



**State of New Jersey**  
 Highlands Water Protection and Planning Council  
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**HIGHLANDS RMP CONSISTENCY DETERMINATION REVIEW**

<b>PROJECT INFORMATION</b>		
<b>Project Name:</b> Hamptons at Pohatcong		<b>Date:</b> September 11, 2008
<b>Name of Applicant:</b> EAI Investments, LLC. c/o Robertson Douglas Group		
<b>Areawide WQMP:</b> Upper Delaware WQMP		<b>WMP:</b> Phillipsburg STP
<b>Municipality(ies):</b> Pohatcong Twp (Phillipsburg STP)		<b>County(ies):</b> Warren
<b>Exempt project?</b> No	<b>Project specific amendment?</b> Yes	<b>WMP review?</b> No
<b>NJDEP Activity #:</b> AMD030001		<b>HPAA#:</b> N/A
<b>Lot and Block, if applicable:</b> Block 93, Lots 4&5		
<b>Sewer Service Area/WWTP Facility:</b> Phillipsburg STP		
<b>Sewer Service Area/WWTP Facility:</b> New <input type="checkbox"/> Existing <input checked="" type="checkbox"/> <i>If existing provide the following:</i>		
<b>Proposed Change in Service Area or Wastewater Flow:</b> Yes		
<b>NJPDES #:</b> NJ0024716		<b>Permit Discharge (MGD):</b> 3.5 MGD
<b>Type of Discharge:</b> GW <input type="checkbox"/> SW <input checked="" type="checkbox"/>		<b>Total Proposed Service Area (acres):</b> Entire site is 170 acres
<b>Total Existing Service Area (acres):</b> Not available		
<b>Description of Project:</b> Proposed amendment to the Upper Delaware WQMP submitted on behalf of EAI Investments, LLC, for an expansion of the Phillipsburg STP sewer service area to include the proposed Hamptons at Pohatcong development in Pohatcong Township, Warren County. The proposed development is a <i>Mount Laurel</i> inclusive development (under Superior Court jurisdiction in the matter of <i>EAI Investments, L.L.C. v. Township of Pohatcong</i> , Docket Nos.: HNY-L-507-90; HNT-L-1244-01; SOM-L-625-04) consisting of 396 residential units and associated recreational park (six 1-bedroom units, 26 2-bedroom units, 364 3-bedroom units of which 352 are planned as single-family residential units).		

<b>PRESERVATION AND PLANNING AREAS AND LAND USE CAPABILITY ZONES</b>	
<b>Project Area located in which Highlands Act Area?</b> (Check all that apply):	
<b>Preservation Area</b> <input type="checkbox"/>	<b>Planning Area</b> <input checked="" type="checkbox"/>
<b>LAND USE CAPABILITY MAP ZONES</b>	
<b>Project Area within which Land Use Capability Zone or Sub-Zone?</b> (check all that apply):	
Protection Zone <input type="checkbox"/>	Conservation Zone <input checked="" type="checkbox"/>
Existing Community Zone <input type="checkbox"/>	Conservation – Environmentally Constrained Sub-Zone <input checked="" type="checkbox"/>
Existing Community – Environmentally Constrained Sub-Zone <input type="checkbox"/>	Lake Community Sub-Zone <input type="checkbox"/>
Wildlife Management Sub-Zone <input type="checkbox"/>	
<b>Comments:</b> The site is essentially all within the Conservation-Environmentally Constrained Sub-Zone, including a small amount of Conservation Zone. Existing Community Zone is shown overlapping the site boundary due to LANDS model resolution issues, but the site is not Existing Community Zone. The site is contiguous to significant Conservation Zone to the southwest, and to Existing Community Zone on the remaining three sides.	
The review below is organized by Regional Master Plan Goals, Policies and Objectives for each resource and smart growth category; <u>C</u> stands for Consistent, <u>I</u> for Inconsistent, and <u>N/A</u> means the goal, policy, or objective is not applicable. Project specific reviews are based on the application of these Policies and Objectives to the project site, and do not require the adoption of municipal ordinances.	

<b>PART 1 NATURAL RESOURCES</b>			
<b>SUBPART A FOREST RESOURCES</b>			
<b>Project Area within Forest Resource Area?</b> No			
<b>If yes to above, is there Encroachment into a Forest within Forest Resource Area?</b> NA			
<b>Forest Integrity Value (check one):</b> High <input type="checkbox"/> Medium <input type="checkbox"/> Low <input checked="" type="checkbox"/>			
<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b><u>C</u></b>	<b><u>I</u></b>	<b><u>N/A</u></b>
<b>Objective 1A2c:</b> To prohibit through local development review and Highlands Project Review the deforestation of lands within the Forest Resource Area of the Preservation Area for human development except where authorized as an exemption by the Highlands Act, or is an agricultural or horticultural development as defined at N.J.S.A. 13:20-31 and meets the requirement of that provision of the Highlands Act, or if qualifying as a major Highlands Development, the project must, at a minimum, be in conformance with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.9.			n/a
<b>Objective 1A2d:</b> To prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into forested areas of the Forest Resource Area within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.			n/a
<b>Objective 1A2e:</b> To require through local development review and Highlands Project Review that projects qualifying as major Highlands Developments, affecting or potentially affecting forests outside the Forest Resource Area in the Preservation Area, comply with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.9. All projects in the Preservation Area that are not major Highlands Developments shall comply with Policies 1A1 and 1A2.			n/a
<b>Policy 1A5:</b> To prohibit through local development review and Highlands Project Review forest clear-cutting within the Forest Resource Area except in accordance with a Forest Management Plan approved by the State Forester.			n/a
<b>Policy 1B2:</b> To limit through local development review and Highlands Project Review human development of forests to low impact residential development in the Protection Zone and the Conservation Zone in the Planning Area.			n/a
<b>Policy 1B3:</b> To limit through local development review and Highlands Project Review deforestation in the Forest Resource Area and forested lands within High Integrity Forest Subwatersheds within the Existing Community Zone to maximum extent practicable.			n/a
<b>Objective 1B3a:</b> Implementation through Plan Conformance of regulations, which limit the clearing of trees in conjunction with human development to circumstances where the clearing will not diminish the integrity of forest resources.			n/a
<b>Objective 1B5a:</b> Applications for local development review and Highlands Project Review require identification of any forest area on and adjacent to a site in accordance with the Highlands Council's Method for Identifying Upland Forest Areas in the Highlands Region.			n/a
<b>Policy 1B7:</b> To prohibit clear-cutting of forest lands except pursuant to an approved Forest Management Plan approved by the State Forester.			n/a
<b>Policy 1C1:</b> To require that conforming municipalities and counties address the protection of forested portions of Forest Resource Areas and High Integrity Forest Subwatersheds in their master plans and development regulations.			n/a
<b>Policy 1C3:</b> To require that conforming municipalities adopt a tree clearing ordinance consistent with an approved community forestry plan under the New Jersey Forest Service Community Forestry Program as part of the municipal master plan and local development regulations.			n/a
<b>Comments:</b> The proposed project site is not forested.			

<b>SUBPART B HIGHLANDS OPEN WATERS AND RIPARIAN AREAS</b>				
<b>Project Area includes Highlands Open Waters Buffer?</b> Yes				
<b>Highlands Open Waters Affected :</b> Streams <input checked="" type="checkbox"/> Lakes & Ponds <input type="checkbox"/> Wetlands <input checked="" type="checkbox"/>				
<b>Highlands Open Waters in Preservation Area:</b> No				
<b>Watershed Value (Check one):</b> High <input type="checkbox"/> Medium <input type="checkbox"/> Low <input checked="" type="checkbox"/>				
<b>Area includes Riparian Area?</b> No <i>If No, disregard remainder of Riparian Area checklist.</i>				
<b>Specific Riparian Area Features (Check all that apply.):</b> Flood Prone Areas <input type="checkbox"/> Lakes& Ponds <input type="checkbox"/> Riparian Soils <input type="checkbox"/> Wetlands <input type="checkbox"/> Wildlife Corridor <input type="checkbox"/> streams <input type="checkbox"/>				
<b>Riparian Integrity Value (Check one per HUC14):</b> High <input type="checkbox"/> Medium <input type="checkbox"/> Low <input checked="" type="checkbox"/> HUC14: 02040105120020 High <input type="checkbox"/> Medium <input type="checkbox"/> Low <input type="checkbox"/> HUC14: High <input type="checkbox"/> Medium <input type="checkbox"/> Low <input type="checkbox"/> HUC14:				
<b>Regional Master Plan Goals, Policies, and Objectives:</b>		<b>C</b>	<b>I</b>	<b>N/A</b>
<p><b>Policy 1D4:</b> Highlands Open Waters shall include a protection buffer of 300 feet from the edge of the discernable bank of the Highlands Open Waters feature, or from the centerline where no discernable bank exists. With respect to wetlands and other Highlands Open Waters features (e.g., seeps, springs, etc.), the feature shall include a protection buffer of 300 feet from the delineated Letter of Interpretation (LOI) line issued by the NJDEP for wetlands, or from a field-delineated boundary for other features. In areas where existing development or land uses within the protection buffers have reduced or impaired the functional values of the buffers, the Council will seek opportunities to restore the buffer and its functions. Any proposed disturbance shall, through local development review and Highlands Project Review, comply with Highlands Open Waters buffer standards. The protection buffer width for Category 2 streams in the Planning Area may be modified through a Stream Corridor Protection/Restoration Plan, as specified in Objective 1D4i. In approved Redevelopment Areas, the Council may, at its discretion, modify the required buffer, upon a showing of no alternatives, no impact to the functional value of the buffer, and provision of alternative approaches to enhancing or protecting Highlands Open Waters and resources of the buffer area.</p> <p><b>Objective 1D4a:</b> Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Open Waters.</p> <p><b>Objective 1D4b:</b> Preservation Area buffers for Highlands Open Waters shall comply with the Highlands Preservation Area rules at N.J.A.C. 7:38, which provide that all major Highlands developments are prohibited within Highlands Open Waters and its adjacent 300 foot buffer in the Preservation Area except for linear development, which may be permitted provided that there is no feasible alternative for the linear development outside Highlands Open Waters or its buffer. Structures or other land improvements existing within Highlands Open Waters buffer in the Preservation Area on August 10, 2004 may remain, provided that the area of disturbance is not increased other than through a HPAA. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses."</p> <p><b>Objective 1D4c:</b> Require that proposed development within all Highlands Open Waters buffers (Preservation and Planning Areas) conforms through local development review and Highlands Project Review with the buffer requirements of N.J.A.C. 7:8 (Stormwater Management Rules), N.J.A.C. 7:13 (Flood Hazard Area Rules), and N.J.A.C. 7:7 (Freshwater Wetland Rules), and with any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).</p> <p><b>Objective 1D4d:</b> Structures or other land improvements existing within a Highlands Open Waters buffer of the Planning Area on August 10, 2004 may remain, provided that the area of disturbance shall not be increased unless approved through local development review or Highlands Project Review in compliance with RMP policies and objectives. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses."</p> <p><b>Objective 1D4e:</b> In the Protection and Conservation Zones of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses." Such proposed disturbances must demonstrate full utilization of the following performance standards in the listed order, to demonstrate the necessity of an encroachment into Highlands Open Waters buffers: 1) avoid the disturbance of Highlands Open Waters buffers; 2) minimize impacts to Highlands Open Waters buffers; and 3) mitigate all adverse impacts to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h. Minimization and mitigation opportunities shall be considered only upon a clear and convincing demonstration by the applicant that the protection buffer cannot be avoided and in no case shall the remaining buffer be reduced to less than 150 feet from the edge of Highlands Open Waters, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c.</p> <p><b>Objective 1D4f:</b> In the Existing Community Zone of the Planning Area, proposed disturbances of Highlands Open Waters buffers shall only occur in previously disturbed areas, unless a waiver is granted by the Highlands Council under Policy 7G2 and the proposed disturbance complies with Objective 1D4c. For purposes of this Objective when considering land for conversion to non-agricultural land uses, historic or current agricultural land uses shall not be considered "land improvements," "development," "land disturbances," or "land uses." Such disturbances shall employ performance standards such that all proposed disturbances of Highlands Open Waters buffers shall employ Low Impact Development Best Management Practices to mitigate all adverse modification to Highlands Open Waters buffers so that there is no net loss of the functional value of the buffer, in compliance with Objective 1D4h.</p>		C	I	n/a
		C	I	n/a

