



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

State of New Jersey

Highlands Water Protection and Planning Council
100 North Road (Route 513)
Chester, New Jersey 07930-2322
(908) 879-6737
(908) 879-4205 (fax)
www.highlands.state.nj.us



JACK J. SCHRIER
Acting Chairman

EILEEN SWAN
Executive Director

**INCORPORATED BY REFERENCE INTO
HIGHLANDS COUNCIL RESOLUTION 2010-16
ADOPTED DECEMBER 16, 2010**

FINAL CONSISTENCY REVIEW AND RECOMMENDATIONS REPORT

**PETITION FOR PLAN CONFORMANCE:
COUNTY OF PASSAIC**

Prepared by the State of New Jersey Highlands Water Protection and
Planning Council in Support of the Highlands Regional Master Plan

DECEMBER 8, 2010

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

INTRODUCTION

This Final Consistency Review and Recommendations Report (“Report”) has been prepared by the Staff of the New Jersey Highlands Water Protection and Planning Council (“Highlands Council”). It provides review and recommendations for consideration by the Highlands Council as to the consistency of the Petition for Plan Conformance of the County of Passaic, with the Highlands Regional Master Plan (RMP). The Report provides review and discussion of each component of the Petition for Plan Conformance, in the order in which they are set forth under submission guidelines provided to counties by the Highlands Council. It begins with a brief summary of Staff findings, displayed in a table format, to provide an at-a-glance overview of the results of Staff review.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

REPORT SUMMARY

County: Passaic County

Date of Petition Submission: 1/11/2010

Date Deemed Complete: 4/26/2010

Conformance Area: Preservation Area

Staff Recommendation: Approve Petition with Conditions

Administrative Submittals	Meets Requirements	Conditions of Approval
1. Resolution	X	None
2. Record of Public Involvement	X	None
3. List of Current Planning and Regulatory Documents	X	None

Petition Components	Consistent	Conditions of Approval
1. Task A ERI	X	See Section D.1
2. Task B Highlands Element	X	See Section D.1
3. Task C		
a. Land & Facilities Regulations	X	See Section D.1
b. Land Development Resolution	X	See Section D.1
4. Task D Petition		
a. Self-Assessment Report	X	None
b. Implementation Plan/Schedule	X	See Section D.1

Optional Submission Items	Submission Date	Status/Recommendation
1. RMP Updates	1/11/10	Processed
2. Map Adjustments	N/A	
3. Center Designation Requests	N/A	
4. Highlands Redevelopment Area Designation Requests	N/A	

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

A. REVIEW OF ADMINISTRATIVE SUBMITTALS

- 1. Resolution.** The Resolution petitioning the Highlands Council for Plan Conformance was adopted by the County Board of Chosen Freeholders at its noticed public meeting of December 8, 2009. The document submitted is appropriately signed, certified, and sealed by the County Clerk to verify authenticity. The language of the Resolution relies upon that of the model provided by the Highlands Council. The Resolution clearly petitions the Highlands Council for Plan Conformance; conformance being proposed only with respect to county lands located in the Preservation Area.
- 2. Record of Public Involvement.** The Petition includes appropriate documentation of the public process engaged in by the county with regard to the development of Petition materials and adoption of the Resolution petitioning the Highlands Council for Plan Conformance. The adopted Resolution and the draft Master Plan Highlands Element indicate that Plan Conformance and the various components thereof were discussed at several public meetings, as follows:

 - a.** Meetings of the Board of Chosen Freeholders “and/or” Planning Board held on November 12, 2009 and December 3, 2009.
 - b.** Meeting of the County Planning and Economic Development Commission held on December 1, 2009.
 - c.** Regular Meeting of the Board of Chosen Freeholders during which the Resolution petitioning for Plan Conformance was adopted, held on December 8, 2009.
- 3. List of Current Planning Documents.** The list of current county planning and regulatory documents is comprehensive and includes required dates of adoption, as applicable. Pursuant to Highlands Council Task D County Plan Conformance Petition instructions, all of these documents should be available in the offices of the Highlands Council in Adobe pdf format and the County has fully addressed this requirement.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

