data from CADBs about values, especially the “after values” mostly based on houses, not the property’s merits as a working farm. After all this effort it would be tragic if the Highlands became yet another enclave for the wealthy even if they rent their farmland to farmers for horses and hay (for scenic purposes). This has happened in many places where a region has been preserved and active agriculture fades away. There must be some formal way to prevent this.

10. What are the mysterious Watershed Moratorium payments, over \$1.8 million that the report says was paid, supposedly to towns (page 179)? Which towns received this help? And for what purpose are the funds being used? Not for land preservation evidently. Why is there no reporting on this significant source of public money (about half of what’s appropriated for the Highlands every year) in either your Annual Reports or in this RMP Monitoring Report? Could there be some connection between a municipality receiving these funds and complying with the RMP, especially completing the requirements for Plan Conformance (including the Agriculture Retention and Farmland Preservation Plans) and investing in easements on forestlands and farmland? Understanding that this allocation was set up as a requirement for South Jersey votes on the Highlands Act, how much money did Pinelands towns receive recently and what have they used it for?

Thank you for this opportunity to participate once more. I can be reached at the address and numbers above if you have any questions.

Yours truly,

Helen H. Heinrich PP LLA

Cc: Margaret Nordstrom, Executive Director  
Monique Purcell, Assistant Secretary of Agriculture  
Peter Furey, Executive Director, NJ Farm Bureau



THE ALLEGHENY  
SOCIETY OF  
AMERICAN FORESTERS  
NEW JERSEY DIVISION  
c/o Steve Kalleser, Chair  
[REDACTED]  
Clinton, NJ 08809

September 9, 2017

New Jersey Highlands Council  
Attn: MPRR Comments  
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Chester, NJ 07930-2322

To whom it may concern:

Thank you for the opportunity to make comments on the Draft Monitoring Program Recommendation Report (MPRR). We note the success that the NJ Highlands Council has had in meeting its statutory mandate of controlling development in the Highlands region.

However, we are strongly concerned regarding the recommendation regarding “Highlands Region Specific Best Management Practices” (RMP Program Forest Management and Sustainability, p.197). This concern is based on page 14 “Develop and implement Highlands Forest Best Management Practices *to supplement current NJDEP BMP Forestry Manual*” (emphasis added) and on the same page “Develop a Highlands Region specific Best Management Practices (BMP) Manual for Forestry activities... This Highlands BMP manual should be integrated into future forest stewardship plans and Forest Management Plans written for Highlands forests.”

(1) We direct you to Section 30(a)7 of the Highlands Water Protection and Planning Act that 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.*” Thus, we believe that regulating forestry activities that are already regulated under a plan approved by the DEP State Forester (since BMP compliance is mandatory under law in this state) is not within the statutory authority of your agency. Any funds or staff time spent on such a specific technical document would be viewed as improper and imprudent.

Here, we do not claim that sustainable forest management and wildlife habitat improvement activities get a free pass from regulation. Rather, we agree with the authors of the Act that DEP State Forestry Services is the correct regulator of forestry activities and plans, not the Council or local municipalities. 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 should – result in penalties under each of those acts as well as the Highlands

Act. We view unnecessary and potentially ill-informed regulation by the Council or by individual local governments as counterproductive to our collective efforts to maintain healthy forests (particularly in developing resiliency and adaptation to global climate change), provide habitat for imperiled species and other habitat specialists, control exotic invasive pests 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.

(2) We cannot find any reasonable justification for creating such a guidance document in the MPRR. The only reference we found is given is on page 14 which states “This [a Highlands-specific BMP manual] will greatly improve the guidance currently available to foresters by updating techniques to protect waterbodies, riparian areas, steep slopes and other forest components.”