<p><b>Objective 1D4j:</b> The Highlands Council may require on a case-by-case basis, through Highlands Project Review, an expansion of the 300 foot buffer to protect the habitat of a water or wetlands-dependant rare, threatened or endangered species, to the minimum expansion necessary to achieve protection of that species.</p> <p><b>Objective 1D5a:</b> Require that all applications for approval through local development review and Highlands Project Review include the identification and mapping of Highlands Riparian Areas, including those identified by the Highlands Council and by site-specific analysis.</p> <p><b>Objective 1D5b:</b> Limit disturbance of existing natural vegetation or increases in impervious area within High and Moderate Integrity Riparian Areas in any Land Use Capability Zone to the minimum alteration feasible in areas beyond Highlands Open Waters buffer requirements; protect the water quality of adjacent Highlands Open Waters; and maintain or restore habitat value of the Riparian Area.</p> <p><b>Objective 1D5c:</b> Prohibit modifications to Riparian Areas in the Protection Zone except where a waiver is approved by the NJDEP or the Highlands Council under Policy 7G1 or 7G2.</p> <p><b>Objective 1D5d:</b> Restrict modifications to Riparian Areas in the Existing Community Zone, other than those addressed by Objective 1D5b, that would alter or be detrimental to the water quality and habitat value of a Riparian Area.</p> <p><b>Objective 1D5e:</b> Implement Low Impact Development Best Management Practices for any development activity proposed within a Riparian Area, which minimize both alterations of natural vegetation and increases in impervious area, in compliance with Policies 6N3 and 6N4 and provide for mitigation through restoration of impaired Riparian Areas in the same HUC14 subwatershed.</p> <p><b>Objective 1D5f:</b> Require that development within Riparian Areas conforms through local development review and Highlands Project Review to any applicable requirements of a Regional Stormwater Plan adopted pursuant to N.J.A.C. 7:8 (Stormwater Management Rules).</p> <p><b>Objective 1D5g:</b> Require identification and implementation of opportunities where the restoration and enhancement of previously impaired Riparian Areas are feasible and appropriate as mitigation to any allowable modification to Riparian Area requirements.</p>		<p>I</p> <p>I</p>	<p>n/a</p> <p>n/a</p> <p>n/a</p> <p>n/a</p> <p>n/a</p> <p>n/a</p>
<p><b>Comments:</b> The proposed project site does not include any Highlands Council-mapped Riparian Areas or streams. However, NJDEP’s Public Notice and LOI (File No. 2120-02-002.1) indicates that State open waters exist on the property. The LOI indicates that the Freshwater Wetlands Act does not require a transition area adjacent to State Open Waters. The stream is an unnamed tributary draining to Lopatcong Creek, a C1 designated waterbody within the same HUC14 and requires a Special Waters Resource Protection Area (SWRPA) because it drains to a C1 water body within the same HUC14. The applicant’s EO109 Analysis indicates a 300-foot SWRPA adjacent to the stream. The LOI also indicates the presence of an isolated wetland on the site, classified as intermediate resource value with a required 50-foot transition area.</p> <p>The stream is a Highlands Open Waters, including a 300-foot protection buffer. Additionally, a Riparian Area would be mapped adjacent for this stream. The onsite wetland is a Highlands Open Water, including a 300-foot HOW protection buffer.</p> <p>Proposed disturbances to the HOW buffer for the stream include footpath and footbridge construction, construction of two utility lines that cross the stream, and construction of two stormwater detention basins within the buffer. NJDEP reviewed the disturbances under the Flood Hazard Area Act and Stormwater Management rules and determined that the disturbances were unavoidable and subject to a hardship waiver due to site-specific issues, and that the SWRPA functional values were maintained to the maximum extent practicable. NJDEP issued a stream encroachment permit and a Freshwater Wetlands permit on March 10, 2008, conditioned upon adoption of this amendment to the above referenced WQMP, documenting consistence with Objective 1D4c.</p> <p>The proposed disturbance to the HOW buffers is conversion of current agricultural land uses to non-agricultural land uses, and thus inconsistent with Objective 1D4d and 1D4e. The applicant’s EO109 Analysis document indicates a proposal to create a vegetated buffer for the on-site open water within the SWRPA. The open water is currently surrounded by row-crops and the applicant proposes to re-vegetate the buffer with native transitional wetland species. The Highlands Council encourages re-vegetation of open waters buffers with native species, but any other disturbance within the 300-foot buffer would be inconsistent.</p> <p>Because a stream and freshwater wetlands were identified on site during the application process, a Riparian Area also results. The proposed project does not include Low Impact Development Best Management Practices within Riparian Areas and thus would be inconsistent with Objective 1D5e.</p>			

<b>SUBPART C STEEP SLOPES</b>								
<b>Project Area includes: Steep Slopes &gt;20% in Any Areas (severely constrained)?</b> No								
<b>Steep Slopes &gt;15% in Forested Areas (severely constrained)?</b> No								
<b>Steep Slopes &gt;10% in Riparian Area in Undeveloped Lands (moderately constrained)?</b> No								
<b>Regional Master Plan Goals, Policies, and Objectives:</b>						<b>C</b>	<b>I</b>	<b>N/A</b>
<p><b>Policy 1E6:</b> To require that applications for development include topographic information identifying the location of any Steep Slope Protection Areas located on the parcel proposed for development.</p>								n/a
<p><b>Policy 1E7:</b> To require applications for development involving parcels of land with slopes of 10% or greater include identification of forested lands, areas which are highly susceptible to erosion, depth to bedrock and Soil Capability Classes.</p>								n/a
<p><b>Policy 1E8:</b> To prohibit land disturbance within areas which are Severely Constrained Slopes and Moderately Constrained Slopes, except for linear development in both the Preservation and Planning Areas that meets the requirements of N.J.A.C. 7:38-3.8(c)1-4.</p>								n/a
<p><b>Policy 1E9:</b> To require the use of Low Impact Best Development Practices for any land disturbance or human development within areas, which are Constrained or Limited Constrained Slopes, or that involves an approved disturbance of a Severely Constrained or Moderately Constrained Slope.</p>								n/a
<b>Comments:</b> No steep slopes on site.								
<b>SUBPART D CRITICAL HABITAT</b>								
<b>Project Area includes:</b>		<b>Critical Wildlife Habitat?</b> Yes			<b>Significant Natural Area(s)?</b> No		<b>Vernal Habitat +1,000 ft?</b> No	
<b>Species of Concern:</b>	Upland sandpiper							
<b>Landscape Rank:</b>	4							
<b>Regional Master Plan Goals, Policies, and Objectives:</b>						<b>C</b>	<b>I</b>	<b>N/A</b>
<p><b>Policy 1F2:</b> To prohibit through Plan Conformance, local development review and Highlands Project Review the direct impact of new human development or expansion or increased intensity of existing development within Critical Habitat.</p>							I	
<p><b>Policy 1F6:</b> To require that applications for any local development review and Highlands Project Review for Critical Habitat be subject to minimum standards and criteria outlined in the Habitat Conservation and Management Plan.</p>								n/a
<p><b>Objective 1F6a:</b> Prohibit direct impacts from new development or expansion or increased intensity of existing development that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver under Policy 7G1 or 7G2.</p>							I	
<p><b>Objective 1F6b:</b> Prohibit indirect impacts from activity that is off-site, adjacent to, or within Critical Habitat that will jeopardize the continued existence of, or result in the likelihood of the destruction or adverse modification of Critical Habitat, except as permitted through the issuance of a waiver under Policy 7G1 or 7G2.</p>								n/a
<p><b>Objective 1F6c:</b> Waiver applications under Policy 7G2 for local development in a municipality with a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the minimum standards and criteria for waiver provisions as set forth in the plan, to the maximum extent practicable.</p>								n/a
<p><b>Objective 1F6d:</b> Waiver applications under Policy 7G2 for development in a municipality without a Council-approved Critical Habitat Conservation and Management Plan shall be subject to the Low Impact Development Best Management Practices required in Objective 1F5b.</p>								n/a
<p><b>Objective 1F6e:</b> A vernal pools protection buffer may be reduced only if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with the NJDEP's Endangered and Nongame Species Program, that the reduction is the minimum feasible and that:</p> <ul style="list-style-type: none"> <li>• In an undisturbed wetland, documented and field-determined vernal pool-breeding wildlife require a smaller protective buffer, as documented in scientific literature; or</li> <li>• Existing land uses present a significant, insurmountable and permanent barrier to the migration or viability of vernal pool-breeding wildlife that is infeasible to mitigate.</li> </ul> <p>Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.</p>								n/a
<p><b>Objective 1F6f:</b> A Critical Wildlife Habitat area or Significant Natural Area delineation may be modified if an applicant can demonstrate, to the satisfaction of the Highlands Council in coordination with the NJDEP's Endangered and Nongame Species Program or Natural Heritage Program, that:</p> <ul style="list-style-type: none"> <li>• The nature of the site is such that it does not provide habitat for species of concern;</li> <li>• The species of concern are not present on the site during any critical part of their life cycle, do not depend upon the site for food, shelter or breeding, and the habitat; on the site is either unsuitable or not critical to species' recovery in the Region; or</li> <li>• Existing land uses present a human, natural or development barrier to the use of the site by species of concern.</li> </ul> <p>Requirements for demonstrating the above criteria shall be included in the Critical Habitat Conservation and Management Plan.</p>								n/a

<p><b>Policy 1F7:</b> To require through local development review and Highlands Project Review that projects qualifying as major Highlands Developments, affecting or potentially affecting Critical Habitat in the Preservation Area, comply with the NJDEP Preservation Area Rules at N.J.A.C. 7:38-3.11 and with the minimum standards and criteria outlined in the Critical Habitat Conservation and Management Plan. All projects in the Preservation Area that are not major Highlands Developments shall comply with Policies 1F1 through 1F6.</p>			n/a
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**Comments:** NJDEP’s WQMP Amendment Public Notice in the New Jersey Register states that the site is part of the Alpha Grasslands NHP Site, and the EO 109 analysis by the applicant indicates that NJDEP had extended this site north into the subject property due to grassland habitat. The Highlands Council has not been able to identify any part of this site as the Alpha Grasslands NHP Site, nor does the Highlands Council GIS data for Significant Natural Areas (derived from NJDEP-NHP Priority Sites list) identify the above-referenced Site. The NJDEP public notice states that three specific plant species of concern for the NHP were not found on the property.