B. REVIEW OF PLAN CONFORMANCE PETITION COMPONENTS

- 1. Environmental Resource Inventory (Task A).** The proposed County of Passaic Highlands Environmental Resource Inventory (ERI) is based on the Highlands Model ERI provided to counties by the Highlands Council. The document (inclusive of edits suggested therein by the Highlands Council) contains all required Highlands ERI language as necessary, to fully describe the Highlands Resources, Resource Areas, and Special Protection Areas located within the county. All applicable maps/exhibits have also been provided (separately in the case of electronic version of files), for appending to the document. As such, the Highlands ERI is consistent with the RMP and the immediate mandatory requirements of Plan Conformance.
 - a. Deleted Exhibits.** The following exhibits from the model Highlands ERI are not relevant to the county (or the Preservation Area portion, for which it seeks Plan Conformance) and have thus been deleted from the County submission: Agricultural Resource Area, Agricultural Priority Area.
 - b. Document Edits.** The County has reviewed and addressed all document edits. All text in the document is now complete, inclusive of insertions as provided by the County.

- 2. Master Plan Highlands Element (Task B).** The proposed County of Passaic Master Plan Highlands Element is based on the model Highlands Element provided to counties by the Highlands Council. The document as now proposed (including modifications by the Highlands Council), contains all required Highlands Element language as necessary, to fully address the immediate mandatory requirements of Plan Conformance. All applicable maps/exhibits have also been provided. (A placeholder map has been provided for Exhibit II, State Plan Planning Areas, to be updated by the County.)

The specific components of the model Highlands Element are listed below. Where each is consistent with the Highlands Council model or otherwise satisfactorily addresses all RMP requirements for Basic Plan Conformance, the heading or sub-heading indicates “Consistent.” Where any section of the model Highlands Element has been appropriately deleted due to non-applicability, the heading or sub-heading indicates “Not Applicable – Deleted.” Where modifications are required to complete the document for purposes of adoption by the County Planning Board, the heading or text indicates, “Minor Modifications Required for Completion.” If needed, explanatory discussion is provided.

- a. Policies, Goals & Objectives.** Consistent.
 - i.** Preservation Area Goals. Consistent.
 - ii.** Land Use Planning & Management. Consistent.
 - iii.** Relationship Between Highlands Act, County Planning Act, & MLUL. Consistent.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

- b. Land Use Plan Element.** Consistent.
 - i.** Highlands Zones and Sub-Zones. Consistent. (Note: Conservation Zone and Conservation Constrained Sub-Zone Not Applicable – Deleted.)
 - ii.** Density and Intensity of Development. Consistent.
 - iii.** Redevelopment Planning. Consistent.

- c. Conservation Plan Element.** Consistent.
 - i.** Forest Resources. Consistent.
 - ii.** Highlands Open Waters and Riparian Areas. Consistent.
 - iii.** Steep Slopes. Consistent.
 - iv.** Critical Habitat. Consistent.
 - v.** Carbonate Rock. Consistent.
 - vi.** Lake Management. Consistent
 - vii.** Water Resources Availability. Consistent.
 - viii.** Prime Ground Water Recharge Areas. Consistent.
 - ix.** Water Quality. Consistent.
 - x.** Wellhead Protection. Consistent.
 - xi.** Low Impact Development. Consistent.

- d. Utility Services Plan Element.** Consistent.

- e. Land Preservation/Stewardship Plan Element.** Consistent.

- f. Agriculture Retention/Farmland Preservation Plan Element.** Consistent. (Note: the Agricultural Resource Area and Agricultural Priority Area are not applicable to Passaic County. All references to them have been deleted.)

- g. County Facilities & Infrastructure Plan Element.** Consistent. Note: County information provided regarding Historic Preservation and Passaic County History and Tourism Board has been inserted into Historic/Cultural Preservation subsection (#3) with a cross-reference added in Sustainable Economic Development Plan section.

- h. Sustainable Economic Development Plan Element.** Consistent.

