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JIM RILEE
Chairman

EILEEN SWAN
Executive Director

MEETING AGENDA
Thursday, March 15, 2012 at 4 pm

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – February 16, 2012
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. CONSIDERATION OF RESOLUTION – Appointment of Highlands Development Credit Bank Chair
8. EXECUTIVE DIRECTOR'S REPORT
9. PUBLIC HEARING AND CONSIDERATION OF RESOLUTION – Petition for Plan Conformance submitted by the Township of Alexandria, Hunterdon County (*voting matter with public comment and, to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes*)
10. CONSIDERATION OF RESOLUTION – Approval of Sustainable Agriculture Grant to Sussex County (*voting matter with public comment and, to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes*)
11. CONSIDERATION OF RESOLUTION – Authority for Plan Conformance and Highlands Project Review (*voting matter with public comment and, to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes*)
12. CONSIDERATION OF RESOLUTION – Position of the Executive Director of the Highlands Council (*voting matter with public comment and, to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes*)
13. PUBLIC COMMENTS (*to ensure ample time for all members of the public to comment, we will respectfully limit comments to three (3) minutes. Questions raised in this period may not be responded to at this time but, where feasible, will be followed up by the Council and its staff*).
14. EXECUTIVE SESSION (if deemed necessary)
15. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 15, 2012

PRESENT

JIM RILEE)	CHAIRMAN
KURT ALSTEDE)	VICE CHAIRMAN
TRACY CARLUCCIO)	COUNCIL MEMBERS
TIMOTHY P. DOUGHERTY)	
MICHAEL R. DRESSLER)	
MICHAEL TFANK)	
MICHAEL FRANCIS)	
BRUCE JAMES)	
JAMES MENGUCCI)	
CARL RICHKO)	
MICHAEL SEBETICH)	
JAMES VISIOLI)	
RICHARD VOHDEN)	
ROBERT G. WALTON)	

ABSENT

ROBERT HOLTAWAY)

CALL TO ORDER

Chairman Rilee called the 112th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:05 pm.

ROLL CALL

Roll call was taken. Council Members Holtaway and Dougherty were absent. All other Council Members were present.

OPEN PUBLIC MEETINGS ACT

Mr. Borden announced that the meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6. The Highlands Council sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted notice on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF FEBRUARY 16, 2012

Mr. Richko introduced a motion to approve the minutes and Mr. Mengucci seconded it. All members present voted to approve. The minutes were APPROVED 12-0, with one abstention.

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CHAIRMAN'S REPORT

Chairman Rilee reported that he had two items to discuss: 1) Chairman Rilee reported that a couple of weeks ago Council put out a press release and he thanks the Highlands Council for previously recommending that certain Highlands exemptions be given to municipalities after meeting their conformance requirements in the Preservation Area. Because of that action he was able to work with Commissioner Martin at the NJDEP to allow the seven exemptions to be transferred to the municipalities. Chairman Rilee noted that this is a big win for individual property owners that are looking for relief from having to submit an application to the NJDEP for relatively minor exemptions of the Highlands Act, which would add significant time and strain on them. Chairman Rilee was pleased to work with Commissioner Martin on this agreement and these exemptions and looks forward to working with this Council and NJDEP to address other concerns of property owners in the Highlands region. Chairman Rilee also commented that he is confident Council will have a Memorandum of Agreement from NJDEP on this item in the very near future. 2) Chairman Rilee announced that he has reorganized the Personnel Committee and appoints himself, Mr. Alstede and Mr. Walton to the Committee.

Council Comments

Ms. Carluccio commented that she would like to be on the Personnel Committee as she has originally served on the Committee since the formation of the Council and was involved with the development of an organization chart for the Council and has been involved with all the hiring and recommendations that have come through the Committee since the beginning of the Council. Mr. Rilee indicated that he appreciated Ms. Carluccio's comments and her experience in this area, but expressed that he did not re-appoint Ms. Carluccio to the Committee because she is a hold-over in her position and he felt moving forward he wanted a stable Committee and at this time he felt the members he has appointed will do an adequate job. Ms. Carluccio responded to Chairman Rilee that she is a stable member of the Council with full voting and full participatory rights until she is replaced by the Senate. Chairman Rilee thanked Ms. Carluccio for her comments.

Chairman Rilee moved on to Item 7 of the agenda regarding the **Consideration of Resolution – Appointment of Highlands Development Credit Bank Chair**. Chairman Rilee said he would like to hold this Resolution until the next meeting.

Mr. Richko asked what the reasoning is for this action. Chairman Rilee responded that he does not think that anyone had an opportunity to get the information out to the members of the committee itself regarding this Resolution.

EXECUTIVE DIRECTOR'S REPORT

Chairman Rilee asked for Ms. Swan's Executive Director Report. Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. She reported that, to date 65 (60 Municipalities and 5 Counties) Petitions have been submitted. Of these, 53 have been deemed Administratively Complete and posted to the Highlands Council website (including 2 Counties). Of these, 39 municipal Petitions and 2 county Petitions have been approved. At today's meeting Alexandria Township is seeking approval for their Petition for the Preservation Area. Should the Council approve this Petition, the Council will have approved 40 of the 60 municipal Petitions (62% of the total Petitions and nearly 75% of the complete Petitions). Ms. Swan reported that Council Staff

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has ten (10) Draft Consistency Reports in Municipal Review for Townships of Clinton, Greenwich, Independence, Randolph, Roxbury, Parsippany-Troy Hills, Union and Vernon; and the Boroughs of Oakland and Far Hills. Ms. Swan also noted that she met with the new Mayor of Oakland Borough and has set up a meeting on March 28, 2012 for the Highlands Council Staff to do a presentation for Oakland and continue the work we have been doing with them as a lot of that centers on the ability to sewer their downtown area where there are failing septs and small lots. This meeting would be very good for Oakland and more of the kind of work the Highlands Council takes pride in.

Mr. Dougherty was present at 4:13pm.

Ms. Swan showed maps representing Plan Conformance progress since the Council's December 16, 2010 meeting through today's meeting. Ms. Swan noted that today's Petition, if approved, will take effect after the Governor's review period of the Council's minutes and showed the map that would result from that action. Ms. Swan showed that the map reflected those municipalities with lands in the Preservation Area where conformance is mandatory and in Planning Area where it is voluntary. Ms. Swan then summarized a chart on the implementation of approved Petitions:

Implementation Status	#	Municipalities (New underlined)
Total Approved Municipalities	39	<u>Ogdensburg Borough</u>
Planning Area Petition Ordinance	11	Alpha Borough, Bethlehem Township, Byram Township, Clinton Town, Hampton Borough, High Bridge Borough, Holland Township, Lebanon Borough, Lopatcong Township and Mahwah Township, <u>Phillipsburg Town</u> .
Master Plan Re-examination Report	4	<u>Byram Township, Franklin Township.</u> High Bridge Borough, Holland Township
Checklist Ordinance	1	Holland Township
Environmental Resource Inventory	5	Byram Township, Califon Borough, <u>Franklin Township</u> , High Bridge Borough, Lopatcong Township
Highlands Master Plan Element	3	Califon Borough, <u>Franklin Township</u> , High Bridge Borough
Highlands Land Use Ordinance	1	High Bridge Borough (<u>w/ zoning map</u>)

Ms. Swan noted that Passaic County has approved the Highlands ERI, the Master Plan Highlands Element, and the Land Development and Land/Facilities Regulations.

Ms. Swan then provided an update on the Plan Conformance Grant Program and showed the average amounts requested for reimbursement by participating municipalities. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts, with certain exceptions, as set forth in the following chart:

Towns	Base Amount	Average	Number
Module 1	\$15,000	\$13,839	73
Module 2	\$10,000	\$ 6,963	72
Module 3	\$ 7,500	\$15,402	65

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Module 4	\$ 2,000	\$ 3,142	64
Module 5	\$ 2,500	\$ 6,537	57
Module 6	\$ 5,000	\$ 4,422	54
Module 7	\$ 8,000	\$ 7,448	52
Module Subtotal	\$50,000	\$57,694	
Municipal Response Costs	\$ 8,000	\$ 5,942	37
Plan Conformance Cost	\$58,000	\$63,695	

Ms. Swan also reported the average award amounts for implementation plans based on approved Highlands Implementation Plan and Schedules:

Implementation Plans	Average Amount	Number
Wastewater Management Plan	\$3,471	35
Stream Protection & Restoration Plan	\$28,893	27
Habitat Conservation & Management Plan	\$16,962	26
Highlands Center/Redevelopment Plan	\$22,632	19
Agriculture Retention/Farm Preservation Plan	\$12,382	17
Sustainable Economic Development Plan	\$16,250	16
Water Use & Conservation Management Plan	\$58,000	15
Lake Management Planning	\$28,750	4

Ms. Swan concluded her Executive Director's report.

CONSIDERATION OF RESOLUTION – PETITION FOR PLAN CONFORMANCE BY THE TOWNSHIP OF ALEXANDRIA, HUNTERDON COUNTY

Ms. Swan gave a PowerPoint presentation on background statistics, as well as significant Highlands statistics as they pertain to Alexandria Township:

- Incorporated: 1798
- Population 2010: 4,938
- Land Area: 17,760 acres/
27.75 sq. mi.
- Preserved Lands: 2,792 acres (15.7%)
- Total Forest: 6,640 acres (37.5%)
- Preservation Area Lands: 2,721 acres – 14%
- Planning Area Lands: 15,038 acres – 86%
- Conservation Zone: 14,345 acres – 81%
- Protection Zone: 2,895 acres – 16.1%
- Existing Community Zone: 41 acres – 0.2% (Roads 2.6%)
- Agricultural Priority Areas: 11,062 acres – 62%
- Highlands Open Water Protection: 9,445 acres – 53%
- Critical Wildlife Habitat: 8,154 acres – 46%

Ms. Swan presented land use ordinance maps of Alexandria Township. Ms. Swan provided an overview of the RMP consistency analysis as follows:

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Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	X	None
Module 4 Environmental Resource Inventory	X	None
Module 5 Highlands Element	X	None
Module 6 Land Use Ordinance	X	None
Module 7 Petition for Plan Conformance	X	None

Ms. Swan reported that two public comments were received during the public comment period for Alexandria's Petition, which opened February 17, 2012 and closed March 2, 2012. The following comments were received:

- Helen Heinrich, on behalf of the New Jersey Farm Bureau (supported proposed grant funding for the Agriculture Retention Plan and suggested the plan be coordinated with existing farmland planning tools already in place in the Township.)
- Erica Van Auken, on behalf of the New Jersey Highlands Coalition (supported the Petition and urged the Township to consider conformance for their Planning Area lands.)

Ms. Swan reported that the staff recommendation for Alexandria Township is to approve with the following conditions:

- Modifications to Plan Conformance Implementation Components Including Master Plan Element and Land Use Ordinance
- Water Use & Conservation Management Plan
- Agriculture Retention Plan
- Habitat Conservation & Management Plan
- Sustainable Economic Development Plan
- Stream Corridor Protection & Restoration Plan

Ms. Swan recognized Keri Benscoter, Highlands Staff Liaison for Alexandria Township.

Mr. James made a motion on the Resolution for Alexandria Township. Mr. Tjank seconded it.

Chairman Rilee opened the meeting to the public for comments on this Resolution.

Public Comments

David Shope, owns property in Lebanon Township – Mr. Shope commented that with all the hearings involving agricultural retention there is no mention of soil classifications. Mr. Shope further commented that the type of soil determines the productivity of the soil and asked about the parameters used to determine agricultural retention. He further suggested that perhaps in the future this information can be included in the Council's synopsis.

Council Comments

Ms. Carluccio had a question regarding the fact that the original Resolution passed by Alexandria Township covered both the Preservation and Planning Areas and then the Township changed their

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mind. She asked if there was another Resolution passed to change their intention. Ms. Swan responded that Council dealt with the professional and that the Township was not going forward in the Planning Area and they would put in their own protections. Ms. Carluccio asked if Council requires a resolution for a municipality to change their intent. Ms. Carluccio urged Council to table this Resolution. Chairman Rilee commented that there are guidelines the governing body takes. Ms. Carluccio responded that she is asking if there is an amended Resolution by the governing body whereby the public was made aware that their Plan Conformance Petition for both Planning and Preservation Areas had been changed to Preservation Area only. There was further Council discussion by Messrs. Alstede, Visioli, Dougherty and Walton and Chairman Rilee and the decision was made to carry this Resolution until the next meeting.

**CONSIDERATION OF RESOLUTION – APPROVAL OF SUSTAINABLE
AGRICULTURE GRANT TO SUSSEX COUNTY**

Chairman Rilee introduced the Resolution.

Mr. Vobden recused himself as Sussex County Freeholder.