As the professional society for foresters, whose mission is to advance sustainable management of forest resources through science, education, and technology, and to enhance the competency of its members, we find that sentence to be baseless. We cannot find any reference within the MPRR regarding what current “guidance” the authors reviewed and found lacking, but a recent listing of our programs can be found at <https://njforests.org/recent-programs/>. Please note the emphasis on water resources and water quality, and other emerging issues. We also note that the DEP State Forestry Service maintains records of the continuing education reported by DEP-approved forester as part of their mandatory semi-annual reporting. In addition, Certified Foresters (a program of the Society of American Foresters (SAF)) are required to complete 60 CFE’s of continuing education every three years. A complete catalog of approved continuing education programs reviewed by SAF in the region can be searched at [www.eforester.org](http://www.eforester.org).

We are extremely proud of our member foresters in this state, and we feel strongly that New Jersey’s foresters – both public and private – are amongst the best-educated in the country.

(3) Some of our members were members of the first 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.) We believe that any justification for such BMP’s based on the 2008 Ecosystem Management Technical Report listed in your references cited section is flawed.

We also note for the record that many of our members are on the current Ecosystem Management Technical Advisory Committee that met with Highlands Council staff and consultants as part of this process. None of those members can remember a recommendation for such Highlands-specific BMP’s as part of our review. We view the fact that such a serious change in policy has been proposed – without input by your Technical Advisory Committee – shows a lack of a spirit of cooperation.

(4) It is our understanding that DEP State Forestry Service is in the process of updating the current (1995) forestry and wetlands Best Management Practices manual. It is also our understanding that as part of the research needed to begin the process, that adjacent states' BMP manuals were reviewed, and that several of those states include the Highlands geological province. We believe that it is thus not within the Council's ability to know whether an updated manual needs a Highlands-specific companion document. We believe that DEP State Forestry Services is the only agency in this state with sufficient knowledge and resources to undertake such a technical effort.

(5) For the past 3 ½ years, the science and technology committee of this organization has been reviewing recent scientific and technical publications that could represent new information useful for updating the current forestry and wetlands BMP manual. Summaries of those reviews (and hyperlinks to the original sources) have been published in our quarterly newsletter, *The Cruiser*. Although this organization has not established a formal policy on the matter, given a thorough literature review of the matter – which we believe that the authors of the MPRR did not undertake on this matter – we believe that any reasonable person would conclude that the nature of the Highlands region (or the similar Appalachian region) is adequately represented in the literature cited in the current BMP manual and that no significant scientific information has been published suggesting that the understanding of the underlying Highlands geology has changed enough since publication to warrant the preparation and publication of a separate manual.

We further note some references within the current BMP manual that already give what we believe to be a sufficient amount of Highlands region specificity, such as (including, but not limited to) those on pages 2, 3, 7, 18, 23, and 24. Reasonable justification cannot be made why a Highlands-specific Best Management Practices manual must be made when such information already exists in the current manual.

(6) If the current BMP manual is being updated, and if a peer-reviewed scientific justification cannot be cited by the Highlands Council for the need for a Highlands-specific BMP manual, we believe that no material improvement to the environment would result from the development of such a manual.

(7) Assuming that the Council is merely attempting to give guidance to Highlands municipalities and other public landowners regarding forest management for various objectives, we believe that sufficient information already exists from such sources as the DEP State Forestry Service, DEP Division of Fish & Wildlife, USDA Forest Service, USDA Natural Resources Conservation Service, USDI Fish & Wildlife Service, this organization and its national organization, and Forest Stewards Guild, amongst others. Should the Council wish this information to be distilled into a single informational resource, we believe that the DEP State Forestry Service would be the agency best equipped to handle such a request in a timely fashion.

(8) We believe that having a Highlands-specific BMP manual to “supplement” the forestry and wetlands BMP manual would create serious confusion amongst the regulated, added cost to the applicant, no environmental benefit, lack of statewide of uniformity, to a marginal industry. We further note that the fiscal impact statement regarding forestry, farming, fisheries, and hunting is

lacking any economic data. We believe that specifics are needed to recommend such a new BMP manual.

(9) We understand that the oak-dominated forests of the New Jersey Highlands region 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.