The Public Notice states that the Department’s Landscape Project mapping does not include any Landscape Project Rank 3, 4, 5 habitat on the proposed project site. However, the notice does not specify which version of the Landscape Project was used. The Highlands Council GIS data for Critical Wildlife Habitat (NJDEP Landscape Project data version 3.0 for Ranks 3-5 in the Planning Area) identifies Critical Wildlife Habitat on the majority of the site for Landscape Rank 4 upland sandpiper.

The applicant’s EO109 Analysis document indicates that the site is mapped as grassland bird habitat, but that it has been in agricultural use (specifically corn production) for 50 years and was selected as appropriate for the COAH project because it is segmented from the southern Alpha Grasslands by Route 78 and not likely suitable habitat for grassland bird species. The applicant cites court testimony regarding the viability of this site as upland sandpiper habitat. However, NJDEP’s NJ Register notice regarding this property does not provide any determination regarding this issue.

The direct impact of new human development resulting from the proposed project is inconsistent with Policy 1F2 and Objective 1F6a.

**SUBPART E LAND PRESERVATION AND STEWARDSHIP**

**Project Area within Conservation Priority Area?** No    **If yes, percentage?**    %

**Project Area within Special Environmental Zone?** No    **If yes, identify properties:**

**Project Area includes previously preserved lands?** No    **If yes, identify properties (B/L):**

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<u>C</u>	<u>I</u>	<u>N/A</u>
<p><b>Objective 1H7c:</b> Require through Plan Conformance, local development review, Highlands Project Review, and NJDEP review under N.J.A.C. 7:38 that development shall not occur within a Special Environmental Zone. In any Special Environmental Zone, any exemption identified through Policy 7F1 or waiver issued under the Highlands Act under Policy 7G1 or 7G2 shall be conditioned upon a determination that the State or local government unit has exhausted all means for the permanent preservation of these lands through use of preservation tools including, but not limited to, fee simple acquisition, easement acquisition, and transfer of development rights.</p>			n/a
<p><b>Policy 1I3:</b> To require conforming municipalities and counties to require conservation or land stewardship easements, enforceable by the Highlands Council and at least one of the following: the appropriate municipality, the County Agriculture Development Board, the SADC, Green Acres, or a non-profit land trust organized pursuant to § 501 (c)(3) of the federal tax code and engaged in the protection of land for the purpose of providing long-term stewardship of important resources as a condition of development approval for lands within parcels proposed for development that are identified for preservation on a proposed site plan or subdivision plat.</p>			n/a

**Comments:** Not applicable. However, it should be noted that the discharge of stormwater from the project site to a park that was preserved in part with State funding will require State House Commission approval.

**SUBPART F CARBONATE ROCK (KARST) TOPOGRAPHY**

**Project Area within or contributing to Carbonate Rock Area?** Yes

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<p><b>Policy 1K2:</b> To identify and delineate through local development review and Highlands Project Review land areas that drain surface water into the Carbonate Rock Area, as changes in the quantity, quality and rate of discharge of surface water runoff from upslope lands can impair ground water resources in the Carbonate Rock Area.</p>	C		
<p><b>Objective 1K4b:</b> Applications for site plan or subdivision approval will include a multi-phased geotechnical site investigation (e.g., test borings, test pits) to locate any potential karst features and potential hazards to public health and safety, structures and ground water quality.</p>		I	
<p><b>Objective 1K4c:</b> Local development reviews and Highlands Project Reviews and requirements shall ensure that all potential hazards to public health and safety, structures and ground water quality, including but not limited to concentrated surface water flows that dissolve carbonate rock, are fully addressed and mitigated in the construction plans and subsequent approval process, with the maximum emphasis on nonstructural measures, including, but not limited to, avoidance of modifications to the karst features.</p>		I	
<p><b>Objective 1K4d:</b> Public works projects, including but not limited to water supply, sewerage, stormwater and transportation facilities, shall be constructed and maintained such that the potential for damage from karst features and the contamination of ground water are avoided.</p>		I	
<p><b>Objective 1K4e:</b> Highlands Project Reviews and requirements and local development reviews (where applicable) shall prohibit new land uses and facilities that constitute unacceptable risks of discharge due to karst topography where karst features have been identified, including but not limited to: Underground storage tanks; Solid waste landfills; Hazardous waste storage and disposal; and Hazardous materials storage and handling.</p>	C		

**Comments:** NJDEP’s WQMP Amendment Public Notice in the New Jersey Register states that karst geology underlies the entire property. Highlands Council GIS data indicate the same. The Public Notice indicates “the annual groundwater recharge analysis was not completed due to the karst geology, as recharge is not encouraged in this type of geology due to the potential for sinkhole formation. In addition, because of the karst geology, the site does not have an appropriate area for the runoff to be concentrated. As a result, the Department has determined that the modified stormwater management requirements for this project have been met. However, the proposed stormwater design includes a discharge to the Delaware Heights Park property. The Delaware Heights Park has received funding from the Green Acres program; therefore, applicability of the Department's determination of conformance with the Stormwater Management rules is dependent upon Green Acres and State House Commission approval to allow stormwater discharge to Delaware Heights Park.”

The proposed project does not indicate that a multi-phase geotechnical site investigation occurred, and thus is inconsistent with Objective 1K4b. The proposed project does not indicate how the project would meet Objectives 1K4c and 1K4d and thus is inconsistent.

The Highlands Council acknowledges consistency with Policy 1K2 as NJDEP indicates, in the Public Notice, the presence of karst underlying the entire site.

**SUBPART G LAKE MANAGEMENT**

**Project Area within Lake Management Area?** No *If No, disregard remainder of Lake Management checklist.*

**If yes, which Tier:** Shoreland Protection Tier NA Water Quality Management Tier NA  
 Scenic Resources Tier NA Lake Watershed Tier NA

**Project Area within Lake Community Sub-Zone?** NA

**If yes, which Tier:** Shoreland Protection Tier NA Water Quality Management Tier NA  
 Scenic Resources Tier NA Lake Watershed Tier NA

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<p><b>Objective 1L2a:</b> Lake management programs shall use the following management tiers around all Highlands Region lakes of greater than ten acres in size:</p> <ul style="list-style-type: none"> <li>• A Shoreland Protection Tier consisting of an area measured 300 foot or the first property line perpendicular from the shoreline of the lake;</li> <li>• A Water Quality Management Tier consisting of an area measured 1,000 foot perpendicular from the shoreline of the lake, including the shoreland protection tier;</li> <li>• A Scenic Resources Tier consisting of an area measured 300 to 1,000 foot perpendicular from the shoreline of the lake, scaled based upon the view distance from the opposite shoreline, and determined through the size and layout of the lake, with wider portions of lakes having longer view distances; and</li> <li>• A Lake Watershed Tier consisting of the entire land area draining to the lake, through the evaluation of drainage areas using LiDAR topographic analyses or other topographic data where LiDAR data are not available.</li> </ul> <p><b>Objective 1L4a:</b> Implementation of standards through Plan Conformance regarding lake ecosystem and water quality in the Shoreland Protection Tier to address direct and proximate impacts upon the lake, including but not limited to shoreline</p>			n/a

<p>modification and development (including limits to the hardscaping of shorelines using bulkheads, rip-rap and walls), docks, piers, boathouses, dredging, vegetation removal, and increased impervious cover. Pollutant discharges shall also be addressed, including the potential for contamination from septic systems, cesspools and other wastewater management systems within the tier that are failing or are inadequately designed and constructed. As such systems fail, landowners should be required to provide upgraded treatment (whether on-site or through public or community systems) to minimize pollutant movement to the lake. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.</p> <p><b>Objective 1L4b:</b> Implementation of standards through Plan Conformance regarding land use compatibility and water quality in the Water Quality Management Tier, to prevent or minimize continuous pollutant sources that can contribute pollutants overland or through ground water to the lake from greater distances than the Shoreland Protection Tier.</p> <p><b>Objective 1L4c:</b> Implementation of standards through Plan Conformance regarding the protection of visual and scenic resources in the Scenic Resources Tier, including but not limited to requirements for vegetative screening of buildings, building height limitations, and limits on tree and understory removal for reasons other than public health and safety or as the minimum necessary to make reasonable use of the designated building envelope for the parcel proposed for development. Standards for the Lake Community Sub-Zone and for the Protection and Conservation Zones may be distinct to the extent necessary to recognize the existence of significant development within the Lake Community Sub-Zone.</p> <p><b>Policy 1L5:</b> To require that conforming municipalities adopt and implement for all lakes the standards applicable to the Shoreland Protection and Water Quality Management Tiers; the standards applicable to the scenic resources tier shall be adopted and implemented for all public lakes (i.e., with shorelines that are not entirely privately-held and managed through a lake association), and for privately-held lakes to the extent feasible under law, recognizing the existence of previously approved lake community development plans.</p> <p><b>Objective 1L5a:</b> Shoreland Protection and Water Quality Management Tier requirements shall apply to all new development, regardless of lake ownership.</p> <p><b>Objective 1L5b:</b> Scenic Resource Tier requirements shall apply to all lakes with public access and to lakes with no public access that are not entirely managed by a single homeowner or lake community association. For lakes that are privately-held and managed by a single homeowner or lake community association, the scenic resource tier requirements shall be voluntary.</p>	n/a	n/a	n/a	n/a	n/a
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**Comments:** Not applicable

**PART 2 WATER RESOURCES AND WATER UTILITIES**

**SUBPART A WATER RESOURCES AVAILABILITY**

<u>Source HUC14(s):</u>	<u>Net Availability (MGD):</u>	<u>HUC14 Constraint - Current Deficit Area:</u>	<u>HUC14 Constraint - Existing Constrained Area:</u>	<u>Conditional Availability (MGD):</u>
1. Lopatcong Creek (above Rt. 57) 02040105120010	-0.206612	Yes	No	0.01101
2. UDRV tribs (Rt 22 to Buckhorn Ck) 02040105110030	-5.745836	Yes	No	0.012309