- i. Relationship of Master Plan to Other Plans.** Consistent.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

- vi. Lake Management Area. Consistent.
 - vii. Water Conservation & Deficit Mitigation. Consistent.
 - viii. Prime Ground Water Recharge Areas. Consistent.
 - ix. Wellhead Protection. Consistent.
 - x. Historic, Cultural & Archaeological Resources. Consistent. Note: County information provided regarding Historic Preservation and Passaic County History and Tourism Board was added into Historic/Cultural Preservation subsection (#3) of the County Master Plan Highlands Element with a cross-reference added into the Sustainable Economic Development Plan section. Standards and criteria applicable to County projects shall be as developed and adopted by the Board of Chosen Freeholders.
 - xi. Scenic Resources. Consistent.
- e. **Article 5. Preservation Area General Regulations.** Consistent.
- i. Low Impact Development. Consistent.
 - ii. Stormwater Management. Consistent.
 - iii. Special Environmental Zone. Consistent.
 - iv. Septic System Design and Maintenance. Consistent.
- f. **Article 6. Review Procedures.** Consistent.
- g. **Appendices.** Consistent
- h. **Exhibits.** The list of Exhibits includes all that apply to the county and all have been provided as required.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

4. **Land Development Resolution (Task C).** The language of the County Land Development Resolution slightly modifies that of the model provided by the Highlands Council. The Resolution appropriately amends the Land Development Review standards of the County to incorporate the provisions required with regard to applications for development, and is therefore consistent with Highlands Council requirements of Basic Plan Conformance.

- a. Application Completeness Requirements. Consistent.
- b. Final County Reports. Consistent.
- c. Reporting Requirements. Consistent.
- d. County Supplemental Provisions. Consistent.

5. **Petition Submission Documents (Task D).**

a. **County Self-Assessment Report.** The County Self-Assessment Report consists of two components as listed herein. The Report accurately and completely describes the status of county Plan Conformance to date, indicating both county accomplishments and the items that remain to be completed to achieve Full Plan Conformance.

- i. **Narrative Portion.** The Narrative Portion has been completed accurately for purposes of Basic Plan Conformance.
- ii. **Spreadsheet Portion.** The Spreadsheet Portion has been completed accurately for purposes of Basic Plan Conformance.

b. **Highlands Implementation Plan & Schedule.** The Highlands Implementation Plan and Schedule provides a template for future Plan Conformance activities. It is intended to indicate all outstanding items, both required and discretionary, along with estimated costs and timeframes for completion, for the county to achieve or exceed Full Plan Conformance with the Regional Master Plan.

The County Highlands Implementation Plan and Schedule: a) includes all mandatory components required to achieve full Plan Conformance; and b) incorporates timeframe estimates associated with each mandatory element. Several non-mandatory Full Plan Conformance activities have been added to the Schedule, which, along with estimated costs for completion, have been considered by the County. Passaic County has not yet submitted an application for Plan Conformance Grant funding, but intends to do so and may do so at any time, including in the post-Petition approval period. The Highlands Implementation Plan and Schedule will be modified as needed to address and include all funding aspects after a Plan Conformance Grant application has been filed.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

C. REVIEW OF OPTIONAL SUBMISSION COMPONENTS

1. **RMP Updates.** The Petition for Plan Conformance was accompanied by two requests for RMP Updates. These requests are listed and described in the attachment at Appendix A, with a summary of the results of review and processing provided below.
 - a. **RMP Update Request #1.** Friendship Park, Glenwild Avenue, Borough of Bloomingdale. Update requested to include this County parkland as preserved open space in Preserved Land inventory. Request approved and processed. Updated map provided (dated November 2010); replaces Preserved Lands Exhibit for both Master Plan Highlands Element and Highlands Environmental Resource Inventory.
 - b. **RMP Update Request #2.** Eden Farms, Union Valley Road, Township of West Milford (Block 7212, Lot 4.01). Farmland preserved by Passaic County. Update requested to include this farmland acreage not previously included in Preserved Farmland inventory. Request approved and processed. Updated map provided (dated November 2010); replaces Preserved Lands Exhibit for both Master Plan Highlands Element and Highlands Environmental Resource Inventory.
2. **Map Adjustments.** N/A
3. **Highlands Center Designation Requests.** N/A
4. **Highlands Redevelopment Area Designation Requests.** N/A
5. **Other.** N/A

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

D. STAFF RECOMMENDATIONS

On the basis of the comprehensive review completed and discussed in detail in the preceding Sections, which examined both sufficiency of administrative submittals and consistency of all substantive materials with the Highlands Regional Master Plan, Highlands Council Staff recommends that the Petition for Plan Conformance of the County of Passaic, as currently proposed by the County, be approved with conditions as outlined below.