Adequate regulation of forestry activities over the past 100+ years has made the Highlands region forests the critical reservoirs of biodiversity that they are. We see no compelling reason in the MPRR to alter that regulatory environment.

Further, we believe that adding another layer of regulation and compliance to sustainable forest management activities has the potential to limit the ability of forest and wildlife managers to adequately respond to emerging issues, such as floral or faunal species diebacks caused by exotic invasive pests (e.g. emerald ash borer), or other issues including the effects of global climate change. Such scenarios are endemic to New Jersey as a hub of international trade and being the intersection of many forest types. We feel that there is a legitimate health and safety concern to New Jersey's citizens. We seek to minimize unintended consequences.

On a separate issue, we support those issues raised by NJ Farm Bureau vis-à-vis Landowner Equity.

We respectfully request the removal of the cited and associated language from the MPRR. We request that the Highlands Council ask to be a stakeholder in the development of the new forestry and wetlands Best Management Practices manual. We appreciate the time and effort that went into the preparation of the report, and we hope that our comments help to improve the final product.

Sincerely,

*-A majority of the executive committee of the NJ Division of the Allegheny Society of American Foresters*

***Mission Statement***

*The Society of American Foresters (SAF) is the national scientific and educational organization representing the forestry profession in the United States. Founded in 1900 by Gifford Pinchot, it is the largest professional society for foresters in the world. The mission of the Society of American Foresters is to advance the science, education, technology, and practice of forestry; to enhance the competency of its members; to establish professional excellence; and, to use the knowledge, skills, and conservation ethic of the profession to ensure the continued health and use of forest ecosystems and the present and future availability of forest resources to benefit society. SAF is a nonprofit organization meeting the requirements of 501 (c) (3). SAF members include natural resource professionals in public and private settings, researchers, CEOs, administrators, educators, and students.*

**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Sunday, September 10, 2017 4:31:46 PM

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Below is the result of your feedback form. It was submitted by  
[REDACTED] on Sunday, September 10, 2017 at 16:31:40

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<First Name>: Cathy

<Last Name>: Brynildsen

<Title/Role>: landowner

<Municipality>: Tewksbury Twp., Hunterdon Co., N

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: Highland Council through its twelve plus years of operation has consistently ignored creating the mechanism for compensation to landowners whose property has been affected by the Highlands Preservation Area.

The original plan to create a Highlands Bank and Transfer Development Rights (hereafter referred to as TDRs) have been ignored. The Highland Council has been unsuccessful in their efforts to create receiving areas for TDRs. To date there is no receiving area for which TDRs can be used. This failure by the Highlands Council has made it impossible for landowners to sell development rights or use their TDRs as collateral for loans, all of which had been mandated by the enactment of the Highlands Act twelve years ago. In essence any sale of TDRs today would be covered by interest on the monies that should have been received in a timely manner. The Highlands Council should pay an interest rate equal to the States mandated interest rate for debt in any given year four years after the enactment of the Highlands Act. Four years constitutes twice the time allotted to set up receiving zones and TDRs which is more than reasonable. The State has had the benefit of the restrictions placed on the landowners without compensation, all of which was mandated in the original act.

<Submit>: Submit

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**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Sunday, September 10, 2017 2:30:56 PM

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Below is the result of your feedback form. It was submitted by [REDACTED] on Sunday, September 10, 2017 at 14:30:50

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<First Name>: leslie

<Last Name>: sauer

<Municipality>: sergeantsville

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: Comments Highlands Council draft Monitoring Program Recommendation Report (MPRR)  
Leslie Sauer [REDACTED]

I general I was very impressed with the MPRR. It is an excellent compendium of the next steps in this iterative process. My questions and suggestions have more to do with how new information or data can be added to this process. In the time since the development to the Master Plan there have been important scientific observations that I would hope could be added to this effort to protect the Highlands.

The two concerns i would like to add are the use of the Vermeule maps to the primary data used for monitoring and the use of Floristic Quality Assessment (FQA) as a primary metric for evaluating both quality and change over time.