<p><b>Regional Master Plan Goals, Policies, and Objectives:</b></p> <p><b>Policy 2B4:</b> To strictly limit consumptive and depletive water uses to the water availability in each HUC14 subwatershed and to establish priorities for water uses that implement the policies and objectives of the RMP.</p> <p><b>Objective 2B4a:</b> Give highest priority for the use of non-agricultural Net Water Availability or Conditional Water Availability within Protection Zone and Conservation Zone subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B8c, local development review, and Highlands Project review:</p> <ol style="list-style-type: none"> <li>To address a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for Net Water Availability;</li> <li>To serve a designated Highlands Redevelopment Area;</li> <li>To serve a cluster development that complies with Objective 2J4b; and</li> <li>To serve affordable housing projects where at least 10% of the units are affordable.</li> </ol> <p><b>Objective 2B4b:</b> The highest priority for use of Net Water Availability or Conditional Water Availability within Existing Community Zone subwatersheds, through a Water Use and Conservation Plan developed under Objective 2B8c, local development review and Highlands Project review to serve documented threats to public health and safety from contaminated water supplies, designated TDR Receiving Zones, infill development, designated Highlands Redevelopment Area, affordable housing projects where at least 10% of the units are affordable, or new areas for development that meet all other requirements of the RMP.</p> <p><b>Objective 2B4c:</b> Establish and implement mandatory stormwater reuse for recreational and other non-agricultural irrigation, as well as other non-potable water purposes to minimize both the volume of stormwater discharges and water withdrawals for these purposes.</p> <p><b>Objective 2B4d:</b> The highest priority for agricultural water uses in the Conservation Zone shall be those Preservation Area uses that promote agricultural and horticultural uses and opportunities that are compatible with protection of the Highlands environment, and those Planning Area uses that promote the continuation and expansion of agricultural, horticultural, recreational, and cultural uses and opportunities. Compatible agricultural and horticultural uses shall minimize consumptive water uses through efficiency measures.</p>	<u>C</u>	<u>I</u> <u>I</u>	<u>N/A</u>
			n/a
			n/a
			n/a



<p><b>Policy 2B5:</b> To require, through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, and Highlands Project Review, the use of water conservation, recycling and reuse methods (where appropriate) and devices for any redevelopment or development activity, including renovations to existing residential, institutional, commercial or industrial buildings, to minimize consumptive water use tailored to meet the resource protection and other goals for each Zone and considering subwatershed-specific conditions and Net Water Availability status.</p>	I	n/a
<p><b>Policy 2B6:</b> To require through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, Highlands Project Review, and interagency coordination that proposed public water supply and wastewater service areas, new or increased water allocations and bulk water purchases will not directly or indirectly cause or contribute to a Net Water Availability deficit, and where feasible will help mitigate any existing deficit.</p>	I	n/a
<p><b>Objective 2B6a:</b> Areawide Water Quality Management Plans, Wastewater Management Plans or their amendments shall ensure that the proposed service area will not directly or indirectly cause or contribute to a Net Water Availability deficit, and shall be in conformance with any Water Use and Conservation Plan developed under Objective 2B8c.</p>	I	n/a
<p><b>Objective 2B6b:</b> NJDEP Water Allocation decisions and Highlands Project Reviews shall ensure that any new or increased water allocation permits within the Highlands Region are in conformance with the policies and objectives of the RMP policies and objectives and do not result in significant reductions in safe yields for any water supply facility with an existing water allocation permit and the NJDEP-approved safe yield.</p>	I	n/a
<p><b>Policy 2B7:</b> To ensure through Plan Conformance (including through a Water Use and Conservation Plan developed under Objective 2B8c), local development review, and Highlands Project Review that the use of Net Water Availability and Conditional Water Availability within each subwatershed supports development patterns that are in conformance with RMP policies and objectives.</p>	I	n/a
<p><b>Policy 2B8:</b> To require through Plan Conformance, local development review, and Highlands Project Review the efficient and effective use of water availability, the planning for future water needs, the reduction and elimination of water deficits, and the mitigation of new consumptive or depletive use in any Current Deficit Areas or subwatersheds that could become deficit areas based on projected development and water uses, to ensure sustainable water supply, water resource and ecological values in conformance with RMP policies and objectives.</p>	I	n/a
<p><b>Objective 2B8a:</b> Prevent net increases in consumptive or depletive water uses in Current Water Deficit Areas to prevent exacerbation of and help reduce or eliminate the deficit to ensure sustainable water supply, water resource and ecological values, emphasizing techniques including, but not limited to water reuse, recycling and conservation.</p>	I	n/a
<p><b>Objective 2B8b:</b> Proposed new consumptive or depletive water uses within a Current Deficit Area shall only occur under the auspices of a Water Use and Conservation Management Plan approved under Objective 2B8c or through mitigation of the proposed consumptive or depletive use within the same HUC14 subwatershed through: a permanent reduction of existing consumptive and depletive water uses; ground water recharge in excess of the requirements of N.J.A.C. 7:8 (Stormwater Management Rules); or other permanent means. Where a Water Use and Conservation Management Plan has not been approved:</p> <ol style="list-style-type: none"> <li>1. Each project shall achieve mitigation ranging from 125% to 200%, based on the severity of the Current Deficit and the amount of consumptive or depletive water use proposed;</li> <li>2. Total consumptive and depletive water uses from any single project and all projects combined are not to exceed the Conditional Water Availability of Objectives 2B3a or 2B3b for any HUC14 subwatershed;</li> <li>3. Mitigation shall be successfully completed prior to initiation of the water use, except as required by #4, below. Mitigation may be phased in keeping with project development;</li> <li>4. For water uses where the combination of proposed consumptive and depletive water uses and current subwatershed deficit is high, according to a schedule established by the Highlands Council, off-site mitigation shall be successfully completed prior to any on-site construction. On-site mitigation shall be successfully completed prior to initiation of the water use but may be implemented concurrent with on-site construction. Mitigation may be phased in keeping with the level of consumptive or depletive water uses; and Mitigation plans for a project shall include: specific objectives for each mitigation component; monitoring and reporting requirements; methods by which shortfalls in meeting the mitigation objectives shall be addressed through additional action; and be guaranteed through performance bonds.</li> </ol>	I	n/a
<p><b>Objective 2B8c:</b> Water Use and Conservation Management Plans shall be required through municipal Plan Conformance for all subwatersheds to meet the policies and objectives of Goal 2B, to ensure efficient use of water through water conservation and Low Impact Development Best Management Practices, and to avoid the creation of new deficits in Net Water Availability. Where developed for Current Deficit Areas, the plans shall include provisions to reduce or manage consumptive and depletive uses of ground and surface waters as necessary to reduce or eliminate deficits in Net Water Availability, or to ensure continued stream flows to downstream Current Deficit Areas from Existing Constrained Areas, to the maximum extent practicable within each HUC14 subwatershed. Water Use and Conservation Management Plans shall demonstrate through a detailed implementation plan and schedule how and when the current deficit will be resolved in a subwatershed prior to approval for new water uses in the subwatersheds with the most severe deficits (i.e., in excess of 0.25 million gallons per day), and the plan shall be implemented prior to initiation of new water uses.</p>	I	n/a
<p><b>Objective 2B8e:</b> Allow water resource transfers between or from Highlands subwatersheds only when there is no other viable alternative and where such transfers would demonstrably not result in impairment of resources in any subwatershed. Potential effects on upstream and downstream subwatersheds should be included in any such evaluation.</p>	I	n/a
<p><b>Comments:</b> The water use for the proposed project is considered a depletive use because the source water wells for Aqua New Jersey are in two separate HUC14 subwatersheds from the HUC14 in which the proposed project is located (and also from the wastewater discharge point). The two source water HUC14s for the Aqua New Jersey wells (02040105120010, 02040105110030) are both in deficit for net water availability (-0.206612 MGD, -5.745836 MGD respectively). No information was available regarding the relative contribution of each subwatershed to the</p>		

Aqua New Jersey system.

NJDEP's Public Notice indicates the proposed project will receive water from Aqua New Jersey, Inc. under an existing water allocation permit (WAP990001) and that no unacceptable impacts from depletive or consumptive water use are anticipated. The notice did not include details regarding the latter conclusion. The Highlands Council review indicates the Conditional Water Availability for the two deficit source water HUC14s are approximately 11,000 GPD and 12,300 GPD, respectively. The project is proposing a total water demand of 152,550 GPD, all of which would be considered a depletive use. Therefore, regardless of whether the water supply for the project is from one or both HUC14 subwatersheds, the water use would exceed the Conditional Water Availability for the two source water HUC14s, and thus be inconsistent with Objective 2B6a and Policy 2B7.

In public comments received September 05, 2008, the applicant indicates that 44 units of the proposed 396 units will be affordable housing, and thus the project would meet the 10% affordable housing criteria in Objective 2B4a.

The proposed project does not indicate that it would mitigate the new proposed depletive use in the deficit source water HUC14s, and thus would be inconsistent with Policy 2B8, Objective 2B8a, and Objective 2B8c. Based on the mitigation requirements in the RMP as outlined in the Council's memorandum Water Deficit Policy Options of May 1, 2008, the project would have to mitigate 200% of the depletive water use for the amount derived from subwatershed 02040105110030, and 175% of the depletive water use for the amount derived from subwatershed 02040105120010. The mitigation must be achieved prior to the start of construction. Additionally, the mitigation must be achieved either through water conservation within the Aqua New Jersey service areas that benefit the subwatershed(s) that will be affected by the project, or through enhanced recharge in the same source subwatershed(s). Enhanced recharge cannot be implemented at the project site because the mitigation must occur in the source subwatershed(s).

Due to the relationship of this project to the water supply for the Phillipsburg area, the Highlands Council staff conducted an initial review of the hydrogeology associated with Aqua New Jersey's wells in HUC14 02040105110030 (subwatershed UDRV tribs (Rt 22 to Buckhorn Ck)), and identified information that might support a modification of that subwatershed's net water availability analysis. The overall construction of the three wells, (shallow completion depth into a highly transmissive water-bearing formation) and their close proximity to the Delaware River suggest that these wells are drawing water primarily from the Delaware River rather than from ground water storage of an unconfined aquifer within the HUC14. If so demonstrated by an authoritative source in a manner acceptable to NJDEP, to the extent that the Hamptons at Pohatcong derives its water from those wells and to the extent that the wells are not drawing from aquifer storage, the water supply would be considered an importation of water from the Delaware River, which would reduce or eliminate any impact on that subwatershed's water availability. If the full well yield is from the Delaware River, no deficit mitigation requirement would be imposed on this project regarding that subwatershed. However, the preliminary review does not support any changes in the policy findings associated with the HUC14 02040105120010 subwatershed (Lopatcong Creek (above Rt. 57)).

Because insufficient information is available to ascertain consistency, and relying on submitted information, the staff finding is that the project is inconsistent regarding the use of water from a Current Deficit Area, the volume of Conditional Water Availability sought, and water deficit mitigation.