Ms. Swan reported that a request from Sussex County is before Council today for consideration of a Sustainable Agriculture Grant in the amount of \$15,000. Sussex County has a history of working with the Highlands Council and they have had four prior grants, which were noted in Ms. Swan's Executive Director's report to Council:

- Agricultural Marketing/Agricultural Tourism (round 1); 2/15/2007
- Commercial Kitchen/Niche Markets (round 1); 2/15/2007
- Agricultural Marketing/Agricultural Tourism (round 2); 6/25/2009
- Commercial Kitchen/Niche Markets (round 2); 6/25/2009

Ms. Swan further stated that three of these grants have been closed and have proved to be very successful. Sussex County submitted material about the success of those grants (which is included in Council's packets) and this information will be posted to the website so the public can follow the success of these grants. Ms. Swan concluded that the Resolution before Council today is a request to continue that successful work, which builds partnerships between farmers and students to create valuable agricultural products through the use of Sussex County Technical School kitchen and other activities.

Mr. James made a motion on the Resolution. Ms. Carluccio seconded it.

Chairman Rilee opened the meeting to the public for comments on this Resolution.

Public Comments

David Shope, owns property in Lebanon Township – Mr. Shope submitted for the record the 2007 Census of Agricultural County Profile for Sussex County, which shows how the average age of farmers in New Jersey has gone up. Mr. Shope is of the opinion that farming is not a particularly wonderful

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way to earn a living and that is why the average age of the farmer is going up and why average earning is approximately \$20.72/acre. Mr. Shope commented that farmland assessment lands in earnings in other areas of the State are higher. Mr. Shope also submitted information from 1992 USFS Report that says "farming in the Highlands is becoming less attractive as development increases." Chairman Rilee commented that Mr. Shope's time was up and to submit his comments to Ms. Tagliareni. Mr. Shope submitted materials for the record.

Jerry Kern, landowner in Pohatcong – Mr. Kern commented on Alexandria Township's Petition. Chairman Rilee responded that public comment is currently open on the Agricultural Grant for Sussex County and that Mr. Kern may comment on any topic at the end of the meeting.

Monique Purcell, Department of Agriculture – Ms. Purcell commented that the Department of Agriculture fully supports this grant for Sussex County for value added to their commercial kitchen. Ms. Purcell added that this is an extension of a project down in Bridgeton, New Jersey called the Rutgers Food Innovation Center, which has proven very successful in taking Jersey products and making them value-added products.

David Peifer, Association of New Jersey Environmental Commission (ANJEC) – Mr. Peifer commented that ANJEC supports the application today and urged Council to approve it. Mr. Peifer also made comments related to Mr. Shope's previous comment on the 2007 Census of Agricultural County Profile for Sussex County. Mr. Peifer noticed the great disparity in income per acre in farmland throughout the Highlands Region and suggests that Council may want to study it and see what is going on in Bergen County as there is a huge disparity and perhaps Council can learn from the winners and develop policies that would encourage this disparity. Chairman Rilee asked Highlands Council Staff to make a note on Mr. Peifer's request and to follow up on his comment.

Helen Heinrich, New Jersey Farm Bureau – Ms. Heinrich commented that the age of farmers is the same all over the country and has stayed in the 50s for the past 25 years. Ms. Heinrich says it is a sign of something to worry about. Ms. Heinrich commented that the income is a statistical situation where the Counties that have a smaller number of farms have a higher income and the Farm Assessment Committee does the same type of math.

Council Discussion

Ms. Carluccio commented that this is a terrific project and a great partnership between the school, the agricultural community, the Council and has turned out to be a great success. Ms. Carluccio added that it gives opportunities when there is a commercial kitchen for farmers to make products that they can sell and is truly a win-win for everyone. Ms. Carluccio also commented that Sussex County's testimony shows that it has moved the needle towards a greater profitability for the farmers in Sussex County and the commercial school where they are learning how to improve the basic health and safety practices and aspects of this activity. Ms. Carluccio concluded that it is money well spent by Council.

Mr. Alstede commented that this grant helps people succeed and this year the Outstanding Farmer for New Jersey was from Sussex County.

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Chairman Rilee commented on the last paragraph of the Resolution which read, "... that the Executive Director, or her designee, is hereby authorized to enter into a grant agreement with Sussex County for the renewal of a Sustainable Agriculture Grant in an amount not to exceed \$15,000, provided that the Executive Director may authorize additional amounts under this agreement pursuant to her authority under the Highlands Council Bylaws."

Ms. Swan responded that the Bylaws afford the Executive Director the ability to authorize contracts and grants up to the amount of \$25,000, however when Ms. Swan was hired she was uncomfortable with that because it was not shown in the Resolutions and wanted to ensure that Members were aware of this authority so she had that language added to the Resolution to be extremely clear. Ms. Swan added should Council wish to change that authority, the Bylaws would need to be changed. Chairman Rilee asked if the Bylaws say \$25,000. Ms. Swan concurred and emphasize that she was not comfortable with that so added the language in the Resolution to draw Council's attention to it.

All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 12-0, with two abstentions.

Mr. Vohden returned to the meeting at 4:46pm.

**CONSIDERATION OF RESOLUTION – AUTHORITY FOR PLAN CONFORMANCE
AND HIGHLANDS PROJECT REVIEW**

Chairman Rilee introduced the resolution and added that this is a step that allows the Executive Director to make decisions on the processes of these meetings. This has been brought up for discussion primarily by Vice Chairman Alstede and has been moving at six month intervals. Chairman Rilee added that new Council Members may want to have a better understanding of what this process is. Chairman Rilee suggests to Council that we carry this Resolution for three months (90 days) so new members can get caught up on the process.

Mr. Vohden made a motion on the Resolution. Mr. Mengucci seconded it.

Chairman Rilee opened the meeting to the public for comments on this Resolution.

Public Comments

David Shope, owns property in Lebanon Township – Mr. Shope commented that he is against having the Executive Director take action on Council's behalf that are final administrative actions which could subject Council to lawsuits without Council knowing. Mr. Shope commented that he is against this resolution.

Kate Millsaps, representing the Sierra Club – Ms. Millsaps has concerns on Item #5, Page 3 of the resolution which delegates the Executive Director the authority "for Highlands Act exemption determination, review and issue exemption determinations where direct Council action is recommended by the Executive Director". Ms. Millsaps noted that the Council has already determined which exemptions should be handled on the municipal level and delegate to another authority for

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review and that the remaining exemptions all relate to larger projects i.e., railroad line, linear development and these projects should be reviewed by the full Council. Ms. Millsaps would like some clarification on the exemptions in this resolution before Council moves forward.

Council Discussion

Ms. Carluccio expressed concern that before Council moves on this resolution that Council needs to settle Council's personnel issues and reconsider this resolution at the next meeting.

Chairman Rilee responded that by not taking action this resolution stays in effect and he has no issue on this.

Mr. Francis commented that what Council has in place now works fine so whether we pass it for three months or six months Council has to charge our staff and Executive Director with this authority because it works.

Mr. Richko commented that the resolution works with this Executive Director. Mr. Richko also commented that as our next resolution is on the position of the Executive Director, Mr. Richko would like to know who the new Executive Director would be so he would not support it until he knows. Mr. Richko feels Council is putting "the cart before the horse."

Mr. Walton commented that if Council passes this resolution then nothing changes.

Ms. Carluccio asked how this resolution would be put back on the agenda. Chairman Rilee responded that he has full authority. Mr. Borden clarified that the Chair has full authority to set the agenda.

Mr. Alstede commented that traditionally he has always voted against these resolutions because it is important for Council to retain certain actions it was empowered with by the Legislature. Mr. Alstede welcomes the opportunity to review the various specific items that Council delegates to the Executive Director and would be prepared to be in favor of this resolution with the understanding that it would be in place for 90 days so that we are assured a review period that is well overdue. Either way the resolution will stay in place, whether we table it or take action. Mr. Alstede suggested that Council supports the 90 day resolution. Mr. Alstede also commented that Council has a Deputy Executive Director who has been here a long time should there be a change in personnel and who is very familiar with these delegations. Chairman Rilee agreed with Mr. Alstede's comments.

Mr. Richko commented that if the Chair does not want to remove this resolution then it would stay as is. Chairman Rilee concurred. Mr. Dougherty respectively asked Chairman Rilee to remove this resolution.

There was further Council discussions on the resolution.

Mr. Dougherty made a motion to table the Resolution. Mr. Dressler seconded it.

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Chairman Rilee called for a roll call vote. Council Members Carluccio, Dougherty, Dressler, Richko, Sebetich and Visioli approved to table the Resolution and Council Members Alstede, Francis, James, Mengucci, Tfank, Vohden, Walton and Chairman Rilee voted against tabling the Resolution.

The roll call to table the Resolution was REJECTED by a vote of 6-8.

Chairman Rilee then called for a roll call vote on the original motion to carry the Resolution for 90 days. Council Members Alstede, Francis, James, Mengucci, Sebetich, Tfank, Vohden, Walton and Chairman Rilee approved to carry the resolution for 90 days, and Council Members Carluccio, Dougherty, Dressler, Richko and Visioli voted against carrying the resolution for 90 days.

The roll call to carry the Resolution for 90 days was APPROVED by a vote of 9-5.

Chairman Rilee suggested that a short break be taken at 4:29pm.

The meeting reconvened at 4:35pm.

CONSIDERATION OF RESOLUTION – POSITION OF EXECUTIVE DIRECTOR

Chairman Rilee introduced the Resolution and asked for a motion.

Mr. Alstede made a motion on the Resolution. Mr. Vohden seconded it.

Chairman Rilee opened the meeting to the public for comments on this Resolution and reminded the public of the three-minute limit and to be respectful of other members of the audience so you do not cut into their time.

Public Comments

Julia Somers, Executive Director of the New Jersey Highlands Coalition – Ms. Somers spoke on behalf of the 67 affiliate members of the New Jersey Highlands Coalition and their many members to thank Ms. Swan for her dedication and focused work on behalf of this state and the 5.4 million people who depend on Highlands water. Ms. Somers stated that New Jersey has rarely had a leader who has worked as hard, been as talented, as informative and as articulate as Ms. Swan. Ms. Somers added that although she and Ms. Swan did not agree on a number of issues in the Highlands, the Coalition is extremely distressed of the actions of the Christie Administration being put into action by this Council in replacing her. Ms. Somers also commented that Ms. Swan inspired and led a disciplined and effective staff and a staff who knew that she fought for them and their hard work at every turn. Ms. Somers is assured that most of the Council Members are unhappy that this is happening today as this is a shameful day and that for most of the Council nearly all of you have been positive about Eileen's leadership and have given her glowing reports. Ms. Somers further commented that Council has depended on Ms. Swan too heavily and now is the time to reacquaint themselves with the Highlands Protection and Water Act and the Regional Master Plan. Chairman Rilee informed Ms. Somers that her time was up. Ms. Somers submitted her complete comments for the record.

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Bill Wolfe, resident of West Amwell Township, Hunterdon County – Mr. Wolfe commented that he was involved with the team that drafted the Highlands Act and part of the Act was laying out an institutional framework on the powers of the Governor, the Council and the NJDEP and the relationship between the various parties. Mr. Wolfe was here today to talk about how this decision is volatile of the institutional structure of the Highlands Act and how it creates a serious problem with public perception and undermines the integrity of government and professionalism and the Council's integrity, independence, and professional standards going forward for an Executive Director's removal. Mr. Wolfe commented that the politics acting here are not transparent but a soviet-style of governance. Mr. Wolfe requests that the fourth "whereas" provision in the resolution, which cites Section 5g of the Act be amended to reflect the full statutory language, which is very important going forward. That language being that the Executive Director "shall be a person qualified by training and experience to perform the duties of the office." Mr. Wolfe concluded that that language should be added to the resolution and if not, Council is opening itself up for patronage and political appointments that undermine the integrity of the Act and Council.

Chairman Rilee responded that the language was drawn up by our Counsel and any amendments are in the later part on substantive issues.

Wayne Najduch, resident of Independence Township – Mr. Najduch thanked Ms. Swan for her efforts and what she has done for the people and for Council. Mr. Najduch echoes all the comments of those who have spoken before him about how much of an effort Ms. Swan has made. Mr. Najduch realizes her efforts and thinks Council is making a very large mistake.

Mimi Letts, former Mayor of Parsippany and former Highlands Council Member – Ms. Letts commented that she was fortunate to be on this Council when Ms. Swan did a remarkable job with a diverse Council when completing the RMP. She and her terrific staff who she developed and nurtured always provided Council with the information needed to make decisions. The fact that that Council was able to compromise to agree on a RMP is truly remarkable. Ms Letts assured the current Council that none of the members at that time agreed on every aspect of that plan. Nevertheless they were able to come to an agreement on the essential purpose and the essence of that RMP thanks to the guidance of Ms. Swan and when it was all said and done the Council at that time was able to shake hands on it all. Ms. Letts is impressed by the number of towns both in Preservation and Planning Areas that have been coming before Council to seek conformance to that plan, especially when the Planning Areas come before Council. Ms. Letts feels Ms. Swan has had a very balanced approach to protect the environmental assets of the Highlands while also supporting important economic interests of the region and has been very sensitive to the issue of equity. Ms. Letts feels Ms. Swan and her staff always supported the efforts that the Council made to ask and to get the Legislature to help resolve that issue and even suggested in letters to the Legislature that they enact a water fee that would have brought significant amounts of revenue and would have allowed Council to compensate the landowners in the Preservation Area. Ms. Swan deserves the Council's respect, admiration, to keep her job and the efforts of this Council moving forward for many years.