The Vermeule land use maps were created from 1870 to 1880 and are available as shape files that should be added to the Highlands webpage. These maps are important because the lands that were still forested at this time of maximum forest clearing probably were never cleared for agriculture if they remain forested today. Forests that were never cleared for agriculture have been spared the uniquely destructive impacts of the plow which mangles the ancient clones of ephemerals, the ant colonies that support them, the layered soil structure and soil food web, and the mycorrhizal relationships that connect the entire ecosystem. Centuries after release from agriculture these relationships are only partially restored. Sites that have been continuously forested, on the other hand, may be degraded by poor forestry or invasives and overbrowse, but their ability to recover is dramatically better. The MPRR raises the question of what lands are most suitable to restoration, for example. The Vermeule sites are almost by definition a map of these lands. The maps have been available for a century but only recently been evaluated relative to resilience and quality. Drs. Emile de Vito and Michael Van Clef are both in the process of comparing the Vermeule maps with other indicators of forest conditions and would be excellent people to talk to.

The second suggestion is to incorporate Floristic Quality Assessment (FQA) into your monitoring recommendations. The presence of T and E species is limited often by the records on the heritage database which has relatively few sites and species surveyed. Rare species in NJ are not mapped or protected. The other ecological metrics currently proposed are all primarily GIS based which reflects a regional scale but not the site scale. FQA is about the site and one of the only on-site monitoring efforts proposed. GIS is important but new data and expanded data is vital to the success of the Highlands Master Plan.

FQA is intended to assess the 'naturalness' of the plants on a given site and is based on assigning each plant a coefficient of conservatism. Conservatism is a measure of a plants fidelity to a specialized habitat. The highest scoring species are those most vulnerable to disturbance and reflect relative intactness. The FQA method is being incrementally incorporated into both federal and State monitoring and regulation. Kathleen Walz, the Heritage Program State Ecologist, has recently revised the Coefficients of Conservatism for all New Jersey species. The

Highlands Council is evaluating mitigation quantification based on FQA. You can view the lists recorded for the state to date at FQA.org.

<Submit>: Submit

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**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Saturday, September 09, 2017 10:34:30 PM

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Below is the result of your feedback form. It was submitted by  
[REDACTED] on Saturday, September 9, 2017 at 22:34:25

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<First Name>: Sharon

<Last Name>: Petzinger

<Municipality>: Lebanon Township

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: Thank you for the opportunity to comment. I am a wildlife biologist by profession, a member of the Lebanon Township Environmental and Open Space Commission, and a member of The Wildlife Society - NJ Chapter, but I am writing to you as a NJ resident who lives in the Highlands Preservation Area.

First, I want to thank you for the role you've played in protecting the forests and water resources in the Highlands from increased development and impervious surface. While the slump in the housing market played a role, I think the Highlands Act was and is a crucial part of it.

Regarding the report, I like the recommendations for critical wildlife habitat, but I want to express some concerns about forest stewardship, particularly page 14. I do not believe we should be concerned about sustainable forestry in the Highlands, as the recommendation for new BMPs imply, but we should be concerned about the lack of understanding and enforcement when private landowners and/or loggers violate Highlands regulations or high-grade their forests without a forest stewardship or forest management plan. There are many private forest landowners in the Highlands who want to take care of their land and do the right thing, and those are the ones who hire a forester and pay to have a plan done. Creating additional restrictions through new BMPs will severely limit their ability and/or willingness to be stewards of their forests but not impact the real concern of illegal logging. I would much rather see the recommendation for BMPs changed to be a recommendation for education about and enforcement of illegal logging in the Highlands.