1. Approval with Conditions. Highlands Council Staff recommend that this Petition for Plan Conformance be approved by the Highlands Council. The approval should be conditioned upon satisfactory completion of all items noted within Sections A through C of this Report (including all items addressed in the herein-referenced Highlands Council Staff-provided MSWord “Track-Changes” versions of the various Petition documents), and in addition, satisfaction of the below-listed requirements.

a. Adoption of Approved Highlands ERI. The Highlands Environmental Resource Inventory (ERI) shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The county shall provide for and complete the required process of formal adoption of the ERI by the appropriate County Board or Commission. At the conclusion of the process, a certified copy of the adopted ERI shall be provided to the Highlands Council. The process of ERI adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the ERI, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Commission or Board.

b. Adoption of Approved Master Plan Highlands Element. The Master Plan Highlands Element shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. The county Planning Board shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Element by the county Planning Board. At the conclusion of the process, a certified copy of the adopted Highlands Element shall be provided to the Highlands Council. The process of Highlands Element adoption shall be conducted in accordance with all applicable legal requirements and protocols, and shall be guided by the timeframes set forth in the approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Element, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the local Planning Board.

- c. Adoption of Approved Highlands Land & Facilities Regulations.** The Highlands Land and Facilities Regulations shall be prepared in a clean, final document format for purposes of adoption. A copy shall be provided to the Highlands Council. The county Board of Chosen Freeholders shall arrange for the process of formal adoption of the Highlands Land and Facilities Regulations by the county Board of Chosen Freeholders. At the conclusion of the process, a certified copy of the adopted Highlands Land and Facilities Regulations shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Land and Facilities Regulations adoption shall be conducted in accordance with all protocols pursuant to the County Planning Act (N.J.S.A. 40:27-1 et seq.), as applicable, and shall be guided by the timeframes set forth in the approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Land and Facilities Regulations, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Board of Chosen Freeholders.
- d. Adoption of Approved Highlands Land Development Resolution.** The Highlands Land Development Resolution shall be prepared in a clean, final document format for purposes of public review and adoption. A copy shall be provided to the Highlands Council. After the county Planning Board has adopted the Master Plan Highlands Element, the county Board of Chosen Freeholders shall arrange for the required process of scheduling, notice, public hearing, consideration, and formal adoption of the Highlands Land Development Resolution by the county Board of Chosen Freeholders. At the conclusion of the process, a certified copy of the adopted Highlands Land Development Resolution shall be provided to the Highlands Council with notice of its effective date. The process of Highlands Land Development Resolution adoption shall be conducted in accordance with all legal requirements and protocols pursuant to the County Planning Act (N.J.S.A. 40:27-1 et seq.), and shall be guided by the timeframes set forth in the approved Highlands Implementation Plan and Schedule. Should this process lead to proposed modifications to any portion of the Highlands Land Development Resolution, the proposed changes shall be submitted to the Highlands Council for review. In the event the Highlands Council determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the Board of Chosen Freeholders.
- e. Adherence to Approved Highlands Implementation Plan & Schedule.** The county shall undertake to complete all remaining mandatory Plan Conformance activities listed in the approved Highlands Implementation Plan & Schedule, in

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

accordance with: a) the timeframes set forth therein, to the maximum extent feasible and practicable, or with such adjusted timeframes as may be authorized by the Highlands or otherwise mutually agreed by the county and the Highlands Council; and b) the availability of funding from the Highlands Council or, on a voluntary basis, by the county or other party, to ensure the satisfactory completion of each project or activity, or each phase of such project or activity, as appropriate. Non-mandatory Plan Conformance activities shall neither take precedence over nor shall impede the completion of mandatory items and shall be undertaken only as time and resources are available to support them.

i. Development/Approval of Implementation Plan Components.