Michael Keady, Chairman of Environmental Commission and Vice Chairman of the Planning Board, Holland Township - Mr. Keady commented on his perspective on the Highlands Act as Holland Township was suspicious at first. Mr. Keady commented that the reason for the Township's conformance in the Preservation and Planning Areas was due to Ms. Swan's efforts. Ms. Swan showed

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great respect for people and made it clear that it would be the Township's choice and opened people's eyes as to how the Holland Township Master Plan was going to be helped and effectuated to move forward by buying into the Highlands RMP. Ms. Swan was characterized with an enormous amount of knowledge. She was tremendously knowledgeable and persuasive in a very gentle way. Mr. Keady concluded that to most people Ms. Swan has been as important to the Highlands RMP and Conformance process as Steve Jobs was to Apple. Mr. Keady hopes Council makes the right decision to retain Ms. Swan.

Jerry Kern, property owner in Pohatcong Township – Mr. Kern commented that his picture is not as rosy. Mr. Kern commented how the Highlands Act ruined his business in construction and plans for his children. Mr. Kern commented that he does not believe Ms. Swan has helped anything in the Highlands. Mr. Kern commented how his property was included in the Preservation Area and felt the process was out of control. Mr. Kern does not feel Ms. Swan's mind is in the right place.

Ben Spenelli, former mayor of Chester Township and former Highlands Council Member – Mr. Spenelli commented that he has deep admiration for Ms. Swan. Mr. Spenelli explained how the Highlands staff was before Ms. Swan became Executive Director and how she has transformed the Council. Mr. Spenelli further stated that success does not come easy and it came because the skills and talents of Ms. Swan and how she speaks to municipal people in their own language and works through the problems they have. Mr. Spenelli commented that Ms. Swan's success makes the members of the Council look good. Mr. Spenelli urged Council to look at the history of the work that has been done and the Council has achieved under Ms. Swan's leadership. Mr. Spenelli commented that Council will have to live with their decision so make it independently and do the right thing.

Hank Klumpp, owns property in Tewksbury Township – Mr. Klumpp commented that he understands the Highlands Coalition is concerned that Governor Christie may be pressuring Council Members to oust Ms. Swan. Mr. Klumpp has been standing before the Council for eight years asking to see the scientific study that put his property in the Preservation Area and where the compensation is for loss of property values. Mr. Klumpp commented that neither Ms. Swan nor directors before her had any intention of helping him. Mr. Klumpp concluded that he is in favor of change and hopes the next one is the charm. Mr. Klumpp submitted his handwritten comments for the record.

Barbara Cochran – Ms. Cochran commented that Ms. Swan's focus was always on water for our children, grandchildren and millions of people downstream from the Highlands Region. Ms. Cochran asked the Council what their focus is.

David Shope, owns property in Lebanon Township – Mr. Shope commented that in the beginning Ms. Swan was one of the original Highlands Task Force members. Mr. Shope further commented that the Highlands Task Force asked a series of questions on water quality and quantity, environmental protection, open space and farmland, regional planning, but what was never asked was what they would be willing to pay for all of it. Mr. Shope comments back to Senator Smith's quote on March 30, 2004 when he was challenged many times about where is the funding, and he used the words "...show me the money..." and "...we are currently working with the Governor's office..." Mr. Shope commented that Ms. Swan has done little to address the equity issue. Mr. Shope concluded that it is time for a change and to consider the landowner equity issues and not the toads and salamanders. Mr. Shope submitted materials for the record.

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Elliot Ruga, Senior Policy Analyst for the New Jersey Highlands Coalition – Mr. Ruga noted to Ms. Swan that back in March 2010 the Governor at a town hall meeting announced his hostilities towards the Highlands Act and that he was going to see that people who felt the way he did, who were against the Highlands Act, were appointed to the Highlands Council and the Governor has achieved exactly that. Mr. Ruga went on to say that it is unfortunate that the people who will be left holding the bag are the citizens of New Jersey because there is a singular lack of vision because if the people who support the Highlands Act and understand the resource that is at risk and the people who are so against the Highlands Act would get together and demand from its elected officials that there be a way to compensate those who are aggrieved we would not be here today with the Council who was ready to fire a very competent servant of New Jersey. Mr. Ruga hopes this can change.

Janice Kovach, Town of Clinton, former Highlands Council member – Ms. Kovach commented that she served on this Council with several current members and although they did not always agree, they did not let politics rule how they made decisions. Ms. Kovach commented that the Council based its decisions on the facts and the information given by Ms. Swan and the Highlands staff. Ms. Kovach is sorely disappointed to hear the rumors that this Council will now allow politics to drive how this Council and the Executive Director's position will be held. Ms. Kovach concluded that when she was on Council, she and her colleagues worked hard, sometimes disagreed but ultimately the end goal was always kept in mind. Ms. Kovach feels Ms. Swan was a dedicated, committed individual to this cause both on the task force, the Council as a member and as the Executive Director. Ms. Kovach is proud to call her friend and is proud of the work she has done along with her staff on this Council.

Mary Nucci, Lebanon Township – Ms. Nucci commented that the Highlands Act is not uncontroversial, but what Ms. Nucci sees in front of her is not a Council that will carry it forward, but a Council that is bowing to political pressure and deciding to create a whipping post in the form of Ms. Swan. Ms. Nucci commented that Ms. Swan listens and does not listen to only one side. Ms. Nucci commented that she will remember how un-transparent we have become in this state. Ms. Nucci urged Council not to bow to this kind of pressure and hopes someday Council will be able to forget how they decided to vote against their conscience. Ms. Nucci concluded by commending Ms. Swan and noting that it is a loss to the Council and state if Council votes to remove her.

Andrea Bonette, East Amwell Township – Ms. Bonette commented that she has been following the Highlands in the paper and this meeting with a great deal of interest. Ms. Bonette's conclusion is that if Council gets rid of Ms. Swan they can trash the Highlands Council and if they keep her they will have a strong Highlands Council. Ms. Bonette concluded that how Council votes today will determine if the Council wants to keep or trash the Highlands Council.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer commended Ms. Swan as a skilled negotiator with human values. Mr. Peifer urges Council to not allow the functioning decisions of this Council to be dictated by short-term political interests. Mr. Peifer further stated that what Council has in front of them is protecting the water supply of six million people or more and it is not a short-term effort. Mr. Peifer closed with a comment to Mr. Drewniak at the Governor's office that he is neither hysterical nor overwrought and what he is here to do on a daily basis is preserve and protect the heritage that the people of New Jersey share in the New Jersey Highlands.

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Basil Hone, Oldwick, Hunterdon County – Mr. Hone commented that the descendant of past Presidents and man of letters Henry Brooks Adams wrote in 1907 “practical politics consists in ignoring facts.” Mr. Hone commented that the facts are that Ms. Swan has done an outstanding job of motivating the Highlands Staff and being instantly responsive to the concerns and questions of the region’s local authorities, in producing and efficiently administrating the RMP and in being an outstanding professional in her dealings with bureaucrats, landowners, and the public. Mr. Hone concluded by saying that if practical politics dictates that Ms. Swan must go her legacy certainly will not. Ms. Swan has built a structure that the practical politicians will not be able to tear down without transgressing the law. Mr. Hone added that, to demonstrate its regard for Ms. Swan’s legacy, the environmental community will be watching closely.

Jon Holt, Tewksbury Township – Mr. Holt commented that many of the members are aware of an issue in Tewksbury Township regarding the JCP&L substation. NJDEP asked the Highlands Council to make the consistency determination on the project. Mr. Holt commented that at first he was put off a little bit by the process, but added that Ms. Swan said Council needs to balance the economy and the preservation of the area. Mr. Holt continued to say that in going through the process it was upsetting to hear, but Ms. Swan set up a very transparent process, attended a public meeting, public comment period was available, unlike the NJDEP process, was very supportive of the Township’s concerns, and explained that this really didn’t meet the consistency requirements of Exemption 11 and should not be approved. NJDEP decided to overlook the Highlands Council determination and approved the project. Mr. Holt further commented that next week the Township will be in Court with their briefs and defend the Highlands Act and that balance between economic growth and preservation of the important natural resources and that is what Mr. Holt wants the Council to think about. Should Council vote to replace Ms. Swan, Mr. Holt hopes the Personnel Committee does a thorough search. Mr. Holt is afraid the Highlands Council will lose their professional staff if Ms. Swan goes.

Mr. Richko left the meeting temporarily at 5:54pm.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey thanked Ms. Swan for her many years of exemplary public service. Ms. Frey added as Council has heard in other testimony, Ms. Swan has provided enormously competent, capable, experienced and courageous leadership to this Council and this Council itself has expressed these opinions rather recently in the discussion about the authority of the Executive Director. Ms. Frey commented that this proposed resolution is not about the performance of the executive director, this resolution is about the integrity of the members of the Council and of the process of selecting and managing staff by the Council. Ms. Frey commented that Council took an oath of office to uphold the Highlands Act and Ms. Swan has enabled and made possible Council’s ability to do that. Ms. Frey urged the Council to vote with integrity and with the vision and mission of the Highlands Act first and foremost in mind. Ms. Frey submitted her comments for the record.

Mr. Richko returned to the meeting at 5:58pm.

Ed Potosnak, Executive Director New Jersey League of Conservation Voters – Mr. Potosnak commented that today’s vote is highly consequential as Council’s independence is at stake. Mr. Potosnak added that the precedent that Council sets today may affect the Highlands for generations.

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This Council was established as an independent executive agency with the specific goals of insulating Council by being told by either the Legislature or the Governor how to vote and carry out Council's sworn duties. The people in the Highlands and the millions of families and business that depend on the Highlands for their water, Council must bring consistency over time to the policies and procedures and provide certainty and foster confidence that the Regional Master Plan is stable and will not shift with each change in political leadership in our state. Mr. Potosnak commented that there is no question that Ms. Swan has done her job extremely well even though the League may have not agreed with every decision that she has made or the Council has made. Mr. Potosnak commented that voting yes to remove Ms. Swan will send a message that the Highlands RMP is up for grabs with each election cycle. Mr. Potosnak urged the Council to retain Ms. Swan and preserve this Council's independence.

Kate Millsaps, New Jersey Sierra Club – Ms. Millsaps commented that it is a sad day for the Highlands and it sets a dangerous precedent in the future. Ms. Millsaps commented that Ms. Swan is a professional with unparalleled expertise in a broad range of issues impacting the Highlands Region and Council will be hard-pressed to find someone as qualified and the Sierra Club fears this will become a political appointment. Ms. Millsaps further comments that the Legislature's intent was to keep this from being such an appointment as the Executive Director is to serve at the pleasure of the Council, not the pleasure of the Governor. Ms. Millsaps feels this body is now putting politics before the protection of our drinking water. Ms. Millsaps also commented that she is disappointed to find out that there was going to be a narrow range of opinions on the Personnel Committee. Ms. Millsaps urges Council to include Ms. Carluccio or somebody to bring a more broad range of diverse opinions to the Personnel Committee.

Scott Olsen, Deputy Mayor of Byram Township – Mr. Olsen commented that Mayor Oscovitch and Councilwoman Raffay send their respect and regrets for not being available today. Mr. Olsen echoed the same concerns of Mayor Kovach on Ms. Swan's performance. Mr. Olsen commented on the history of Byram Township's plan conformance process. Mr. Olsen commented that anyone who says this Act does not provide economic growth is lying. Ms. Swan and staff have brought that to the forefront. Byram Township had a unanimous vote to conform by the Planning Board and governing bodies and be designated the first Highlands Center and it is all attributable to Ms. Swan's work ethic. Mr. Olsen is disappointed that this resolution is being considered at today's hearing for public comment without hearing from Council. Chairman Rilee responded that the Council, if they wish, will speak after the public comments. Mr. Olsen urged Council to vote from their hearts and not be pressured.

Michele Byers, New Jersey Conservation Foundation – Ms. Byers commented that New Jersey has had over 30 years' history of independent agencies and the Pinelands Commission is a good example. In the 30 years she has worked in this area (over six Governors) nothing like this has ever happened. Ms. Byers commented that this is not the way to go and that Council has been working with Ms. Swan for a long time. Ms. Swan is pragmatic and takes direction and works well with local government and if there is a serious issue with the Highlands, Ms. Swan is not the problem. Ms. Byers suggests that Council should sit down and have an honest discussion with the staff to see what needs to be changed in the Highlands and does not think that removing a highly effective leader is an honest approach and Council should think about the legacy and history being carried on year-to-year, decade-to-decade and the efforts it takes to preserve resources and to promote economic development in a thoughtful way as it is clear in the Highlands economic development is a big part of the puzzle. Ms. Byers urges Council

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to take a very hard look at the situation today and to retain the independence of the Highlands Council, vote to keep Ms. Swan as Executive Director, set up a Personnel Committee to see what you want to do differently and go through a transparent process as Council's current process is setting a bad precedent for New Jersey.