**SUBPART B PROTECTION OF WATER RESOURCES QUANTITY**

**Project Area includes Prime Ground Water Recharge Area?** Yes

**Regional Master Plan Goals, Policies, and Objectives:**

**Policy 2D4:** To apply standards through Plan Conformance, local development review and Highlands Project Review to protect, restore and enhance the functionality and the water resource value of Prime Ground Water Recharge Areas by restricting development and uses of land within a Prime Ground Water Recharge Area that reduce natural ground water recharge volumes or may directly or indirectly contribute to or result in water quality degradation.

**Objective 2D4a:** Development shall not occur in Prime Ground Water Recharge Areas unless necessary to avoid Critical Habitat, Highlands Open Waters Buffers and Moderately and Severely Constrained Steep Slopes.

**Objective 2D4b:** Any development activity approved to occur in a Prime Ground Water Recharge Area shall provide an equivalent of 125% of pre-construction recharge volumes for the affected Prime Ground Water Recharge Area of the site within the following areas, in order of priority: (1) the same development site where feasible; (2) the same HUC14 subwatershed, or (3) an interrelated HUC14 subwatershed as approved by the Highlands Council where no feasible option exists in the same HUC14 subwatershed. This requirement shall apply to all portions of the Prime Ground Water Recharge Area where the recharge is disrupted through

<b>C</b>	<b>I</b>	<b>N/A</b>
C		
	I	
	I	

<p>impervious surfaces, routing of stormwater runoff and recharge from natural flow paths, and other similar changes.</p>			
<p><b>Objective 2D4c:</b> Require through Plan Conformance, local development review and Highlands Project Review that the disruption of Prime Ground Water Recharge Area shall be minimized through the implementation of Low Impact Development Best Management Practices meeting the requirements of Objective 2D3a.</p>	C		
<p><b>Objective 2D4d:</b> Require through Plan Conformance, local development review and Highlands Project Review that the disruption of Prime Ground Water Recharge Area, after conformance with Objectives 2D4a, 2D4b and 2D4c is achieved, shall be limited to no greater than 15% of the Prime Ground Water Recharge Area on the site and shall be preferentially be sited on that portion of the Prime Ground Water Recharge Area that has the lowest ground water recharge rates and the lowest potential for aquifer recharge.</p>	C		
<p><b>Objective 2D4e:</b> Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into a Prime Ground Water Recharge Area within the Protection or Conservation Zone within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b.</p>	C		
<p><b>Objective 2D4f:</b> Prohibit through Plan Conformance, local development review and Highlands Project Review new land uses, including those identified through Objective 2D3d, that have a significant potential to result in the discharge of persistent organic chemicals sources (including but not limited to existing discharges of industrial or other non-sanitary wastewater effluent) to ground water or to the land surface within a Prime Ground Water Recharge Area, such that they may degrade or contribute to the degradation of ground water quality.</p>			n/a
<p><b>Objective 2D4i:</b> Achieve a net improvement in ground water volume and maintenance of water quality through redevelopment, enhanced infiltration, pretreatment or other means where feasible.</p>		I	

**Comments:** The Prime Ground Water Recharge areas mapped on the proposed project site are minimal, and limited to a narrow stream in the center of the site. The proposed project indicates minimal development within the Prime Ground Water Recharge Area.

NJDEP's Public Notice states "the annual groundwater recharge analysis was not completed due to the Karst geology, as recharge is not encouraged in this type of geology due to the potential for sinkhole formation. In addition, because of the Karst geology, the site does not have an appropriate area for the runoff to be concentrated. As a result, the Department has determined that the modified stormwater management requirements for this project have been met. However, the proposed stormwater design includes a discharge to the Delaware Heights Park property. The Delaware Heights Park has received funding from the Green Acres program; therefore, applicability of the Department's determination of conformance with the Stormwater Management rules is dependent upon Green Acres and State House Commission approval to allow stormwater discharge to Delaware Heights Park."

The proposed project indicates minor development (<15%) within the Prime Ground Water Recharge Area, which would be inconsistent with Objective 2D4a. The minor development would be consistent with Low Impact Design Best Management Practices and consistent with Objective 2D4c and Objective 2D4d. The proposed project does not indicate that public utility lines would infringe on the Prime Ground Water Recharge Area, which would be consistent with 2D4e. The proposed project does not indicate a net improvement in ground water volume through enhanced infiltration or other methods in accordance with Objective 2D4i.

The proposed project does not indicate mitigation for 125% of ground water recharge for development within the Prime Ground Water Recharge Area, which Objective 2D4b allows to occur in order of priority: (1) the same development site where feasible; (2) the same HUC14 subwatershed, or (3) an interrelated HUC14 subwatershed as approved by the Highlands Council where no feasible option exists in the same HUC14 subwatershed. Thus, the proposed project would be inconsistent.

**SUBPART C WATER QUALITY**

**Project Area within Wellhead Protection Area?** Yes

**If yes to above, check all that apply:** Tier 1  Tier 2  Tier 3

**Name of Nearest Waterway(s) (1000 feet of Project Area):** Lopatcong Creek

**SWQS Classification:** FW2-TP (C1)

**Description of Impairments, or TMDL:** Pathogens (Sublist 4A)

<p><b>Regional Master Plan Goals, Policies, and Objectives:</b></p>	C	I	N/A
<p><b>Policy 2G2:</b> To reduce or avoid water quality impacts using requirements for water quality protection measures for new land uses through local development review and Highlands Project Review.</p>		I	
<p><b>Policy 2G3:</b> To adopt and implement water quality protections through Plan Conformance, local development review and Highlands Project Review.</p>		I	

<p><b>Objective 2G3a:</b> Prohibit land uses that would increase pollutant loadings to waters for which TMDLs have been adopted by the NJDEP unless in compliance with the relevant TMDL.</p>		I	
<p><b>Objective 2G3b:</b> Ensure that new land uses draining to a stream designated as impaired but lacking a TMDL (i.e., Sublist 5) avoid increased pollutant loadings for the parameter or parameters for which a TMDL is required.</p>			n/a
<p><b>Objective 2G3c:</b> Water Quality Management Plans, Wastewater Management Plans or amendments shall demonstrate that the proposed service area will not directly or indirectly support development that would be in violation of an adopted TMDL.</p>		I	
<p><b>Policy 2G5:</b> To adopt and implement stormwater management controls through Plan Conformance, local development review and Highlands Project Review.</p>	C		
<p><b>Objective 2G5a:</b> Require recharge of clean stormwater rather than contaminated stormwater wherever feasible to meet stormwater management requirements, and to pretreat contaminated stormwater wherever its recharge is required.</p>			n/a
<p><b>Objective 2G5b:</b> Require Low Impact Development and other Best Management Practices standards for stormwater management to minimize the discharge of stormwater-entrained pollutants to ground and surface waters.</p>		I	
<p><b>Policy 2H2:</b> To develop and implement, through Plan Conformance, local development review and Highlands Project Review, resource protection measures to protect and enhance ground water and water supply resources within Wellhead Protection Areas consistent with the source water assessments for each water supply source.</p>	C		
<p><b>Objective 2H2a:</b> Prohibit land uses that have a significant potential to result in the discharge of pathogens (including, but not limited to, septic systems and engineered stormwater infiltration from surfaces with significant potential for contact with pathogenic contaminants) to ground water or to the land surface within a designated Tier 1 Wellhead Protection Area, such that they may degrade or contribute to the degradation of ground water quality. Require that the construction of sewer lines within Tier 1 of a Well Head Protection Area prevent seepage of untreated sewage into ground water.</p>		I	
<p><b>Objective 2H2b:</b> Prohibit land uses that have a significant potential to result in the discharge of persistent organic or toxic chemicals sources (including but not limited to existing discharges of industrial or other non-sanitary wastewater effluent) to ground water or to the land surface within a designated Tier 2 Wellhead Protection Area, such that they may degrade or contribute to the degradation of ground water quality.</p>	C		
<p><b>Objective 2H2c:</b> Require that land uses that have a significant potential to result in major discharges of persistent organic or toxic pollutants to ground water or to the land surface (including but not limited to non-sanitary wastewater effluent and any major sources of potential discharges such as spills and leaks), such that they may degrade ground water quality within a designated Tier 3 Wellhead Protection Area, shall incorporate ongoing management of toxic chemical sources and prohibition of unregulated discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized.</p>	C		
<p><b>Objective 2H4a:</b> Require site specific and municipal stormwater management plans to address wellhead protection requirements.</p>		I	
<p><b>Policy 2H5:</b> To require that conforming municipalities revise master plans and development regulations to address wellhead protection requirements.</p>			n/a
<p><b>Objective 2H5b:</b> Restrict development activities that pose threats to the water quality of public water supply wells.</p>			n/a
<p><b>Objective 2H5c:</b> Ensure that development activities and existing land use activities implement best management practices to protect the quality of ground water within Wellhead Protection Areas.</p>			n/a

**Comments:** The proposed project is located within Tiers 1, 2 and 3 of a Wellhead Protection Area and is located within a HUC11 watershed with an established TMDL for pathogens.

NJDEP's New Jersey Register notice indicates that the project will achieve 95% TSS reductions due to the infringement of the stormwater detention systems into the SWRPA (stream buffer). However, the notice did not specify nor does the proposed project indicate how proposed land uses would avoid increased pathogenic pollutant loadings to waters for which TMDLs have been established, nor how the proposed service area would not directly or indirectly support development that would be in violation of an adopted TMDL, and thus is deemed inconsistent with Policy 2G2 and Objective 2G3a, and 2G3c. The applicant has stated, in public comments received September 05, 2008, that no quantification of compliance with the TMDL for pathogens is warranted since DEP has determined the 300-foot SWRPA and the 95% TSS removal criteria satisfies the "no measurable change" standard for the Category 1 waters.

The applicant has stated, in public comments received September 05, 2008, that there are no proposed stormwater outfalls located within any of the Wellhead Protection Area, which would be consistent with Policy 2H2.

The proposed project does not indicate resource protection measures that would protect and enhance ground water and water supply resources within Wellhead Protection Areas, and thus is inconsistent with Policy 2H2.