I would also recommend defining the term "forest fragmentation". Some conservation groups believe sustainable forestry in the middle of a large contiguous forest will fragment that forest, but the effects of a forest edge created through sustainable forestry are very different from an edge created by houses or farms, and I think that should be clearly defined in the recommendations. I would also like to bring your attention a belief that some conservation groups and many fellow environmentalists have about the environment that is false and actually detrimental to the environment. In his book "25 Myths That are Destroying the Environment" Daniel Botkin addresses the false belief that long-undisturbed ecosystems are the best for all species, or in other words it would be best for everything and everyone if we leave nature alone. I would contest his book if we didn't control wildfires, trap beavers, dam rivers, or create so much impervious surface, but his assessment is correct. I personally and professionally believe that the forests in the Highlands desperately need some kind of periodic disturbance brought back into them to keep them diverse and resilient, and I think new BMPs will restrict that which we should add as a recommendation to the MPRR. I would also recommend that members of the Council read Botkin's book as it is quite eye-opening and he actually has some examples from NJ. On page 52 he states "Thus, the movement away from a belief in the balance of nature has led to great improvement in the conservation of nature in New Jersey." He names NJ Audubon as being on the side of improving conservation and NJ Highlands Coalition as being on the side of the false belief. Please consider this when revising the MPRR and fielding comments...

Thank you for your time.

<Submit>: Submit

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**From:** [REDACTED]  
**Subject:** Fw: Alexandria Township comments re: Highlands Council's draft MPRR  
**Date:** Saturday, September 09, 2017 2:40:54 PM

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Sent from my BlackBerry 10 smartphone.

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**From:** Paul Abraham [REDACTED] >  
**Sent:** Saturday, September 9, 2017 1:04 PM  
**To:** [REDACTED]  
**Subject:** Alexandria Township comments re: Highlands Council's draft MPRR

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Director Nordstrom,

We appreciate your requesting input on the draft MPRR. My apologies for cutting this so close to the wire...time has flown. I requested support from our Township Planner (David Banisch) in framing Alexandria's response to your request, and those comments are included below. David focused in on just a few areas and measures as noted in the 3 main points below. Please feel free to reach out to me, the Township Clerk Michele Bobrowski, or David if you have any questions regarding these comments.

1. Land use changes are broken down by Land Use Capability Zone designations for the Highlands Region, but there appears to be no breakdown in land use change at the municipal level. Measures for the region are important, however, if the Highlands Council made this information available at the municipal level in the report as Appendices, the municipalities could potentially use the individual indicators / measurements in local planning - if the data is available at the municipal level, which presumably it is to aggregate the information presented in the report.
2. The report includes comparison's between the Highlands Region and "northern New Jersey". Northern NJ doesn't appear to be clearly defined in the report, however, non-Highlands counties are listed in several chapters of the Report. One area of interest is Sustainable Economic Development.

P. 177:

"As of 2016, using the most recent data available, 48% of the Highlands Region falls within the Preservation Area and 52% within the Planning Area. Approximately 36% of the Region's acreage is preserved, representing approximately 0.38 acres per Highlands resident. The majority of the Region's land (51%) has been designated Protection Zone in the Highlands Land Use Capability Map Series. The next largest designations are Existing Community Zone (16%) and Conservation Zone – Environmentally Constrained Subzone (14%). Nearly half of the Highlands Region is forested, while more than a quarter is developed. Comparatively, Northern New Jersey is more than a third developed, while the entirety of New Jersey, at 25.2%, is slightly less developed than the Highlands Region (27.5%). The Highlands Planning Area accounted for 80% of the Region's single-family homes sales, 90% of improved commercial property sales, and 60% of vacant property sales. Nearly 70% of the Region's COs were issued in the Planning Area and the Region's total COs represented 16% of all Northern New Jersey COs.

The Highlands Region houses 15% of Northern New Jersey's population and represents nearly 15% of all Northern New Jersey jobs. The Region's household size is slightly smaller

than Northern New Jersey, but on par with that of the state as a whole. Meanwhile, the Region's median household income is nearly 35% higher than that of New Jersey and 5% higher than Northern New Jersey. Median age is higher in the Highlands Region than the remainder of the state, as well as Northern New Jersey, while average district school enrollment is significantly lower. Residents of the Highlands Region paid property taxes of approximately \$856 per capita with over \$1.8 million dollars of Watershed Moratorium Offset Aid allocated to offset lost tax revenue due to a moratorium of the sale of watershed lands."