Ken Hetrick, observer of the Highlands Act – Mr. Hetrick commented that from what he has heard today Ms. Swan has done an outstanding job and this also confirms what he has read in the newspapers. Mr. Hetrick commented that it seems the only objections voiced so far are based on policy issues, either compensation to landowners or the regulations themselves. Mr. Hetrick further commented that if regulations are too strict or landowner compensation too little, the entire Council should petition the State Legislature to take appropriate action to amend the law. The primary responsibility for policy matters rests not with the Executive Director who administers and executes the policy but with the Council. Mr. Hetrick concluded to say that unless Council provides performance related reason for Ms. Swan's removal, Council will appear to be bowing to outside pressures and it proves that Ms. Somers is correct when she said that Ms. Swan is being terminated for her success.

Winifred Hines, Newark Water Group – Ms. Hines personally does not have any experience with Ms. Swan, but from what she has heard so eloquently stated Ms. Swan is extremely competent. Ms. Hines commented that what concerns the environmentalists from Newark are the allegations that Council is buckling under pressure from the Governor and this will set a dangerous precedent that can set the Highlands back and it also undermines Council's integrity and dedication to the Highlands. Ms. Hines implores the Council to vote with integrity noting that the Council's independence is at stake.

Council Comments

Mr. Dressler commented that since August, 2011 he has attended Highlands Council meetings and there has not been any mention of Ms. Swan's position as Executive Director so Mr. Dressler asked Chairman Rilee when this idea originated. Chairman Rilee responded on his own behalf that he had an inclination of Ms. Swan's position before he was on the Council as he had previous dealings with Ms. Swan. Mr. Dressler asked if those issues were ever announced at a Council meeting. Chairman Rilee responded no. Mr. Dressler asked if Chairman Rilee spoke to any other members outside of the meetings. Chairman Rilee responded that he spoke to two members of Council outside of the meeting. Mr. Dressler commented that he read about Ms. Swan's position in the newspapers and he had no idea why, how it came about and who decided this and what the grounds for dismissal are. Mr. Dressler commented that he also read that the Council wants to go into a different direction with businesses and property owners. Mr. Dressler suggested that an Executive Session be held within the next two months so Council can have a discussion about how to compensate the landowners. Mr. Dressler questioned how other Council Members became aware of Ms. Swan's position. Mr. Dressler questioned if the Open Public Meetings Act had been violated and if so, Council Members may be personally responsible. Mr. Dressler commented that there will be an inquiry to see if there has been a violation of the Sunshine Act – Open Public Meetings Act. Mr. Dressler commented that what is going on is one of the most gutless moves he has ever seen. Mr. Dressler also mentioned the word compromise and that the only issue tonight is the compromise of integrity, ethics and conscience. Mr. Dressler concluded by saying that what was happening at the meeting was unconscionable.

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Mr. Visioli commented that he takes his appointment seriously. Mr. Visioli was disappointed and discouraged that no one from the Highlands Council contacted him relative to this highly sensitive personnel issue on Council's agenda today concerning a potential dismissal of Council's Executive Director. Mr. Visioli said it was frustrating to be contacted by several newspapers who asked questions that he was unable to answer and he does not like to be put in that position. Mr. Visioli commented that Ms. Swan is a highly regarded, highly talented, articulate team player who is respected by her peers and subordinates alike. Ms. Swan has earned and gained the respect from the municipalities and towns, townships and counties Council has reviewed. Ms. Swan has earned Mr. Visioli's respect. Mr. Visioli further added that being a multi-decade elected official he understands the politics of the Executive Director's position as well as the potential ramifications and it must be understood that his comments are in no way negative toward any potential executive director replacement and his comments are as objective as he can be.

Ms. Carluccio commented that one thing is very clear from the public and Council Members and that is that Ms. Swan has done an exemplary job as Executive Director of the Highlands Council. Ms. Carluccio questioned why Council is considering getting rid of Ms. Swan, what is the cause, the goal? Ms. Carluccio added that what the Council has read in the newspapers makes it very clear that the firing of Ms. Swan is about one thing and that is to stop the progress of the RMP and the faithful implementation of the Highlands Act. Ms. Carluccio referred Council back to the progress report presented earlier on Plan Conformance in the Preservation and Planning Areas. Ms. Carluccio commented that from the moment this Council started to get Governor Christie's appointments, the Council heard complaints from members about Planning Area towns opting in. Ms. Carluccio believes it to be a move because these members do not want Planning Area towns to opt into the RMP as these members want to gut the RMP that this public, this Council and Ms. Swan put together. Ms. Carluccio commented that a huge public effort was put underway since 2004 to put together what has become a national model. Ms. Carluccio is embarrassed as a New Jerseyan and feels that the degraded stereotype of a New Jerseyan is coming true with strong-armed politics, and feels the Council is trading a national model of planning and protection, resource and community for half of the people in New Jersey's water supply into a degrading national disgrace. Ms. Carluccio urged her fellow Council Members to come to their senses and not to fire Ms. Swan, as newly appointed members have been put on record that they want to gut the RMP and stop the implementation. Ms. Carluccio mentioned that she was going to bring up the Open Public Meetings Act, but was glad that Council Member Dressler did. Ms. Carluccio wonders how many Council Members received phone calls.

Chairman Rilee asked Ms. Carluccio if she had any conversations with Mr. Dressler prior to the meeting. Ms. Carluccio responded that she did not.

Mr. Francis commented that Ms. Swan is his hero. Mr. Francis commented that to question the integrity of this Council is not fair. Mr. Francis commented that when an independent Council decides to make a proposal for a change he does not agree with the criticism, because it is the right of this Council to make this resolution on its merits and Council has to vote on their conscience. Mr. Francis commented on the integrity of the Council and members who support the change have to get the same amount of respect. Mr. Francis concluded that the Council's decisions are made based on the evidence at hand and sometimes the process matures to a point when there needs to be a change.

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Mr. Sebetich commented that as a new Council Member he has known Ms. Swan for just three months. Mr. Sebetich finds Ms. Swan to be a remarkable, efficient and hard worker given the accolades heard today. Mr. Sebetich commented that all he knew about this situation was what he read in the newspapers. Mr. Sebetich thinks this Council should be an independent Council, independent of the Governor's office. Mr. Sebetich commented that it appears that the Governor's office has asked Council Members to remove Ms. Swan, who has high credentials and has done a wonderful job in her five years. Mr. Sebetich also commented that it seems like a political thing and objects to the Governor's office forcing this vote and believes that is why Council is here today. Mr. Sebetich believes dirty politics are being played at the highest State level and this is something he does not like and it is not good for the people of the State of New Jersey. Mr. Sebetich commented if this vote to remove Ms. Swan carries through, the Governor's office may control the activities and decisions of the Highlands Council and Staff and that would be quite regrettable.

For the record, Mr. Richko read the editorial from the Star Ledger on March 15, 2012 for those Council Members who may have not had the chance to read it.

"Give Gov. Chris Christie this much: He has been clear from the start that he is hostile toward the Highlands Act. But he can't kill it outright, because Democrats in the Legislature won't let him. So he is doing it by stealth, appointing council members who have stated explicitly that they oppose the law they are charged to enforce. Now, the fight is taking an ugly new turn. Eileen Swan, a voice of reason in the battle between preservation and development, is likely to be fired today as the council's executive director — at the governor's request. The cover story is that Swan has stood in the way of efforts to compensate landowners in the Highlands when the law's restrictions on building cause the value of their property to drop. But the folks who are spreading that story haven't done their homework. Swan has been a sturdy advocate for more generous compensation. She has testified in the Senate and the Assembly in favor of more funds, and she successfully lobbied former Gov. Jon Corzine to provide \$10 million as a down payment in the effort. The real explanation is that Swan believes the council should enforce the law it is charged to enforce. She is no extremist for either side. A former Republican mayor, she infuriated environmentalists by urging approval of a gas pipeline and an electric transmission line through the Highlands region. Her reason was that law specifically allows for such utility upgrades. The Highlands Act is probably the single most important piece of environmental legislation to pass during the past decade. It limits development in nearly 1 million acres of land across the northern part of the state, protecting the water supply to 5 million people. If the governor doesn't like the law, he should propose changes. To sabotage its enforcement by firing someone with Swan's energy and integrity is simply wrong. Swan has waived her right to executive session, so today's discussion will likely be open. Let's hope the council members have the backbone to resist the governor's power play."

Mr. Richko commented that he hopes his fellow Council Members have the backbone to do the right thing. Mr. Richko asked his fellow Council Members why they were doing this; firing someone who has had such good success and done a good job. Mr. Richko commented that never has anything been drawn up about her bad work habits; there has been nothing, but praise. Mr. Richko also asked Council Members who are elected public officials for their towns if they have been advised that those towns may suffer consequences if they do not vote a certain way. Mr. Visioli responded that he had not. Mr. Richko commented that Ms. Swan should hold her head high because she has done a good job, extremely professional and her dedication was notable. He further stated that he felt Ms Swan had much more integrity than anyone sitting on the Council. Mr. Richko thanked Ms. Swan for giving him a good education on the water and the Highlands and expressed that if Ms. Swan does not have her job after the meeting it is because of nasty dirty politics.

Mr. Alstede gave his historical prospective and believes that it is naive to think there was no political interest in this process even before the Act occurred. Mr. Alstede commented on development of the Act, the changes and the speed with which this Legislation was passed. Mr. Alstede commented that

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through the process he watched the Highlands area turned into colonies, an area of land where resources are taken without being paid for. Mr. Alstede said he watched for eight years as the water resources have been taken from the Highlands and given to people because 6 million people are not paying money for it. We were promised and promised about compensation. What is this doing to Ms. Swan personally; what havoc has this Act wrecked on countless of people in the Highlands. Mr. Alstede was on the original Personnel Committee and explained that that committee was told who to hire, who the Governor wanted in the position. Mr. Alstede commented that Council members are here because of political appointments and that the Act specifies a certain number of Democrats and Republicans, so this process is political. Mr. Alstede comment that if the current Executive Director was pro development many audience members would be applauding the actions of the Council right now, but because it is the opposite way tonight Council is being accused of being spineless, horrible and inconsiderate and lacking integrity. Mr. Alstede looks forward to the opportunity to have a new chance to right some of these wrongs and to see things become more balanced and Council needs to seize that opportunity.

Mr. Dougherty commented that as a newer member he wanted to put on the record that the Chairman did not call him but he does respect the Chairman's position and his right to make appointments. Mr. Dougherty commented that he was appointed to the Highlands Council to balance legitimate environment concerns and property rights in the State of New Jersey, not an easy task but one he was eager to embrace. Mr. Dougherty commented that serving on the Council requires members to make decisions on various issues and recommendation and to make a final decision. Council needs to appreciate and respect the factors that are evident on virtually all the issues that Council must face, balancing potential jobs, protecting sensitive environments, and understanding and accepting the process. Mr. Dougherty commented that the responsibilities to subsequent achievements of the Highlands Council far outweigh each of individual Council Member and staff. He further commented that, to realize the goals of the Council the members need to put all the pieces together and sometimes decisions must be made that are not necessarily ideal or even desirable. One of these decisions is to replace the Executive Director, Ms. Swan, who is highly competent, wonderful to work with and has nothing but the purest interests of success for the Highlands Council. Mr. Dougherty added that no one individual is greater than the mission of the Highlands Act and the responsibilities of the Council to oversee its implementation and he believes Council needs as dedicated and qualified individual as Ms. Swan. Mr. Dougherty respects again the Chairman's position and his right to make appointments and greatly respects the responsibility he has been entrusted with on the Highlands Commission and wants to insure that the right people are put in place.

Mr. Walton commented that Ms. Swan is a wonderful lady. Mr. Walton commented that he plans to vote to remove her and Ms. Swan knows that. Mr. Walton commented that he has been accused of many things. Mr. Walton loves this state and commented that he wants to see the water and land protected but also wants to see the landowner made whole. There comes a time in every organization when a change is needed. Mr. Walton commented that it is ironic that the meeting took place on the ides of March, but also comes on the heels of the change on the Indianapolis Colts quarterback Peyton Manning. Mr. Walton adds that changes happen and sometimes change is necessary for an organization to move forward and to thrive. This Council needs to change some of the things it does and the change needs new leadership. Mr. Walton emphasized that in this case it is time for a change for this organization and no one is telling him how to vote. Mr. Walton respects the job that Ms. Swan has done, but the Council needs a new direction.

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Chairman Rilee commented that there have been a lot of comments tonight that assume Council is gutting the Highlands. There may be differences of opinion about how things are being carried out and if you look at the record of the appointees you will see a lot of conservation done under his watch. So to assume that Council will give up on the things that matter to the Highlands Area, northern New Jersey and the people that use the resources is insane and asinine. Chairman Rilee commented that this is not a venue to yell at the Governor and he feels it is improper and short changes this Council prior to seeing any actions of what Council may or may not do with the RMP. The Act is the Act. If the Legislature wants to get together to change the Act, that is up to the Legislature. Chairman Rilee commented that the Council members are sworn to uphold the Act as it is written and it has never been the intent to circumvent that. Chairman Rilee will be voting for change and had his discussion with Ms. Swan. Chairman Rilee respects Ms. Swan greatly and is thankful for the time he served with her. Chairman Rilee moved to roll call.