The proposed project does not include recharge of ground water, does not include land uses that would result in significant potential discharges of persistent organic or toxic substances to ground water, and is proposing to discharge stormwater to the Delaware Heights Park Property, located outside of the Wellhead Protection Area, and is thus consistent with Objectives 2H2b-c. The applicant has stated, in public comments received September 05, 2008, that there are no sewer mains located within Tier 1 of the Wellhead Protection Area, which would be consistent with

Objective 2H2a with regard to those facilities. However, information was not provided regarding location or construction of sewer laterals, and until that information is provided, the proposed project is inconsistent with Objective 2H2a.			
The proposed project application does not include a Stormwater Management Plan for wellhead protection, and thus is inconsistent with Objective 2H4a.			
<b>SUBPART D SUSTAINABLE DEVELOPMENT AND WATER RESOURCES</b>			
<b>WATER UTILITY</b>			
<b>Potable Water Supply?</b> Yes		<b>Domestic?</b> No	
<b>Source Water HUC(s):</b> 02040105120010, 02040105110030			
<b>Public Community Water System?</b> Yes		<b>If PCWS, Name of Facility:</b> Aqua New Jersey Inc.	
<b>PCWS ID No:</b> 2119001		<b>Total Projected Water Demand of Project (MGD):</b> 152,550 GPD	
<b>Regional Master Plan Goals, Policies, and Objectives:</b>			<b>C</b>
<b>Objective 2J1b:</b> The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1 shall maximize the protection of sensitive environmental resources including avoidance of Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat.			<b>I</b>
<b>Policy 2J2:</b> To ensure, through Plan Conformance and Highlands Project Review, that Highlands Public Community Water Systems conform with Policy 2B6.			<b>I</b>
<b>Objective 2J2a:</b> Limit future water system demand and reduce existing demand where feasible by water systems that are dependent on Current Deficit Areas or Existing Constrained Areas as a source of water.			<b>I</b>
<b>Objective 2J2b:</b> Limit future water system demands to levels that will not create a Current Deficit Area where one does not currently exist.			<b>n/a</b>
<b>Policy 2J4:</b> To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the Existing Community Zone.			<b>I</b>
<b>Objective 2J4a:</b> Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are:			<b>I</b>
<ol style="list-style-type: none"> <li>1. To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;</li> <li>2. To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or</li> <li>3. To serve a cluster development that meets all requirements of Objective 2J4b.</li> </ol>			<b>n/a</b>
<b>Objective 2J4b:</b> Clustered development served by public water supply within the Protection Zone, the Conservation Zone, and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met: The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A5;			<b>n/a</b>
<ol style="list-style-type: none"> <li>1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A5;</li> <li>2. Extension of an existing public water system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;</li> <li>3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity;</li> <li>4. The clustered development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agricultural purposes. To the maximum extent feasible the developed portion (i.e., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and</li> <li>5. Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and</li> </ol>			<b>n/a</b>

<p>implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).</p> <p><b>Objective 2J4c:</b> Allow the expansion or creation of public water systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to Objective 2J4a within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. TDR Receiving Zones, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than expansion of public water service areas within this Zone.</p> <p><b>Objective 2J4d:</b> All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by on-site wells. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area will be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.</p> <p><b>Policy 2J5:</b> To prohibit, through local development review and Highlands Project Review, new or increased water resource transfers between subwatersheds unless it is demonstrated that no other option exists to meet public health, safety and welfare objectives and where such transfers do not result in impairment of resources in the subwatershed from which water is proposed to be transferred.</p> <p><b>Policy 2J7:</b> To require water resource management for all development in the Highlands Region, through local development review and Highlands Project Review.</p> <p><b>Objective 2J7a:</b> Require the maximum feasible water conservation and recycling for any redevelopment or development activity, including renovations to existing single family residences and commercial/industrial buildings.</p> <p><b>Objective 2J7b:</b> Require consideration of and the cost-effective use of recycled or re-used water rather than potable public water for non-potable purposes such as fountains, and nonessential uses such as golf courses, certain recreational, commercial, or agricultural uses.</p> <p><b>Objective 2J7c:</b> Require that new residential development served by public community water systems, be except where also served by septic systems, at a minimum density of 1/2 acre per dwelling unit for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational space), to ensure cost-effective utility service.</p> <p><b>Objective 2J7d:</b> Require that new non-residential development served by public water systems, except where also served by septic systems, be designed to target a floor area ratio (FAR) of 0.84 for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational lands) to the maximum extent feasible, as a means to maximize parking and employment efficiency and compact development.</p>			<p>n/a</p> <p>n/a</p> <p>n/a</p> <p>I</p> <p>I</p> <p>n/a</p> <p>C</p> <p>n/a</p>
<p><b>Comments:</b> The proposed project is will obtain water from a water system dependent on Current Deficit Areas, and thus be inconsistent with Objective 2J2a (see discussion above on Water Availability).</p> <p>The proposed project will extend public water supply systems within the Conservation Zone without meeting the criteria in Objective 2J4a, and thus be inconsistent with Policy 2J4 and Objective 2J4a.</p> <p>The proposed project does not indicate maximum feasible use of water conservation and recycling, and thus is inconsistent with Policy 2J7 and Objective 2J7a. The applicant has stated, in public comments received September 05, 2008, that the project had not yet been fully engineered and EAI expects to incorporate water conservation and recycling features, in accordance with any applicable construction standards.</p> <p>The proposed project would have a density of 2.7 units per acre (396 units on 148 acres) in the developed part of the site and therefore is consistent with Objective 2J7c.</p>			

<b>WASTEWATER UTILITY</b>			
<b>NJPDES Permit Number:</b> NJ0024716		<b>Projected Flow of Project (GPD):</b> 120,950 GPD	
<b>HDSF Facility?</b> Yes		<b>HDSF Available Capacity (MGD):</b> 1.013 MGD	
<b>Subject to Allocation Agreement?</b> Yes		<b>Allocating Capacity:</b> 540,000 GPD	
<b>Extent of HDSF Service Area Included in WMP:</b> Full <input type="checkbox"/> Partial <input type="checkbox"/>			
<b>Wastewater Treatment Facility:</b> Phillipsburg Sewage Treatment Plant (STP)			
<b>Service Area:</b>		<b>Wastewater Discharge Flow (MGD):</b>	
<b>NJPDES-DGW:</b>	Existing <input type="checkbox"/> Proposed <input type="checkbox"/>	Existing:	Increase:
<b>NJPDES-DSW:</b>	Existing <input checked="" type="checkbox"/> Proposed <input type="checkbox"/>	Existing: 2.487MGD	Increase: 0.121 MGD
<b>Regional Master Plan Goals, Policies, and Objectives:</b>			<b>C</b>
<p><b>Objective 2I1b:</b> The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a HPAA with waiver pursuant to N.J.A.C. 7:38 and Policy 7G1 shall maximize the protection of sensitive environmental resources including avoidance of Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat.</p> <p><b>Objective 2K3c:</b> Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2, and 3, the project must maximize the protection of sensitive environmental resources such as Highlands Open Waters buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat. For approvals regarding part 3, the project must avoid disturbance of Highlands Open Waters buffer areas, Riparian Areas, Steep Slopes and Critical Habitat, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are:</p> <ol style="list-style-type: none"> <li>To address through a waiver under Policy 7G1 or 7G2 a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety, such needs shall have highest priority for allocation of existing system capacity;</li> <li>To address development permitted through a Highlands Redevelopment Area or takings waiver under Policy 7G1 or 7G2; or</li> <li>To serve a cluster development that meets all requirements of Objective 2K3d.</li> </ol> <p><b>Objective 2K3d:</b> Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:</p> <ol style="list-style-type: none"> <li>The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas;</li> <li>Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;</li> <li>Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted, and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served;</li> <li>The cluster development preserves at least 80% of the cluster project area in perpetuity for environmental protection or agriculture purposes. To the maximum extent feasible the developed portion of the project area (e.g., not including wetlands, Highlands Open Waters buffers, and recreational lands) occupies no more than 10% of the cluster project area if served by a public or community on-site wastewater system; and</li> <li>Where the preserved land in the cluster project area is dedicated to agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan supports continued agricultural viability of the agricultural land and requires the implementation of best management practices, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA Natural Resources Conservation Service (NRCS), Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).</li> </ol> <p><b>Objective 2K3e:</b> Allow the expansion or creation of wastewater collection systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to those provided at Objective 2K3c within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served. TDR Receiving Areas, where designated, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for</p>			<b>I</b>
			<b>N/A</b>
			n/a
			I
			n/a
			n/a

<p>capacity than other developments requiring expansion of sewer service areas.</p> <p><b>Objective 2K3f:</b> All development within the Highlands Region, in areas which are not served by public wastewater collection and treatment system or community on-site treatment facility, shall be at a density that can be supported by septic systems under Goal 2L. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-Zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster development and the Agriculture Retention/Farmland Preservation Plan required by Objective 2K3d in combination shall include provisions for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total cluster project area including the preserved agricultural lands.</p> <p><b>Objective 2K4a:</b> Require that new residential development served by public wastewater collection and treatment systems be at a minimum density of 1/2 acre per dwelling unit for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, and recreational space) to ensure cost-effective utility service.</p> <p><b>Objective 2K4b:</b> Require that new non-residential development served by public wastewater collection and treatment systems be designed to target a floor area ratio (FAR) of 0.84 for the developed part of the site (e.g., not including wetlands, Highlands Open Waters buffers, recreational space) to the maximum extent feasible, as a means to maximize parking and employment efficiency and compact development.</p> <p><b>Objective 2K4c:</b> Require the use of recycled or re-used water wherever possible including aesthetic purposes and non-potable purposes such as fountains, golf courses, and other recreational, commercial or agricultural uses.</p>		C	n/a
			n/a
			n/a
<p><b>Comments:</b> The proposed project proposes to expanded public wastewater collection and treatment systems within the Conservation Environmentally-Constrained Sub-zones of the Planning Area without meeting the criteria in Objective 2K3c, specifically, because clustering is mandatory in the Agricultural Resource Area for residential development, and thus is inconsistent with Objective 2K3c. Objective 2K3d specifies mandatory clustering in the Conservation Zone of the Planning Area for residential development, and mandates the clustered development must meet all other mandatory provisions for clustering in the Agricultural Resources Area, and preserve at least 80% of the cluster project area, with a target of 90% where a public or community on-site wastewater system is used, to the maximum extent feasible.</p> <p>The proposed project would have a density of 2.7 units per acre (396 units on 148 acres) in the developed part of the site and therefore is consistent with Objective 2K4a.</p>			
<b>SEPTIC SYSTEM YIELD</b>			
<b>Proposed Nitrate Target(s) (mg/l):</b>		<b>Annual Recharge Rate Used:</b> Drought <input type="checkbox"/> Average <input type="checkbox"/>	
<b>Municipal Septic System Density (acre/unit)</b>	<u>Protection Zone</u>	<u>Conservation Zone</u>	<u>Existing Community Zone</u>
<b>HC Septic System Density (acre/unit)</b>	<u>Protection Zone</u>	<u>Conservation Zone</u>	<u>Existing Community Zone</u>
<b>Municipal Septic System Yield (units)</b>	<u>Protection Zone</u>	<u>Conservation Zone</u>	<u>Existing Community Zone</u>
<b>HC Septic System Yield (units)</b>	<u>Protection Zone</u>	<u>Conservation Zone</u>	<u>Existing Community Zone</u>
<b>Regional Master Plan Goals, Policies, and Objectives:</b>		<b>C</b>	<b>I</b>
<p><b>Objective 2L2a:</b> Use the median concentrations of nitrate in ground water for Planning Area HUC14 subwatersheds where the Protection Zone is predominant as the nitrate target for new development reliant on septic systems within the Protection Zone. The median is 0.72 mg/L.</p>			N/A
<p><b>Objective 2L2b:</b> Use the median concentrations of nitrate in ground water for Planning Area HUC14 subwatersheds where the Conservation Zone is predominant as the nitrate target for new development reliant on septic systems within the Conservation Zone. The median is 1.87 mg/L.</p>			n/a
<p><b>Objective 2L2c:</b> Use the NJDEP Highlands Preservation Area rules and nitrate thresholds for the Preservation Area.</p>			n/a
<p><b>Objective 2L2d:</b> Use a nitrate target of 2 mg/L for the Existing Community Zone within Planning Area, on a project-by-project basis, where new development will rely on septic systems.</p>			n/a
<p><b>Objective 2L2e:</b> New residential development using septic systems where clustering or conservation design techniques are employed shall have a gross density (for all parcels involved in the development proposal) based on the nitrate dilution target appropriate for the Land Use Capability Zone, but with the density for the developed portion of the site based on a nitrate dilution target not to exceed 10 mg/L or any more stringent requirement as required by N.J.A.C. 7:15.</p>			n/a
<p><b>Objective 2L3f:</b> Carrying capacity shall be documented through the Land Use Capability Septic System Yield Map as the number of allowable septic systems per Conservation and Protection Zone for each HUC14 subwatershed, taking into account the nitrate target, the HUC14 subwatershed drought ground water recharge, and the acreage that is privately owned, undeveloped or underdeveloped, and not preserved.</p>			n/a
<p><b>Objective 2L2g:</b> New residential development utilizing septic systems shall be designed in a manner that ensures that the untreated well water meets the State drinking water quality standards and that minimizes the risk of well contamination due to the flow of septic system plumes within or between developed lots, addressing general ground water flow patterns, major fracture</p>			n/a