It would be helpful to know:

What were per capita property taxes paid for northern New Jersey, and what constitutes "northern New Jersey"?

Identify the median income for (1) the Highlands Region; (2) New Jersey (to show that the Region's median household income is nearly 35% higher than New Jersey); and (3) Northern New Jersey and (4) what constitutes Northern New Jersey in these measurements?

Another meaningful measure of economic vitality would be a comparison of the rate of tax ratable appreciation and a comparison of the change of median home values among the Region, Northern New Jersey, and New Jersey as a whole.

3. The natural resource and preserved land statistics appear to show that the RMP is achieving the intended environmental resource protection and land preservation results and that land use changes are occurring primarily where intended in the RMP; however, if a clear picture of the economic vitality of the region isn't presented, there may be no way of targeting Regional planning at improving economic conditions for Highlands residents.

Again, thank you for seeking Alexandria's input.

Paul Abraham  
Mayor  
Alexandria Township New Jersey



Virus-free. [www.avg.com](http://www.avg.com)

**From:** [REDACTED]  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** FW: i have concerns about the highlands council using tax dolalrs for this planner on tourism  
**Date:** Friday, September 08, 2017 3:57:27 PM  
**Attachments:** [image002.png](#)

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Cindy,  
Please log.  
Annette

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**From:** Jean Public [mailto:[REDACTED]]  
**Sent:** Friday, September 08, 2017 2:51 PM  
**To:** Highlands <highlands@highlands.nj.gov>  
**Subject:** i have concerns about the highlands council using tax dolalrs for this planner on tourism

we have a state torusim office.

we have a federal revoluntary war tourism office offering up info on all kinds of tourism sites of interest.

there is no need for more spendign to invite tourists.

wehave a federal tourism office we all support as taxpayers. why do we ned tourism offices up the wazoo? why cant the offices we presently pay tax dollars to support hand this issue?

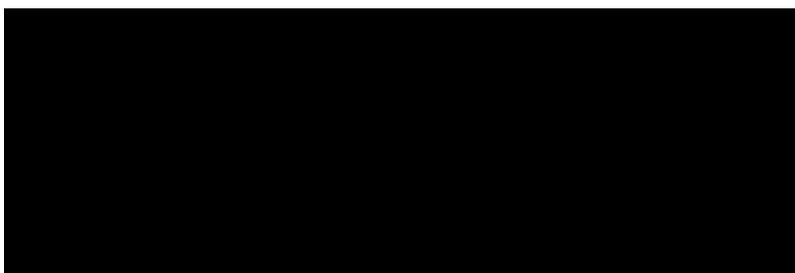
why tax and tax and spend and spend when we have tourism offices set up. its like th eeducation tax on the local, county,state and federal level - its as if every level has to have people on the govt payroll.

why cant we getthe offices we have to do the job?

of course whenyou have a state thats nickname is "cancer alley", which has the highest taxation ion the country, it may be driving tourists away. it is clear you can rent a house in florida for a month or two for what you pay for a week here in nj.

but taxing people to have all thes endless govt facilities which do absolutely nothing to help the economic climate certainlyh is not productive. i am not in favor of this grant from highland council. jean publiee  
[REDACTED]

[Hunterdon getting 'serious' about economic development](#)





## **Hunterdon getting 'serious' about economic development**

Hunterdon wants to boost tourism and ease development process.

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**From:** [REDACTED]  
**Subject:** FW: Comment on the Monitoring Program Recommendations Report  
**Date:** Friday, September 08, 2017 11:04:47 AM

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Hi Cindy,

Please log in.