Mr. Alstede commented that Ms. Swan has served in her position for five years and has been loyal serving the citizens of New Jersey and commends her for that service. The resolution does not take away from Ms. Swan's service tenure, dedication and task. It is important to have an Executive Director who can work effectively with the Governor's office and other agencies of this state to insure a proper balance on even protection and landowner equity as well as reasonable promotion of economic activity. For this reason Mr. Alstede is in favor of the resolution. Mr. Alstede is prepared to be part of this new change and looks forward to enthusiastically embracing it. Mr. Alstede voted yes to remove Ms. Swan.

Ms. Carluccio voted no and said this is a travesty for the citizens of New Jersey, the resources and the water for now and future generations.

All members present voted on the Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 9-5.

Ms. Swan gave the following statement to Chairman Rilee and Members of the Highlands Council:

Thank you for the opportunity today to address you and the public.

In April of 2007 I interviewed for and was hired by the Highlands Water Protection and Planning Council. To be hired to serve an agency charged with protecting the significant resources of the region was indeed an honor and, at the same time, a serious responsibility. This region, part of a larger critical federal region, is unique for its many natural resources, breathtaking beauty, geographic location in the densely populated north east coast and , above all, for the water resources upon which the state of New Jersey relies and its future depends upon.

I would like to thank past and present Highlands Council members who cared about the future and set aside politics to work together to protect irreplaceable resources. I thank the advocates whose mission is to protect resources for a sustainable future. I thank the public for participation in a continuing dialogue and I understand that there are many viewpoints but hope that we all understand that we have a responsibility to protect the water resources of the state.

I am proud to have served the State with a professional, talented and hard working staff. I am proud to have been part of a team that delivered a Regional Master Plan that complied with the law and, if implemented, would safeguard the resources of the region for the benefit of millions of residents. I am proud to have partnered successfully with municipalities across the region to implement that law and Plan. I believe it was the honesty and integrity of the people involved and the partnerships forged that has led to the successful early implementation of the plan. I am proud to have served the public as

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a state worker, and every moment I served I was conscious of the public trust and I know that I never betrayed that trust. Above all, as a mother, I am proud to have been part of a mission to protect the waters and natural resources of this great state for our children and their children. I applaud the Administration for their commitment to open and transparent government and know that I have done my part to uphold that commitment. I wish the Council continuing success in protecting the region and living up to their charge.

I leave today knowing that I have served the Highlands loyally, consistent with the state's laws and mindful of the great trust placed in those that are called upon to serve.

There was a standing ovation.

Mr. Borden announced with deepest regret he gives his resignation and will hand it in formally. Mr. Borden stated that he has been an attorney for the State of New Jersey for some time and dedicated his career to the advancement of environmental protections and property land use controls and has served this Council for seven years and it was quite a pleasure to do so. Mr. Borden further stated that it will run against his conscience to remain in his position. As Council knows the resolution that has been adopted states that Dr. Dan Van Abs can assume the position of Acting Executive Director. Chairman Rilee asked if Mr. Borden would resign immediately. Mr. Borden responded that he will be providing a letter.

Mr. Richko asked Chairman Rilee how he expects to proceed regarding the new Executive Director. Mr. Richko asked if there will be interviews and what is the process he perceives will happen. Chairman Rilee perceives the Personnel Committee will get together shortly.

Chairman Rilee opened the meeting for public comments.

Public Comments

Bill Wolfe, resident of West Amwell Township, Hunterdon County – Mr. Wolfe commented on Council Member Dressler's question to Chairman Rilee regarding Chairman Rilee comment that he had issues with and concerns about Ms. Swan before he underwent Senate confirmation. Mr. Wolfe added that during Chairman Rilee's Senate confirmation hearing, Mr. Wolfe questioned his voracity and integrity and Chairman Rilee did not disclose to the Senate Judiciary Committee any concern with Ms. Swan or any direction of this Council or with respect to the RMP. Chairman Rilee responded that Senator Smith asked him if he had dealt with Ms. Swan and he answered that he did and Senator Smith asked him if he ever got his answers to his questions from her and Chairman Rilee said he did not.

Jerry Kern, property owner in Pohatcong Township – Mr. Kern thanked the Council for their vote as the change is long overdue. Mr. Kern commented that there may be some light in the tunnel for the dreams he has had for his children and everyone else who has worked hard to buy their land and not to listen to environmentalists who want to control their land and not spend a nickel. Mr. Kern hopes this goes in the right direction and there is fairness in the Highlands.

Julia Somers, Executive Director of the New Jersey Highlands Coalition – Ms. Somers finished her comments from earlier. Ms. Somers commented that it will be Council's responsibility to make sure that the Act is followed diligently to show transparent leadership. Ms. Somers commented that

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 15, 2012

Council needs to make sure the next Executive Director is fully qualified and experienced to do this task and not a political appointment. Ms. Somers thanked Ms. Swan and Mr. Borden for their service.

Mary Nucci, Lebanon Township – Ms. Nucci asked the Council if they ever had conversations with Ms. Swan on their issues to change the direction of the Council. Mr. Walton responded for himself that on numerous occasions he made comments on his concerns with the TDR program, receiving zones and landowner compensation.

David Shope, owns property in Lebanon Township – Mr. Shope commented on agricultural liability. Mr. Shope read an excerpt from Scientific American January 2012 that states it is typically less energy intensive to grow food in New Zealand where the animals graze grass that grows mostly without fertilizer and irrigation than to ship it to the UK than it is to grow land in the UK. Shipping cost regarding food products is very small. Mr. Shope also provided an editorial from the Wall Street Journal that talks about farming and where it ranks in terms of jobs (161 out of 200 unless you are a dairy farmer 198). Mr. Shope left for Council's review the Warren County Strategic Growth Plan. Mr. Shope also submitted a letter he sent to Henry Patterson regarding a rate increase for water a copy that he has previously given to Council.

Mr. Dressler suggested the Council set up within the next two months an emergency Executive Session meeting to discuss landowner equity issues. Mr. Richko responded that this meeting can be done at a regular meeting. Chairman Rilee agreed.

Hank Klumpp, owns property in Tewksbury Township – Mr. Klumpp asked where the scientific study is that put his farm in the Preservation Area which he has been asking for eight years and that no money has been put in place to compensate the landowners. Mr. Klumpp commented that prior to the passing of the Act he was offered as much as \$12 million for his farmland and the Highlands Council wants to give him \$700,000 for his land. Mr. Klumpp is disgusted with environmentalists and how his property values and equity are gone. Mr. Klumpp submitted his public comments for the record.

Mr. Dressler temporarily left the meeting at 7:09pm.

George Cassa, Califon – Mr. Cassa owns a fly fishing shop in Califon. Mr. Cassa commented on an economic interest in clean water. Mr. Cassa commented to Mr. Klumpp that he is not the only one that has problems with clean water. Mr. Cassa commented that he needs clean water for his business and Mr. Klumpp needs compensation for his land. Mr. Cassa does not believe Council will be able to find any one close to the services Ms. Swan has provided.

Ms. Carluccio commented on Mr. Borden's astounding resignation and that Council has lost the best of the best. Ms. Carluccio feels the Council has been left in total disarray as Dr. Van Abs is retiring in June. Ms. Carluccio asked Chairman Rilee what he plans to do. Ms. Carluccio thanked Mr. Borden for his service and all the accolades mentioned today go to him as well. Chairman Rilee responded that there is not time for this.

Mr. Dressler returned to the meeting at 7:12pm.

Mr. Richko would like to thank Mr. Borden for his service. Mr. Richko is saddened and shocked.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MARCH 15, 2012

Mr. Vohden made a motion to adjourn the meeting. Mr. Mengucci seconded it. The meeting was adjourned at 7:13pm.

CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 4/20/12 Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

**Vote on the Approval of
This Resolution**

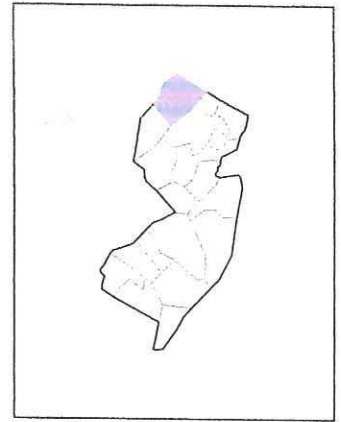
	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede						✓
Councilmember Carluccio			✓			
Councilmember Dougherty						✓
Councilmember Dressler			✓			
Councilmember Francis		✓	✓			
Councilmember Holtaway					✓	
Councilmember James			✓			
Councilmember Mengucci			✓			
Councilmember Richko			✓			
Councilmember Sebetich			✓			
Councilmember Tfank			✓			
Councilmember Visioli	✓		✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chairman Rilee			✓			

PUBLIC COMMENTS

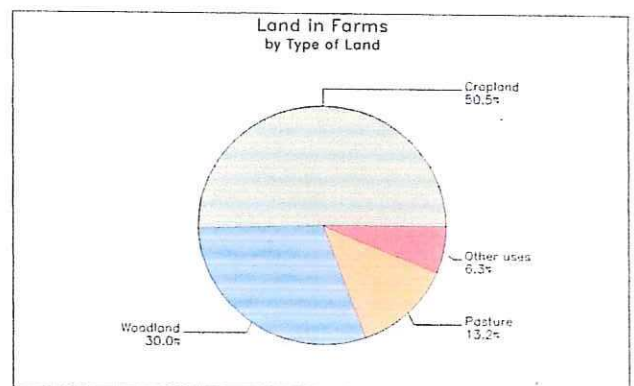
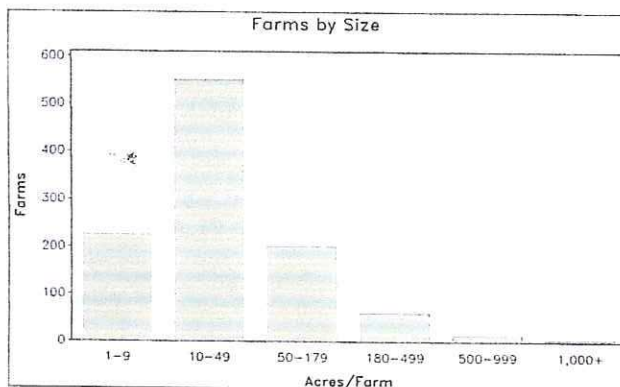
2007 CENSUS OF AGRICULTURE

County Profile

Sussex County New Jersey



	2007	2002	% change
Number of Farms	1,060	1,029	+ 3
Land in Farms	65,242 acres	75,496 acres	- 14
Average Size of Farm	62 acres	73 acres	- 15
Market Value of Products Sold	\$21,242,000	\$14,756,000	+ 44
Crop Sales \$11,810,000 (56 percent)			
Livestock Sales \$9,433,000 (44 percent)			
Average Per Farm	\$20,040	\$14,340	+ 40
Government Payments	\$328,000	\$332,000	- 1
Average Per Farm Receiving Payments	\$6,835	\$8,306	- 18



United States Department of Agriculture
National Agricultural Statistics Service

www.agcensus.usda.gov

$$\$1,206 \div 62 \text{ Acres} = \$20.42/\text{Acre}$$

2007 CENSUS OF AGRICULTURE

County Profile

Sussex County – New Jersey

Ranked Items among the 21 state counties and 3,079 U.S. counties, 2007

Item	Quantity	State Rank	Universe ¹	U.S. Rank	Universe ¹
MARKET VALUE OF AGRICULTURAL PRODUCTS SOLD (\$1,000)					
Total value of agricultural products sold	21,242	11	20	2,210	3,076
Value of crops including nursery and greenhouse	11,810	14	20	1,769	3,072
Value of livestock, poultry, and their products	9,433	4	20	2,079	3,069
VALUE OF SALES BY COMMODITY GROUP (\$1,000)					
Grains, oilseeds, dry beans, and dry peas	1,418	11	17	1,882	2,933
Tobacco	-	-	-	-	437
Cotton and cottonseed	-	-	-	-	626
Vegetables, melons, potatoes, and sweet potatoes	1,911	14	20	601	2,796
Fruits, tree nuts, and berries	1,060	12	20	447	2,659
Nursery, greenhouse, floriculture, and sod	4,800	18	20	478	2,703
Cut Christmas trees and short rotation woody crops	405	1	18	123	1,710
Other crops and hay	2,215	2	18	789	3,054
Poultry and eggs	567	7	20	1,095	3,020
Cattle and calves	1,342	4	19	2,513	3,054
Milk and other dairy products from cows	6,425	3	13	632	2,493
Hogs and pigs	75	8	18	1,462	2,922
Sheep, goats, and their products	(D)	3	18	(D)	2,998
Horses, ponies, mules, burros, and donkeys	735	8	20	306	3,024
Aquaculture	(D)	16	16	(D)	1,498
Other animals and other animal products	(D)	11	18	(D)	2,875
TOP CROP ITEMS (acres)					
Forage - land used for all hay and haylage, grass silage, and greenchop	18,711	2	18	1,103	3,060
Corn for grain	3,062	9	16	1,566	2,634
Corn for silage	2,219	3	14	608	2,263
Cut Christmas trees	977	1	18	51	1,756
Vegetables harvested for sale	689	13	20	638	2,794
TOP LIVESTOCK INVENTORY ITEMS (number)					
Pheasants	(D)	6	16	(D)	1,544
Cattle and calves	6,278	3	20	2,326	3,060
Layers	6,040	7	20	762	3,024
Horses and ponies	2,739	4	20	314	3,066
Broilers and other meat-type chickens	2,469	2	17	746	2,476

Other County Highlights

Economic Characteristics	Quantity	Operator Characteristics	Quantity
Farms by value of sales:		Principal operators by primary occupation:	
Less than \$1,000	386	Farming	430
\$1,000 to \$2,499	253	Other	630
\$2,500 to \$4,999	110	Principal operators by sex:	
\$5,000 to \$9,999	96	Male	821
\$10,000 to \$19,999	70	Female	239
\$20,000 to \$24,999	23	Average age of principal operator (years)	
\$25,000 to \$39,999	37		57.3
\$40,000 to \$49,999	11	All operators by race ²:	
\$50,000 to \$99,999	22	American Indian or Alaska Native	4
\$100,000 to \$249,999	25	Asian	9
\$250,000 to \$499,999	21	Black or African American	4
\$500,000 or more	6	Native Hawaiian or Other Pacific Islander	2
Total farm production expenses (\$1,000)	25,917	White	1,607
Average per farm (\$)	24,450	More than one race	-
Net cash farm income of operation (\$1,000)	1,342	All operators of Spanish, Hispanic, or Latino Origin ²	
Average per farm (\$)	1,266		21

See "Census of Agriculture, Volume 1, Geographic Area Series" for complete footnotes, explanations, definitions, and methodology.