systems and other appropriate geological, geophysical and hydrogeological issues.			
<b>Comments:</b> No septic systems proposed			
<b>PART 3 AGRICULTURAL RESOURCES</b>			
<b>Area within Agricultural Resource Area?</b> Yes		<b>Area within Agricultural Priority Area?</b> Yes	
If yes, percentage? Nearly 100%		If yes, percentage? 100%	
<b>Project Area includes preserved farmland?</b> No If yes, identify properties (B/L):			
<b>Affects Farm Unit &gt;250 acres?</b> Yes		<b>Includes Important Farmland Soils?</b> Yes	
<b>Regional Master Plan Goals, Policies, and Objectives:</b>			<b>C</b>
<p><b>Policy 3A5:</b> Where it is not feasible to preserve agricultural lands within the ARA by such methods as fee simple acquisition, easement acquisition, or a TDR Program, require mandatory clustering through Municipal Plan Conformance, local development review and Highlands Project Review for residential development in an ARA. Cluster development within the Planning Area that incorporates public or community on-site wastewater utilities shall meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and within the Preservation Area shall meet the requirements of Policy 2I1 and Objectives 2I1a and 2I1b, and where reliant on septic systems shall meet the requirements of Objective 6I1a.</p> <p><b>Objective 3A5a:</b> Implement regulations requiring that cluster or conservation design development proposed within an Agricultural Resource Area support the preservation of farmland, avoid conflicts with agriculture, maintain and enhance the sustainability and continued viability of the agricultural industry, protect Important Farmland Soils, and meet resource management and protection requirements of the RMP.</p> <p><b>Objective 3A5b:</b> Implement regulations requiring that all cluster or conservation design development proposed in an Agricultural Resource Area be buffered appropriately with existing natural resources, such as hedgerows or trees, or with new buffers to avoid conflicts between non-agricultural development and agricultural activities, and to protect existing agricultural uses and sensitive environmental resources.</p> <p><b>Objective 3A5c:</b> Implement regulations requiring that all land preserved in perpetuity for environmental protection or agricultural purposes as a result of clustering be subject to a conservation easement enforceable by the Highlands Council and at least one of the following: the appropriate municipality, for agricultural purposes the County Agriculture Development Board or the SADC and for environmental purposes Green Acres or a qualified land trust non-profit organization.</p> <p><b>Objective 3A5d:</b> Where the preserved land in the cluster project area is dedicated to agricultural purposes support continued agricultural viability of the agricultural land, encourage that the original or new farmstead remain attached to the preserved land wherever feasible, and require the implementation of best management practices through the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan, including development and implementation of a Farm Conservation Plan that addresses the protection of water and soil resources prepared by the USDA NRCS, Technical Service Provider (TSP), appropriate agent or NJDA staff, and approved by the local Soil Conservation District (SCD).</p> <p><b>Policy 3A6:</b> To permit through local development review and Highlands Project Review limited development, including family and farm labor housing in Agricultural Resource Areas which are necessary to support the viability of the agricultural operation, in coordination with the NJDA and the SADC, and subject to compliance with the resource management and protection requirements of the RMP.</p> <p><b>Objective 3A6a:</b> Implement regulations allowing for construction of ancillary structures and family and farm labor housing that is necessary to support the viability of the agricultural operation, upon a demonstration that the proposed development is consistent with the resource management and protection requirements of the RMP.</p> <p><b>Policy 3C1:</b> To prohibit through Plan Conformance, local development review and Highlands Project Review the development of additional water and wastewater infrastructure in a Agricultural Resource Area (ARA) within the Conservation and Protection Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the preservation of agricultural lands within the ARA.</p> <p><b>Policy 3D2:</b> To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of greater than 3% but less than 9%, to develop and implement a Farm Conservation Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.</p> <p><b>Policy 3D3:</b> To require any agricultural or horticultural development in the Preservation Area and the Planning Area which involves new agricultural impervious cover, since enactment of the Highlands Act, to the total land area of a Farm Management Unit (either individually or cumulatively) of 9% or greater to develop and implement a Resource Management System Plan prepared by the USDA NRCS, TSP, appropriate agent, or NJDA staff, and approved by the local SCD.</p>			I
			I
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			n/a
			n/a
			I
			n/a
			n/a
<b>Comments:</b> The proposed project is located in the ARA and does not include a clustering provision, and thus is inconsistent with Policy 3A5, specifically because clustering is mandatory in the Agricultural Resource Area for residential development. Policy 3A5 requires mandatory clustering in the Agricultural Resource Area for residential development, and mandates the clustered development must meet all other mandatory provisions for clustering in the Agricultural Resources Area, and preserve at least 80% of the cluster project area, with a target of 90% where a public or community on-site wastewater system is used, to the maximum extent feasible. Because a clustering provision is not proposed for the project, the project would be considered inconsistent with all subsequent clustering provisions in Objectives 3A5a-3A5d.			

The project proposes extension of water and wastewater infrastructure into the ARA in the Conservation Zone and does not meet the additional criteria outlined in Policy 3C1, and thus is inconsistent.				
<b>PART 4 HISTORIC, CULTURAL, ARCHAEOLOGICAL, AND SCENIC RESOURCES</b>				
Presence of Resources: No		Highlands Historic District Polygons Absence		
Highlands Historic Properties Polygons Absence		Highlands Historic Property Points Absence		
Archaeological Grids Absence		Highlands Scenic Resource Inventory Absence		
<b>Description of Resources:</b>				
<b>Regional Master Plan Goals, Policies, and Objectives:</b>		<u>C</u>	<u>I</u>	<u>N/A</u>
<p><b>Policy 4A3:</b> To ensure through local development review, where a municipality has adopted an historic preservation ordinance under Policy 4C2, that human development does not adversely affect the character or value of resources which are listed on the Highlands Historic and Cultural Resource Inventory to the maximum extent practicable.</p> <p><b>Objective 4A3a:</b> All development and redevelopment applications shall include submission of a report identifying potential historic, cultural and/or archaeological resources on the subject property or immediately adjacent properties.</p> <p><b>Policy 4A4:</b> To require that the impact of proposed human development on the historic and cultural resources of the Highlands Region be addressed during local development review and Highlands Project Review and approval.</p> <p><b>Objective 4A4a:</b> All applications for site plan or subdivision approval shall include identification of any cultural, historic or archaeological resources in the Highlands Region, which are listed on the Highlands Historic and Cultural Resource Inventory and may be affected by the proposed development.</p> <p><b>Objective 4A4b:</b> Where a municipality has adopted an historic preservation ordinance under Policy 4C2, all development which affects identified cultural, historic sites/districts, or archaeological resources shall comply with minimum standards for the preservation of the affected resources.</p> <p><b>Objective 4B5a:</b> All development applications shall include identification of any scenic resources in the Highlands Region that are listed on the Highlands Scenic Resources Inventory and may be affected by the proposed development.</p> <p><b>Objective 4B5b:</b> All development which affects identified scenic resources shall comply with minimum standards for the preservation of the affected resources.</p> <p><b>Objective 4B5c:</b> Any proposed action that requires federal permits, involves federal grants, or involves other federal actions that may impact the resource values of the Musconetcong National Scenic and Recreational River and the Lower Delaware National Scenic and Recreational River, pursuant to section 10(a) of the National Wild and Scenic Rivers Act, shall require review by the National Park Service, National Wild and Scenic Rivers Program.</p>				
<b>Comments:</b> Not applicable				
<b>PART 5 TRANSPORTATION</b>				
<b>Project supports local transportation/transit infrastructure?</b> No				
<b>Regional Master Plan Goals, Policies, and Objectives:</b>		<u>C</u>	<u>I</u>	<u>N/A</u>
<p><b>Policy 5B2:</b> To require through Plan Conformance and Highlands Project Review an evaluation of potential growth inducing effects such as substantial new land use, new residents, or new employment that could occur as a result of road improvements for increased motorized vehicle traffic capacity.</p> <p><b>Policy 5B3:</b> To prohibit through Plan Conformance and Highlands Project Review road improvements in the Highlands Region in areas for which a Growth Inducing Study demonstrates that proposed improvements do not support the RMP resource protection and smart growth policies and are likely to be growth-inducing for lands with limited or no capacity to support human development without an adverse impact on the Highlands ecosystem.</p> <p><b>Policy 5C3:</b> To limit road improvements through local development review and Highlands Project Review where roads are constrained by topography, forested lands or the community character of land uses fronting on the road.</p>				n/a  n/a
<b>Comments:</b> The project as described includes only internal roadways and does not address any access to transit infrastructure, including access to a bus route. Transit accessibility may be pertinent since the project includes an affordable housing component. There is insufficient detail relative to the treatment of land uses fronting on existing roads and existing community character, and thus the proposed project is deemed inconsistent with Policy 5C3.				