Thanks,

Margaret

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**From:** Soriano, Anthony [REDACTED]  
**Sent:** Friday, September 08, 2017 11:00 AM  
**To:** Margaret Nordstrom <[REDACTED]>  
**Cc:** Marion, Christine <[REDACTED]>  
**Subject:** Comment on the Monitoring Program Recommendations Report

Dear Ms. Nordstrom

In our letter of July 28, 2017 concerning the Monitoring Program Recommendations Report, we make the following comment:

**“Implementation:** As pertains to the recommendations on County Plan Conformance Guidelines, this office appreciates acknowledgement of the NJ County Planning Act and the limits of county review authority. We expect any future county conformance requirements to be significantly reduced.”

Please accept this amended statement:

**Implementation:** As pertains to the recommendations on County Plan Conformance Guidelines, this office appreciates acknowledgement of the NJ County Planning Act and the limits of county review authority. We expect any future county conformance requirements to be significantly reduced.

Prior to the development of any proposed amendments related to County Plan Conformance and submittal of such amendments to the RMP Amendment Committee, we strongly recommend that Highlands Council staff be required to schedule at least one meeting with representatives of all county planning boards in the Highlands Region for meaningful input on the development of such amendments. We request this action be included as a recommendation in the MPRR.

Thank you.

*Anthony N. Soriano, PP/AICP  
Supervising Planner  
Morris County Office of Planning and Preservation  
P.O. Box 900*

*Morristown, NJ 07963-0900*

*Phone (973)829-8120*

*Fax (97*

*email* 

**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Friday, September 08, 2017 12:18:26 PM

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Below is the result of your feedback form. It was submitted by  
(MariaS@mmuair.com) on Friday, September 8, 2017 at 12:18:21

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<First Name>: Maria

<Last Name>: Sheridan

<Title/Role>: Sr. Director, Government Affairs

<Organization>: Morristown Airport

<Municipality>: Morristown

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: The report looks great. Well thought out. No additional comments.

<Submit>: Submit

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**From:** [REDACTED]  
**To:** [comments](#)  
**Subject:** RMP Monitoring Program Recommendation Report Public Comment  
**Date:** Friday, September 08, 2017 10:41:54 AM

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Below is the result of your feedback form. It was submitted by [REDACTED] on Friday, September 8, 2017 at 10:41:48

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<First Name>: Liberty

<Last Name>: Township

<Title/Role>: Governing Body

<Municipality>: Liberty

<email>: [REDACTED]

<Phone Number>: [REDACTED]

<Comment>: We have reviewed your draft for public comment.

Liberty Township is concerned that when the Highlands was introduced in 2004, landowners were promised that they would be reimbursed for the decrease in the value of their property. To date no reimbursement plan has been presented to landowners.

With the institution of Highlands landowners were robbed of their ability to subdivide a small parcel for family members or even subdivide a building lot sale for financial stability. The option to complete a lot-line adjustment was taken away from the landowners. Commercial Zoning on open land was robbed from the landowners with the overlay of Highlands Preservation.

Please explain the need for a property owner within the Highlands Preservation area to file annual farmland and forestry applications. The property no longer has developable value. Should the farm/forestry assessment be removed from a property and assessed at full value, what would the full value be?

The Highlands Act of 2004 was a taking of building rights from the landowners. The landowners were not involved in the creation of this legislature.

Landowners that had had value in their real estate in 2003 were subject to drastic reductions with the adoption of the Highlands in 2004. The landowners continue to await the reimbursement that they were promised for the reduced value of their property. How long are they to wait? What are the intentions to give back to these landowners? Is there a massive tax break forthcoming?

The landowners within the Highlands were not involved in the delineation of Highlands Preservation/Planning. Why such a delineation?

Our concern is that the landowners were robbed of their property value. Landowners were advised that they would receive reimbursement for the decreased property values. There has been no communication regarding reimbursement to date.

New Jersey landowners have been robbed and they deserve to be respected as stewards of this land.

In closing, your limited visibility box for comments is very restricting and not easy to review.

<Submit>: Submit

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