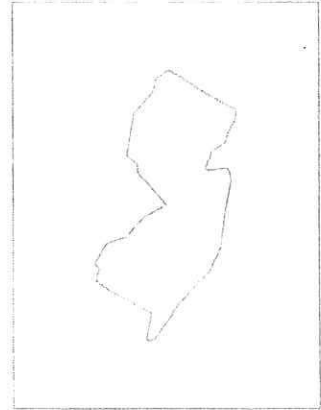
(D) Cannot be disclosed. (Z) Less than half of the unit shown.

¹ Universe is number of counties in state or U.S. with item. ² Data were collected for a maximum of three operators per farm.

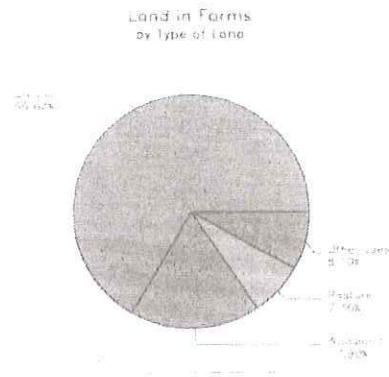
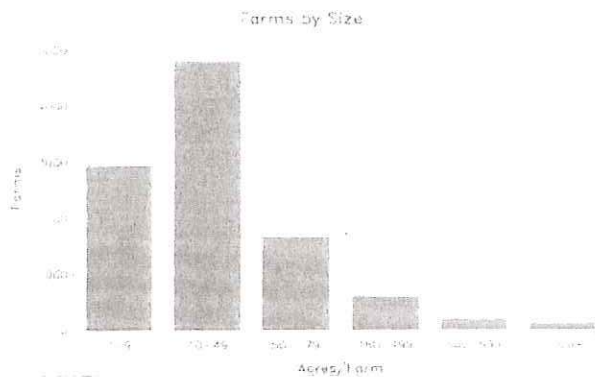
2007 CENSUS OF AGRICULTURE

State Profile

New Jersey

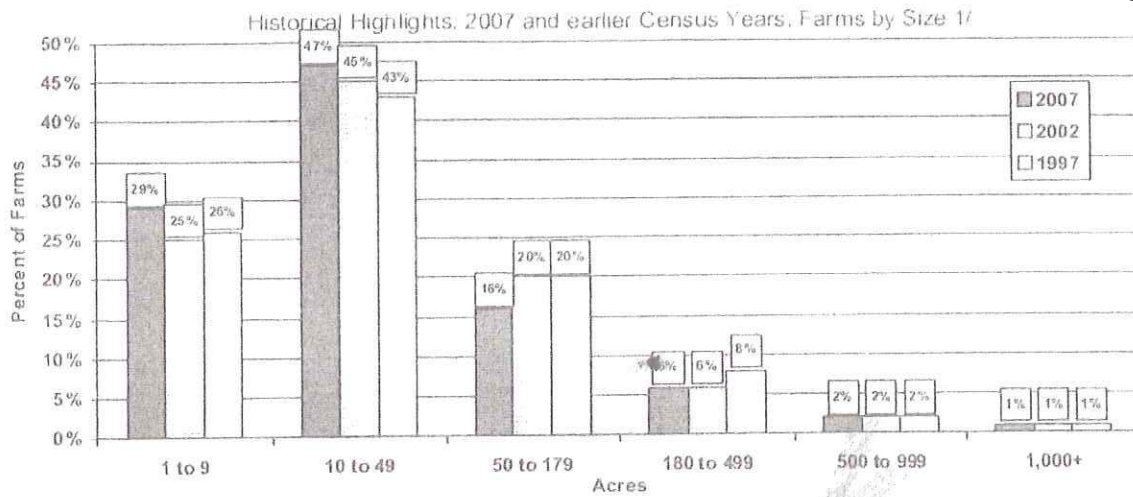


	2007	2002	% change
Number of Farms	10,327	9,924	+ 4
Land in Farms	733,450 acres	805,682 acres	- 9
Average Size of Farm	71 acres	81 acres	- 13
Market Value of Production	\$986,885,000	\$749,872,000	+ 32
Crop Sales \$851,653,000 (86 percent)			
Livestock Sales \$135,233,000 (14 percent)			
Average Per Farm	\$95,564	\$75,561	+ 26
Government Payments	\$6,988,000	\$4,441,000	+ 57
Average Per Farm	\$8,154	\$7,630	+ 7



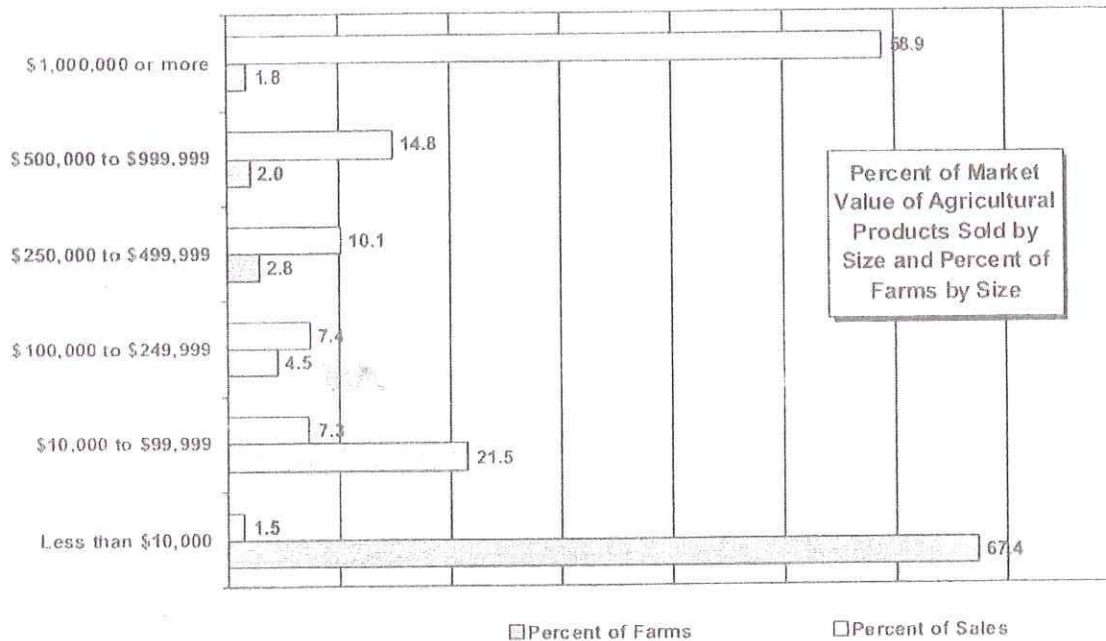
United States Department of Agriculture
National Agricultural Statistics Service

www.agcensus.usda.gov

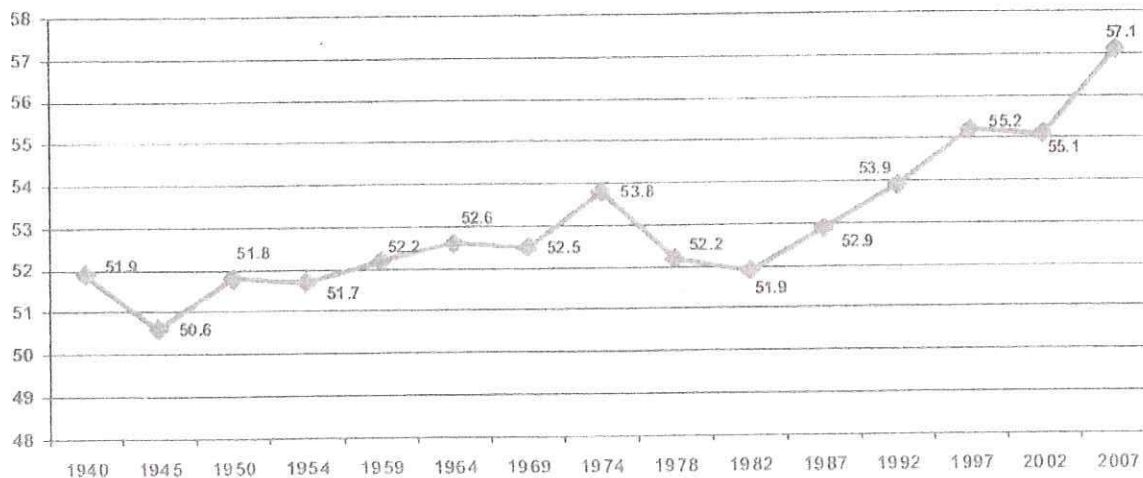


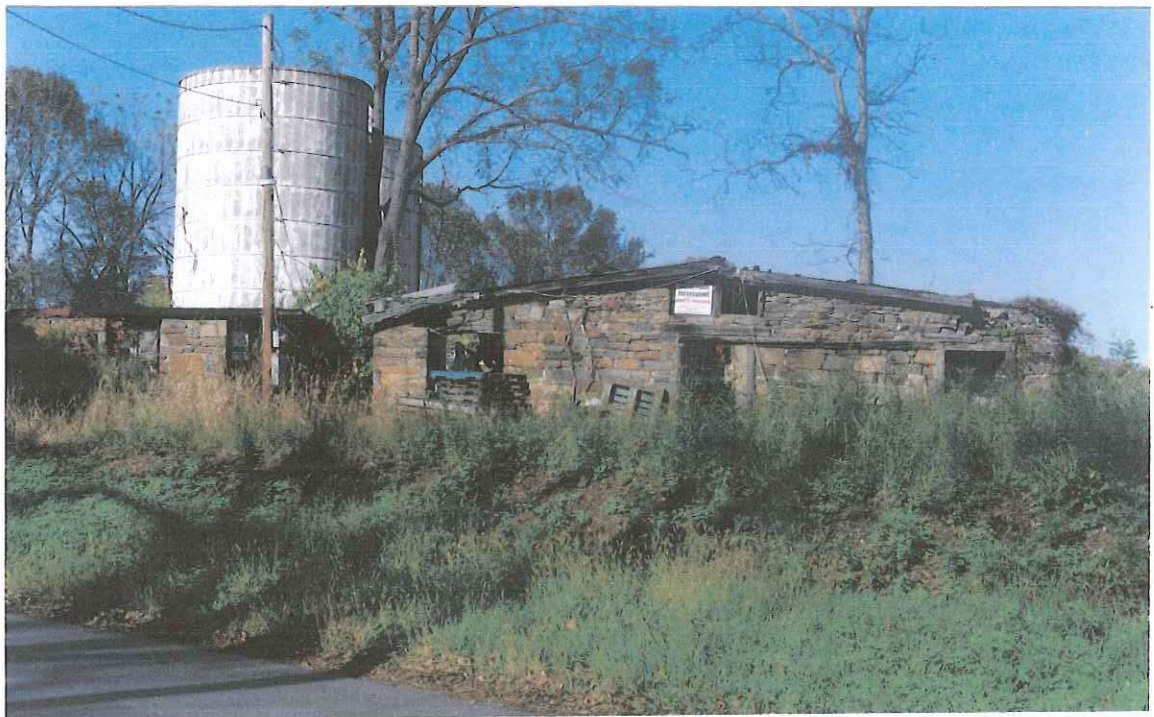
1/ Total for a given year may not add to 100 percent due to rounding.