**PART 6 FUTURE LAND USE**

**SUBPART A LAND USE CAPABILITY ZONES**

**Project Area within which Land Use Capability Zone or Sub-Zone?** (check all that apply):  
 Protection Zone  Conservation Zone  Existing Community Zone   
 Conservation – Environmentally Constrained Sub-Zone  Existing Community – Environmentally Constrained Sub-Zone   
 Lake Community Sub-Zone  Wildlife Management Sub-Zone

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 6C1:</b> To limit new human development in the Protection Zone to redevelopment, exempt activities, and environmentally-compatible low density new land uses, in accordance with RMP resource protection needs and water quality and quantity capacity constraints and to ensure that the impacts of development using exemptions under the Highlands Act (see Policy 7F1) are considered in regional protection measures.			n/a
<b>Policy 6C2:</b> To ensure through Plan Conformance, local development review and Highlands Project Review that any future development or redevelopment which does occur in a Protection Zone is subject to standards and criteria which protect the land and water resources of the Protection Zone from any potential adverse impact to the maximum extent possible.			n/a
<b>Policy 6D3:</b> To limit through Plan Conformance, local development review and Highlands Project Review the use and development of lands within the Conservation Zone to agriculture use and development, including ancillary and support uses, redevelopment of existing developed areas, and environmentally-compatible low density land uses that are to the maximum extent possible achieved in compact development patterns, to be designed and developed in a manner which is compatible with the long term use of adjacent land for agricultural purposes.		I	
<b>Policy 6F3:</b> To ensure that development activities within the Existing Community Zone are subject to standards and criteria which ensure that development and redevelopment incorporate smart growth principles and do not adversely affect natural resources.			n/a
<b>Policy 6F4:</b> To ensure that development and redevelopment within the Existing Community Zone are served by adequate public facilities including water supply, wastewater treatment, transportation, educational and community facilities.			n/a
<b>Policy 6F5:</b> To ensure that development and redevelopment in the Existing Community Zone are compatible with existing community character.			n/a

**Comments:** The subject property is Conservation Environmentally Constrained Zone, including a small portion Conservation Zone. Existing Community Zone is shown slightly overlapping the site boundary due to LANDS model resolution issues, but the site is not Existing Community Zone. The nature of the development in the Conservation Zone is inconsistent with Policy 6D3, which would only allow for compact development patterns in a manner which is compatible with the long term use of adjacent land for agricultural purposes.

**SUBPART C REGIONAL GUIDANCE FOR DEVELOPMENT AND REDEVELOPMENT**

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 6H1:</b> To protect, restore, or enhance sensitive environmental resources of the Highlands Region, including but not limited to Forests, Critical Habitat, Highlands Open Waters and their buffers, Riparian Areas, Steep Slopes, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resource Areas.		I	
<b>Objective 6H1b:</b> Prevent the extension or creation of water and wastewater utility services in the Protection Zone, Conservation Zone and Environmentally Constrained Sub-Zones of the Planning Area, unless they meet the requirements of Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e, and will maximize the protection of agricultural and environmentally sensitive resources.		I	
<b>Objective 6H1d:</b> Cluster and conservation design development plans and regulations shall consider existing community character, incorporate smart growth design principles, and require Low Impact Development including but not limited to: locating development adjacent to existing infrastructure such as water, wastewater, transportation, and public facilities to limit the degree of new impervious surface, and permitting smaller residential lots in order to incorporate community open space and existing natural resources into the design.		I	

**Comments:** The proposed extension of sewerage is considered a discretionary decision of the municipality to grow (see Policy 6H7), which triggers the application of additional RMP policies and objectives regarding smart growth and development densities, including those discussed in the Water Utility and Wastewater Utility sections above. The proposed project does not meet the environmental resources criteria of Policy 6H1, and thus is inconsistent.

The project is located adjacent to existing infrastructure, such as water and wastewater, but does not meet the criteria in Objective 6H1b and is thus inconsistent.

The proposed lot sizes appear to match the existing community character. The project proposes inclusion of vegetative filter strips and landscaped detention basins, but additional low impact development techniques may be incorporated. The proposed project meets some of the requirements of Objective 6H1d, but fails to demonstrate that it meets others, and thus is deemed inconsistent.

**SUBPART D REDEVELOPMENT**

**Locally Designated Redevelopment Area? No If yes, name of site(s):**

**Highlands Designated Redevelopment Area? No If yes, name of site(s):**

**Highlands Contaminated Site Inventory Tier 1 or Tier 2 Site(s)? No If yes, name of site(s):**

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 6J1:</b> To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7.			n/a
<b>Policy 6J2:</b> To encourage redevelopment in the Existing Community Zone in the Planning Area of brownfields, grayfields, and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.			n/a
<b>Policy 6J3:</b> To encourage redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.			n/a
<b>Policy 6L1:</b> To require that conforming municipalities identify any development, redevelopment, and brownfield opportunities in the local land use plan element of their master plans, as appropriate.			n/a
<b>Policy 6L2:</b> To require that conforming municipalities amend development regulations and zoning to enable project implementation of local redevelopment initiatives that are identified under Policy 6L1 and locally endorsed through Plan Conformance.			n/a
<b>Objective 6L2a:</b> Municipal review of local redevelopment projects consistent with RMP smart growth and Low Impact Development policies and objectives.			n/a

**Comments:** Not applicable

**SUBPART E SMART GROWTH**

**Is the municipality involved in the State Planning Commission Plan Endorsement (PE) process? No**

**If yes, status of PE process:**

**Does the project area include a State Development & Redevelopment Plan designated or expired center?**

No

**If yes, center expiration date:** 00/00/0000

<b>Regional Master Plan Goals, Policies, and Objectives:</b>	<b>C</b>	<b>I</b>	<b>N/A</b>
<b>Policy 6N2:</b> To require municipalities and counties to adopt stormwater management Low Impact Development standards to preserve or mimic the natural hydrologic features and characteristics of the land.			n/a
<b>Objective 6N2a:</b> Implementation of on-site stormwater management features that maintain, restore and enhance the pre-existing natural drainage patterns of the site.			n/a
<b>Objective 6N2b:</b> Limitations on the amount of impervious cover allowed on a site as a means to protect and increase stormwater infiltration and reduce stormwater runoff.			n/a
<b>Objective 6N2c:</b> Minimum requirements for site-specific hydrologic studies during local development review and Highlands Project Review which identify the velocity, volume and pattern of water flow into, through, and off of the parcel proposed for development.			n/a
<b>Objective 6N2d:</b> Minimum requirements that stormwater management systems employ a “design with nature” approach.			n/a
<b>Objective 6N2e:</b> Minimum requirements for use of grass channels, dry swales, wet swales, infiltration basins, bio-swales and water gardens, green roofs, and other low impact approaches to attenuate and control stormwater and provide multiple environmental benefits.			n/a
<b>Policy 6N4:</b> To require through Plan Conformance that municipalities and counties adopt LID best management practices where disturbance of Highlands resources is proposed, including but not limited to Steep Slopes, forest resources, Critical Habitat, Highlands Open Waters and Riparian Areas, and Prime Ground Water Recharge Areas.			n/a
<b>Policy 6N5:</b> To require through Plan Conformance that municipalities and counties incorporate programs for community and neighborhood design that support a variety of housing options, mixed uses, redevelopment, adaptive re-use of historic sites and structures, and infill development in their master plans and development regulations.			n/a

**Comments:** Not applicable. In public comments received September 05, 2008, the applicant indicates it has been advised that Pohatcong Township, COAH, and the Office of Smart Growth are involved in the State Planning Commission Plan Endorsement process for the purpose of having this property and any other properties that were subject of Mt. Laurel decisions and/or settlements prior to the effective date of the Highlands Act, mapped accordingly.

**SUBPART F HOUSING AND COMMUNITY FACILITIES**

**Does the project area include an affordable housing site? Yes**

**Regional Master Plan Goals, Policies, and Objectives:**

**Policy 607:** To require that conforming municipalities implement both the resource protection requirements of the RMP along with the New Jersey Supreme Court’s doctrine, in its Mount Laurel decisions, that every municipality in a “growth area” has a constitutional obligation to provide through its land use regulations, sound land use, and long range planning, a realistic opportunity for a fair share of its region’s present and prospective needs for housing for low and moderate income families.

**Objective 608a:** Conforming municipalities, through housing plans, will evaluate and provide for alternate mechanisms to address affordable housing obligations where RMP resource protection standards restrict the ability of planned but not built sites to be developed for affordable housing.

<b>C</b>	<b>I</b>	<b>N/A</b>
	I	
		n/a

**Comments:** The Wastewater Management Plan proposes a sewer extension to support an inclusionary affordable housing project, but the location of this particular development is inconsistent with the resource protection requirements of the RMP.

**PART 7 LANDOWNER EQUITY**

**Is the project exempt from the Highlands Act? No**

**Does the project support the use of Highlands Development Credits? No**

**Regional Master Plan Goals, Policies, and Objectives:**

**Objective 7F1c:** Preservation Area exemptions issued by the NJDEP in accordance with N.J.A.C. 7:38, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent an exemption determination from the NJDEP.

**Objective 7F1d:** Planning Area exemptions, issued by the Highlands Council, shall be required, where appropriate, prior to consideration of a local development review or a Highlands Project Review. Guidance shall specify the exceptions where a review may proceed absent such an exemption determination. Applications for exemptions submitted to the Highlands Council shall be based upon the application requirements exemptions codified in N.J.A.C. 7:38.

**Policy 7G1:** For the Preservation Area, coordinate with NJDEP during Highlands permit review for any major Highlands development including the review of waivers on a case-by-case basis: 1) if determined to be necessary in order to protect public health and safety; 2) for redevelopment in certain previously developed areas as identified by the Highlands Council, or 3) in order to avoid the taking of property without just compensation.

**Policy 7G3:** For both the Preservation Area and the Planning Area during local development review, any variance or exception issued shall be conditioned upon a written determination, specifically included in an approving resolution, that the proposed development meets the requirements prescribed for a finding as listed in Section 36.a of the Highlands Act to the maximum extent possible.

<b>C</b>	<b>I</b>	<b>N/A</b>
		n/a
		n/a
		n/a
		n/a

**Comments:** Not applicable

**CONCLUSIONS**

The Highlands Council Consistency Determination Review of the Hamptons at Pohatcong amendment to the Upper Delaware WQMP indicates the proposed amendment is inconsistent with the Regional Master Plan. Primary issues include:

1. Extension of both public water supply and wastewater systems into the Conservation-Environmentally Constrained Sub-Zone not associated with cluster development or a waiver for public health and safety, and into the Agricultural Resource Area without mandatory clustering.
2. Water availability constraints in two HUC14 subwatersheds, one of which potentially could be addressed by an RMP Update. Incursion of structures and stormwater infrastructure into Highlands Open Waters buffers, and a proposal to discharge stormwater off-site to a preserved park. Stormwater recharge requirements have been waived by NJDEP without a requirement for achieving on-site recharge to the extent practicable given karst topography, or for off-site mitigation of any recharge that cannot be met on-site.
3. Conflicting information, potentially due to a distinction between Landscape Project versions 2 and 3, regarding potential upland sandpiper habitat.
4. Insufficient information to determine consistency regarding the application of Low Impact Development BMPs, karst topography concerns for the long-term integrity of construction and infrastructure (especially sanitary sewers and stormsewers), compliance with the TMDL for pathogens on Lopatcong Creek, wellhead protection, and “maximum feasible” water conservation measures.