Within the constraints above, all planning, regulatory, and resource management documents shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable county board, commission, or Board of Chosen Freeholders.

ii. Adoption of Regulations Implementing Plan Components.

All resolutions, rules, and regulations shall be prepared and provided to the Highlands Council for review and approval prior to formal adoption by the applicable county board, commission, or Board of Chosen Freeholders.

f. Revisions/Amendments Subject to Highlands Council Approval.

Any proposed revision or amendment to any of the aforementioned documents, or to any other document, plan, or other item approved by the Highlands Council as a component of Plan Conformance, shall be provided to the Highlands Council for review. In the event the Highlands Council Staff determines that any proposed modification is of a substantive nature, Highlands Council approval shall be required prior to adoption by the applicable county board, commission, or Board of Chosen Freeholders. Any revision or amendment adopted without the approval of the Highlands Council may subject the county to revocation of Plan Conformance approval.

2. Optional Petition Requests. The RMP Updates requested in connection with this Petition for Plan Conformance have been approved and processed by the Highlands Council.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

E. COUNTY RESPONSE PERIOD

The Highlands Council provided a Draft Consistency Review and Recommendations Report to Passaic County dated July 30, 2010 (sent on August 2, 2010). The County Response Period expired on October 22, 2010. The County provided revised and supplemental materials, and information in support of the Petition for Plan Conformance, prior to expiration of that Period, for Highlands Council consideration.

The County Response submittals included the items listed below, each described and discussed in relation to the matter of consistency with the Regional Master Plan and sufficiency to meet the requirements for Basic Plan Conformance.

- 1. Current Planning Documents in Adobe PDF Format.** All requested documents have been provided, thus fully addressing this requirement.
 - a. Passaic County Land Use Element – April 1988
 - b. Passaic County Open Space Plan – April 2001
 - c. Passaic County Farmland Preservation Plan – September 2008
 - d. Passaic County Subdivision Resolution – June 2005
 - e. Passaic County Site Plan Resolution – December 2007
- 2. Draft Passaic County Highlands Environmental Resource Inventory.** The submittal contained final edits as needed for completion.
- 3. Passaic County Highlands Environmental Resource Inventory Exhibits.** Final.
- 4. Draft Passaic County Master Plan Highlands Element.** Edits address all outstanding items, as noted above.
- 5. Draft Passaic County Highlands Land & Facilities Regulations.** Edits address all outstanding items, as noted above.
- 6. Draft Passaic County Land Development Resolution.** Edits address all outstanding items, as noted above.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

F. COMMENTS FROM THE PUBLIC

The Final Draft Consistency Review and Recommendations Report was posted to the Highlands Council website and made available (in paper format) at the Highlands Council offices in Chester, NJ, for review and comment by the general public on November 17, 2010. Written comments were accepted by e-mail (judy.thornton@highlands.state.nj.us), facsimile transmission (908-879-4205), surface mail, and hand delivery (Highlands Council, 100 North Road, Chester, NJ 07930) through Friday December 3, 2010. All comments remain available for public inspection in the offices of the Highlands Council in Chester, NJ.

The comment/response document is attached to this document, at Appendix B.

G. FINAL RECOMMENDATIONS

Based upon the comments received, the recommendations of Highlands Council Staff concerning the Petition for Plan Conformance of the County of Passaic, remain unchanged.

In conclusion, the Highlands Council Staff recommends that the Petition for Plan Conformance of the County of Passaic, be approved with conditions; with all applicable conditions being those listed and discussed in Section D, above.

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report**

APPENDIX A

HIGHLANDS COUNCIL REVIEW

REQUESTS FOR RMP UPDATES

County of Passaic

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

Following is an excerpt from the March 31, 2010 report provided to Passaic County in response to its requests for RMP Updates.