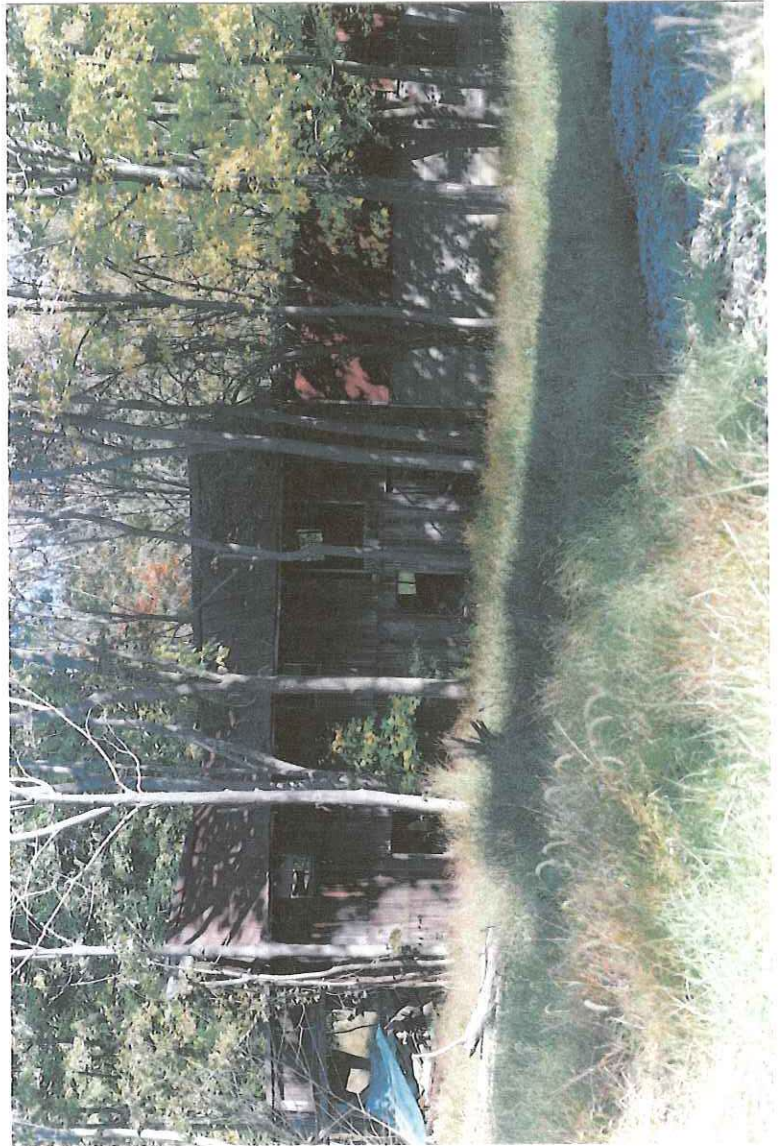
Distribution of New Jersey Farms by Size and Market Value of Agricultural Products Sold by Size Group, 2007

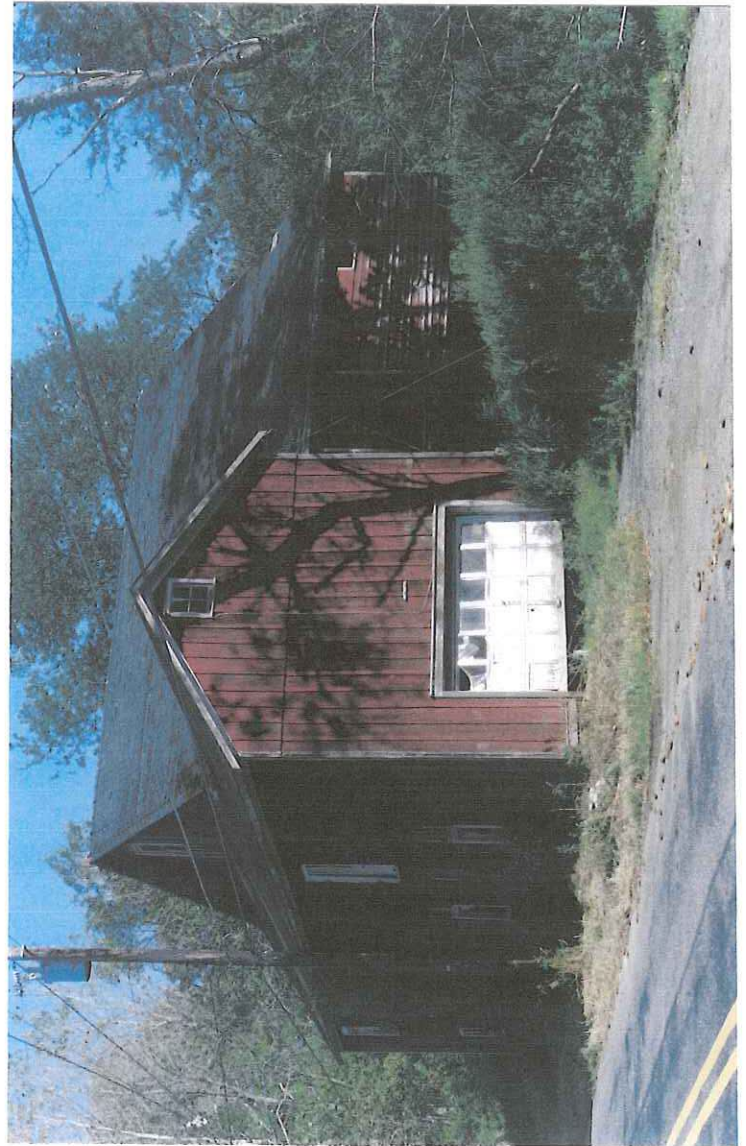


Average Age of New Jersey Farmers









Highlands Ideas

1. What makes the Highlands different from the rest of NJ?
 - a. Hard rock (topography) – the one critical factor that drives the rest
2. Why do people care about the Highlands?
 - a. Water resources
 - b. Endangered and threatened species
 - c. North Jersey's last area of relatively undeveloped lands
 - d. Recreational area
3. What changes have happened to the Highlands in the past?
 - a. Timber harvesting for lumber and charcoal – no virgin forest exists
 - b. Mines for the colony and the Revolution
 - c. Farming – few virgin soils exist. Often poor farming except limestone soils
 - d. Forest regrowth – more now than in 1900
 - e. Loss, gain and loss of species – black bear is a Highlands returnee
4. Why haven't the Highlands developed in the past like NE and Central NJ?
 - a. Hard rock – hilly, difficult to shape land for subdivisions, industrial buildings, etc.
 - b. Limited ground water resources for public wells, and often for domestic wells
 - c. Reservoir watersheds and surface water allocations owned by cities
 - d. Shallow soils limited septic systems until new regs allowed mounded systems
 - e. Distant from major roads, small roads expensive to enlarge
 - f. Distant from major cities, less attractive to upper middle class
5. What changes are happening to the Highlands now?
 - a. Farmlands converting back to forests due to poor return on farming
 - b. Farming changing under pressures economic (more intensive) and social (more sensitive practices)
 - c. Farmlands and forests going to housing and other development
 - d. Importing suburban-style developments into exurban and rural areas
 - e. Many streams losing quality, including reservoir tributaries
 - f. Invasive species issues
6. How do we know whether those changes are good or bad?
 - a. Define your terms – what is wanted?
 - b. Local costs and benefits versus regional impacts
 - c. Private versus public costs and benefits
 - d. Incrementalism – "what is the harm of one more house?"
 - e. Visualization tools are very limited – how to project the future? Especially in ways that the public and decision-makers can understand and use
 - f. Making environmental protection not result in exclusionary practices
 - g. The differences between "development" and "progress," between "growth" and "improvement," between the scale of development and the impacts of bad growth patterns and site design – can human presence in the Highlands increase without destroying key Highlands resources? "Sustainable communities" in a "sustainable environment." Not sustainable development, but sustainable places.
7. Regional vision
 - a. Regardless of political structure, success requires a regional vision
 - b. Vision must be tangible, understandable, replicable, socially viable
8. Tools of management
 - a. Land preservation – farmland and Green Acres – ad hoc versus planned, farmland incentives versus permanent preservation, links to land use planning
 - b. Sustainable densities – for local and domestic water supply, wastewater
 - c. Site layout – protecting the most sensitive resources on site
 - d. Density transfers – noncontiguous clustering (allowed) and TDR (proposed)
 - e. Revitalization of old mining and manufacturing towns

CONFIDENTIAL AND PRIVILEGED-- FOR USE OF THE HIGHLANDS TASK FORCE ONLY

**HIGHLANDS TASK FORCE
Regulatory Committee**

December 9, 2003

In attendance-- Task Force Members: Bradley Campbell, Commissioner NJDEP;
Tom Gilmore, NJ Audubon; Denise Coyle, Somerset County Freeholder;
Malcolm Borg, General Public Member.

Others: Joe Bertoni, NJDOT; Jeanne Herb, NJDEP; Bill Harrison, OSG; Jayne
Haussler, NJDA; Bill Wolfe, NJDEP; Rene Mathez, Knowlton Twp; Miriam Crum,
NJDOT; Dennis Keck, NJDOT; Daren Eppley, Governor's Office.

A. Regulatory Issues

Environmental Protection

Transportation

The transportation system is aging and new major road projects are not being pursued. The emphasis is maintaining and repairing the existing infrastructure. DOT is encouraging residential development near train stations through the "transit village" concept. [REDACTED]

Family farms are disappearing from the landscape due to taxes and exorbitant offers from developers. Oftentimes, downzoning efforts can also hasten the family farmer to cash out the land equity. [REDACTED]

B. For Land Acquisition Committee

[REDACTED]

- ★ The economic value of the Highlands timber resource is estimated to be over \$3.2 million. This includes gross income to landowners and the wages of those engaged in harvesting and processing. It does not include the value of the estimated 84,000 cord of fuelwood taken, worth approximately \$8 million dollars.

See maps following page 33.

B. Other Important Resources

1. Agriculture

Although normally considered a "land use" and not a resource, the 16 percent or 160,000 acres of land classified as 'Agriculture' within the Highlands is essential to the area's future. Farms:

- Contain many of the regions vast forest resources;
- Contribute significantly to the Area's economy: over 120 million dollars per year in marketable products;
- Sustain the intrinsic natural character of the working landscape;
- Provide jobs and a sustained quality of life for many landowners and residents of the Highlands.

The 160,000 acres of land classified as agriculture within the Highlands are essential to the Area's future.

There are approximately 4000 farms in the nine (9) county area. Less than half or about 1500 are within the Study Area boundaries. Most are in the 10-49 acre size class and located in Warren, Hunterdon, and the very eastern part of Sussex County in New Jersey, and Orange County in New York. Not all farmlands are owned by the farmers. Approximately half are leased.

Farm production is quite varied and includes:

- Livestock and poultry such as cattle, beef cows, milk cows, hogs, sheep, chicken, and broilers;
- Crops such as corn (grain, seed, and silage), soybeans, hay, vegetables, orchards, fruits and nuts, berries, nursery and greenhouse crops, mushrooms and sod.

Farming has been declining in the Highlands since 1970, as exemplified by the land use figures. From 1970 to 1985, agricultural land use went from 17 percent to 16 percent with almost 9,000 acres developed. It is projected that land use will drop to 14 percent by 2010 with another 14,000 acres developed. Clearly, farming in the Highlands is becoming less attractive as development increases.

From 1992
USFS REPORT

The decrease in farming throughout the area is due to a complex set of issues. Some of the more popular notions include:

- World market competition and pricing
- Little or no interest by family members to continue farming
- Excessive regulations
- Development pressure and buy-out offers
- Rising property taxes
- Large capital investments and debt loads with marginal net incomes

Both New Jersey and New York have attempted to alleviate the property tax burden with legislation. New Jersey's Farmland Assessment has 26 percent participation and New York's property tax law Section 480-A has only six percent.

In July 1991, New York passed a Farmland Protection Trust Fund. This legislation begins a process to establish a Purchase of Development Rights Program. In New Jersey, the Farmland Preservation Program, which funds farmland easements on a willing seller-willing buyer basis, has been overwhelmingly supported by the voters. Over 70,000 acres have been protected and an additional 23,000 acres are under limited term restrictions. Applications have increased ten-fold and funds are drying up. In 1989, 346 farms applied (38,500 acres), but funding was available for less than half.

While most farmers support farmland assessment and development rights programs on a voluntary basis, there are fears that resource protection tools such as local zoning may lower the value of farmland and subsequent landowner equity.

2. Biological Communities

Biological diversity means the variety of life and its processes. Its distinct and measurable parts include: genetic variation, within and between species; distinct species such as the bog turtle; biological systems such as those found in freshwater marshes; and the variety of systems and their linkages across regional landscapes, such as the Highlands.