County: Passaic County

Date: March 31, 2010

RMP UPDATES/MAP ADJUSTMENTS

COUNTY/MUNICIPAL RMP UPDATE REVIEW

1. County Request: (Bloomingdale Township) On page 37 of the “Land Preservation and Land Stewardship Plan” a reference to Exhibit AA – mapped inventory of preserved land, needs an amendment to include the County Park known as “Friendship Park” on Glenwild Avenue in Bloomingdale borough (consisting of Block 32.01, Lots 8, 9, 10.01, Block 92.01, Lot 38.01, approximately 36.8 acres recently preserved, as well as Block 32, Lot 22 and Block 92, Lot 182, roughly 8.4 acres previously preserved).

Findings: County information submitted is sufficient for processing an RMP Update and will be incorporated into the Highlands spatial database. Please note that the updated information will not necessarily result in a change of Highlands Land Use Capability Map (LUCM) Zone or Sub-Zone designation. A RMP Update Report incorporating the RMP Update will be provided, along with a determination of whether a change to the LUCM Zone resulted.

2. County Request: (West Milford Township) On page 42, “Agriculture Retention/Farmland Preservation Plan” again, a reference to Exhibit DD – mapped inventory of preserved farmland, needs an amendment to include Eden Farms, Union Valley Road, West Milford township, consisting of approximately 6.8 acres (Block 7212, Lot 4.01), which was preserved by the County of Passaic in May 2009.

Findings: County information submitted is sufficient for processing an RMP Update and will be incorporated into the Highlands spatial database. Please note that the updated information will not necessarily result in a change of Highlands Land Use Capability Map (LUCM) Zone or Sub-Zone designation. A RMP Update Report incorporating the RMP Update will be provided, along with a determination of whether a change to the LUCM Zone resulted.

**NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report**

APPENDIX B

PUBLIC COMMENTS/HIGHLANDS COUNCIL RESPONSES

COMMENT PERIOD: 11/17/10 – 12/3/10

Petition for Plan Conformance

County of Passaic

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
Petition for Plan Conformance - Final Consistency Review and Recommendations Report

PUBLIC COMMENTS RECEIVED

Written comments regarding Passaic County's Petition for Plan Conformance were accepted by the Highlands Council through the close of the Public Comment period on Friday, December 3, 2010. Comments were submitted solely by Helen H. Heinrich PP LLA, Research Associate, representing the New Jersey Farm Bureau.

The comments are summarized in the section that follows with Highlands Council responses provided below, for each.

PUBLIC COMMENT/RESPONSE SUMMARY

- 1. Comment:** As most of the County's agriculture is located in the Preservation Area, farmland owners will remain alert to how the County will handle activities on these farms. Though sections dealing in detail with agriculture or horticulture are omitted, the County does have an Agriculture Retention and Farmland Preservation plan in place that should help to support farming.

Response: Plan Conformance by a county is primarily applicable to county facilities and lands, with minimal application to private property development (wherein it simply requires demonstration of Highlands Council or NJDEP approval, waiver, or determination of inapplicability, as applicable, or of municipal Highlands regulatory control prior to issuance of any county approval). Any agriculture or horticulture activities on lands not owned by the County are not addressed through this process, but by the Highlands Land Use Ordinances adopted by municipalities, as applicable. It is critically important to note that all provisions of the municipal Highlands Land Use Ordinances apply only to development activities regulated under the Highlands Land Use Ordinance, not to exempt activities or those excluded under § 2.1, which specifically states: "Unless specifically indicated otherwise, and in that case only to the specific extent indicated, the provisions of this Ordinance shall not apply to Agricultural or Horticultural Use and Development (as defined at § 3.2)." The provisions that are "specifically indicated otherwise," consist primarily of those discussed in the Highlands Area Land Use Ordinance at § 6.10, regarding agricultural development that exceeds the thresholds of new impervious surfaces established by the Highlands Act.

- 2. Comment:** Even the County must apply the standards of 1/88 acres in wooded areas and 1/25 acres in open lands. Please be aware that the NJ Farm Bureau suit against the NJDEP's misuse of the Nitrate Dilution Model is still ongoing, so may yet result in an order from the Appellate Division for NJDEP to change the factors in this formula to those more scientifically supportable. What will the Highlands Council do to implement such a decision?

Response: The Highlands Council acknowledges the comment; however, a response is not ripe as the matter is presently in litigation with oral arguments scheduled by the Appellate Division of the Superior Court for March 2011.