Two primary systems, terrestrial and palustrine (freshwater) wetlands, are represented in the Highlands, predominantly in the remaining large blocks of contiguous forests. These natural systems are characterized by a combination of physiognomy (outward appearance), vegetation structure and composition, topography, substrate, and soil moisture and reaction. Within each system can be found a number of communities which are representative of local variability. It is this variability which provides the

Some of the community types found in the Highlands include:

- Glacial bogs
- Hardwood conifer
- Swamps
- Rock outcrop communities
- Chestnut oak forests

MY NAME IS JULIA SOMERS. I AM THE EXECUTIVE DIRECTOR OF THE NEW JERSEY HIGHLANDS COALITION.

EILEEN:

ON BEHALF OF THE 67 AFFILIATE MEMBERS OF THE NEW JERSEY HIGHLANDS COALITION, THANK YOU. THANK YOU FOR YOUR DEDICATED AND FOCUSED WORK ON BEHALF OF THIS STATE AND THE 5.4 MILLION PEOPLE WHO DEPEND ON HIGHLANDS WATER. THANK YOU. NEW JERSEY HAS RARELY HAD A LEADER WHO HAS WORKED AS HARD AS YOU, AS INTELLIGENTLY OR BEEN AS INFORMED AS YOU, AS ARTICULATE AS YOU.

YOU KNOW, WE HAVE NOT AGREED ON QUITE A NUMBER OF ISSUES IN THE HIGHLANDS. BUT WE ARE EXTREMELY DISTRESSED AT THE ACTIONS OF THE CHRISTIE ADMINISTRATION BEING PUT INTO ACTION BY THIS COUNCIL IN REPLACING YOU. WHAT AN IRONY THAT JUST LAST WEEK, NEW JERSEY'S SUPREME COURT FIRMLY REMINDED THE GOVERNOR THAT HE DOES NOT HAVE THE AUTHORITY TO INTERFERE IN AGENCIES SUCH AS TOAH AND THE HIGHLANDS COUNCIL, BUT HERE HE IS DOING EXACTLY THAT, THROUGH HEAVY-HANDED MEDDLING IN THE COUNCIL'S BUSINESS!

YOU MUST BE PAINFULLY AWARE THAT YOU AND THE CITIZENS OF NEW JERSEY ARE BEING PUNISHED FOR YOU BEING TOO GOOD AT YOUR JOB. YOU HAVE INSPIRED AND LED A DISCIPLINED AND EFFECTIVE STAFF, WHO KNOW THAT YOU HAVE FOUGHT FOR THEM AND THEIR HARD WORK AT EVERY TURN. ELECTED OFFICIALS FROM ALMOST EVERY TOWN THAT HAS BEEN GOING THROUGH CONFORMANCE HAVE COME TO ALMOST EVERY CONFORMANCE MEETING HERE AT THE COUNCIL, AND ROUNDLY THANKED YOU AND RECOGNIZED YOUR EFFORTS FOR HELPING THEM THROUGH THEIR INDIVIDUALIZED CONFORMANCE, WHICH TURNED INTO A VERY POSITIVE EXPERIENCE FOR THEM. ARE ANY OF THEM HERE TODAY? NO – ALTHOUGH A WORD TO THE PRESS -- IF ASKED WHY NOT, TO A PERSON THEY WILL SAY THEY EITHER HAD TO BE ELSEWHERE, OR FELT IT INAPPROPRIATE TO SPEAK POSITIVELY ABOUT EILEEN, WHEN THE GOVERNOR HAS MADE IT CLEAR HE WANTS HER GONE SO HE CAN REVERSE THE SUCCESSES SHE AND HER TEAM HAVE ACHIEVED. TRENTON HAS BEEN IN TOUCH, I ASSURE YOU, AND THERE IS A LOT OF MONEY ON

THE LINE FOR SOME OF THESE TOWNS. I AM TOLD NOT TO BE NAÏVE – THIS IS THE WAY BUSINESS IS DONE
IN TRENTON, NOT ONLY UNDER THIS ADMINISTRATION BUT OTHERS. HOWEVER, I WOULD ARGUE, IT
HASN'T BEEN SO BLATENT!

YOU HAVE BEEN SUCCESSFULLY MOVING CONFORMANCE TO THE HIGHLANDS REGIONAL MASTER
PLAN FORWARD, HELPING MUNICIPALITIES UNDERSTAND THE MULTIPLE BENEFITS TO THEM OF
CONFORMING NOT ONLY THEIR PRESERVATION AREAS, BUT ALSO THEIR PLANNING AREAS.

AND THERE LAY YOUR DOWNFALL!! WHO KNEW THAT SUCCESS WOULD BE REWARDED THIS WAY!

A WORD TO THE COUNCIL MEMBERS – EACH AND EVERY ONE OF YOU -- AND AN APPEAL – I'M
SURE MOST OF YOU ARE VERY UNHAPPY THAT THIS IS HAPPENING TODAY, BUT FEEL EITHER THAT YOU HAVE
NO CHOICE BUT TO GO ALONG, OR THAT GIVEN THE GOVERNOR'S DESIRE TO MAKE THIS HAPPEN, IT IS
INEVITABLE, SO THERE'S NO POINT IN FIGHTING IT. WELL -- THIS IS A SHAMEFUL DAY, AND I KNOW THAT
FOR MOST OF YOU, IN YOUR HEARTS, YOU KNOW IT!! NEARLY ALL OF YOU HAVE BEEN EXTREMELY POSITIVE
ABOUT EILEEN'S LEADERSHIP, AND GIVEN HER GLOWING REPORTS. BUT YOU HAVE DEPENDED ON HER TOO
HEAVILY, AND NOW IS THE TIME TO REACQUAINT YOURSELVES WITH THE HIGHLANDS WATER PROTECTION
AND PLANNING ACT AND THE REGIONAL MASTER PLAN. IT WILL BE YOUR RESPONSIBILITY TO MAKE SURE
THAT THE ACT IS FOLLOWED DILIGENTLY GOING FORWARD AND NOT UNDERCUT, AND YOU WILL NO
LONGER HAVE EILEEN THERE TO HELP YOU. IT WILL BE YOUR TURN TO STEP UP AND SHOW OPEN AND
TRANSPARENT LEADERSHIP – AND WE APPEAL TO YOU TO DO THAT. YOUR STATE NEEDS YOU!! MAKE SURE
THAT THE NEXT EXECUTIVE DIRECTOR IS FULLY QUALIFIED AND EXPERIENCED TO DO THIS TASK, AND IS NOT
A POLITICAL APPOINTMENT, OR A REWARD TO SOMEONE FOR LOYAL SERVICE TO THEIR PARTY.

EILEEN, THANK YOU VERY MUCH INDEED. YOU CAN BE PROUD OF WHAT YOU HAVE DONE HERE.

3/15/12

✱

①

my name is Hank Klumpp
farmer from Tewksbury

Eileen Swan has been executive

director of the Highlands Council since

2007. I understand that the ^{Highlands} Coalition

an environmental advocacy group is

concerned that Governor Chris

Christie may be pressuring

members of the Council to oust

her. I have been standing before

the Council for over eight years

now asking to see the scientific

study that put my property in

the Preservation Area and also

where the compensation is for my

loss of property values and how

② I can operate without equity.
Mrs. Swan, as director, I can
honestly say has never directed
anyone to answer my questions
or to help me in any way. I
goess Mrs. Swan never felt my
questions or concerns are - as the
Council puts it - feasible. I
need someone to help me - NOW -
and Mrs. Swan has proven to me
she has no intention of helping me
and neither did the directors who
came before her through the revolving
Highlands door. I'm totally in
favor of changes. Maybe the

(3) next director will be the charm -
How could it get any worse for me
What more do I stand to lose?

Thank You!

Hank Klumpp
24 Longview Road
Lebanon, N.J. 08833

Committee Meeting

of

SENATE ENVIRONMENT COMMITTEE ASSEMBLY ENVIRONMENT AND SOLID WASTE COMMITTEE

SENATE BILL No. 1 and ASSEMBLY BILL No. 2635

(The "Highlands Water Protection and Planning Act")

LOCATION: Skylands Manor
Ringwood State Park
Ringwood, New Jersey

DATE: March 30, 2004
7:00 p.m.

MEMBERS OF COMMITTEES PRESENT:

Senator Bob Smith, Co-Chair
Assemblyman John F. McKeon, Co-Chair
Assemblyman Michael J. Panter, Co-Vice Chair
Senator Henry P. McNamara
Assemblyman Robert M. Gordon
Assemblyman Reed Gusciora
Assemblyman Louis M. Manzo
Assemblyman Guy R. Gregg
Assemblyman John E. Rooney



ALSO PRESENT:

Judith L. Horowitz
Carrie Anne Calvo-Hahn
Lucinda Tiajolloff
Office of Legislative Services
Committee Aides

Kevil Duhon
Senate Majority
Committee Aide
David Eber
Assembly Majority

Thea M. Sheridan
Assembly Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

What I was struck by today is, that in a lot of ways, I always think that we, kind of, live the same lives, we're just in different places. I heard people -- "Yeah, I was on the zoning board, but the new administration kicked me out because I was pro-development." Someone else got up and said, "Yeah, I'm the Republican, and we're with that group." And, you know, it's the same, regardless of whatever town or city you're in, anywhere in the State of New Jersey.

The difference is that those that aren't within what we've designated to be the core -- and make mistakes -- like in my own community, in West Orange, where I'm the Mayor-- Our mistakes are translated, maybe, into a loss of the quality of life, maybe more traffic, air not as clean as it could be, probably extra taxes because of the school children that come in. And there's permutations of the debate over condos -- they're not going to have school children, we'll make money, whatever it might be. But if we make a mistake, that's where the transgression goes to, our own individual quality of life, ergo home rule.

If there are mistakes made by local government, relative to the core that's remaining, the entire State of New Jersey will suffer, not to mention Pennsylvania, New York. This implication goes beyond even New Jersey. And this is why, in a way, I pray for wisdom for all of us, as we go through this evaluative process, to make certain that we do the right thing, because we can't afford not to.

And with that, we look forward to working hard together. And thank you all, again.

I'm going to turn it over to Senator Smith. (applause)

SENATOR SMITH: Thank you, Chairman.

The Assembly Environment Committee and Chairman McKeon, have worked long and hard on this. And we're going to be working longer and harder. We've got a pretty hectic schedule ahead of this. But your comments tonight make all the difference in the world.

If there was one lesson tonight, it was the voice in the background from Tom Cruise, "Show me the money." (laughter) And Chairman McKeon and I pledge to you that we will show you the money. We're currently working with the Governor's Office to put together the dedicated and guaranteed source of funding so that the Highlands, which is making a sacrifice for the rest of the state, is properly compensated. We will show you the money.

And let us not lose track of the fact that this is a bill about water. It's about a lot of things, but it's the water supply for the future of the State of New Jersey. We can't have-- Are there any builders left in the room? There will be no residential housing if there's not water. There will be no building, no factories, no anything if there isn't a good, clean, sufficient water supply.

If you look at the Task Force's report, it indicated that the cost of water treatment is estimated to increase \$30 billion if we don't protect this water supply. What more do we need to know? How many times do we have to be hit in the side of the head with a 2x4? This is one of our last chances to keep New Jersey's future bright.

Now, some comments that you need to know: If you would like to supplement our record or send in comments that you'd like us to consider, please take this address: Assembly and Senate Environment Committees, State House Annex, P.O. Box--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Wait a minute.

SENATOR SMITH: Too fast?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes.

SENATOR SMITH: State House Annex, P.O. Box 068, Trenton, New Jersey, 08625-0068.

Our next hearing is on Monday, April 12, 7:00 p.m., at the Haggerty Center, in Morristown. We'd love to see you all again if you have some additional comments, especially after having a chance to familiarize yourself with some of the items in the bill.

Thanks to all for attending. God bless, and safe home. (applause)

(MEETING CONCLUDED)

LAWMAKERS BEGIN WORK ON HIGHLANDS PROTECTION

Date: 23 Mar 2004

From: Tom Gilbert { tgilbert@igc.org <<mailto:tgilbert@igc.org>> }

By Jan Barry, Record Staff Writer, March 23, 2004

Trenton - Their goal is to preserve as much of North Jersey's Highlands reservoir lands as possible. Their immediate task is to draft the state law that will bring about that goal while allowing some growth in the mountainous region. And the state Legislature's transformation of plan into law began in earnest Monday.

"This is a very unique event," state Sen. Bob Smith, D-Middlesex, said as he opened a joint hearing of the Senate and Assembly environment committees. The officials aim to unveil a bill to preserve a large part of the region on Earth Day, April 22. Smith served as co-chairman of the hearing with his Assembly counterpart, John F. McKeon, D-Essex.

The governor's Highlands Task Force has proposed that the Legislature create a regional council to oversee preservation of about 350,000 acres of watershed in the 800,000-acre region from Bergen County's border with New York State to Hunterdon County's farmlands. Mayors and other local officials from a number of towns and counties lined up to testify in a statehouse hearing room.

Testimony from officials in three neighboring towns - Oakland, Ringwood, and Wanaque - suggested the difficulty of finding a consensus for legislative action. "We are a poster child example of why we need regional planning," said Oakland Mayor John Szabo. Szabo alluded to a decision by his community's Planning Board to approve a housing development on a former Boy Scout camp in a green belt where mountain streams flow into a regional water supply system. Szabo said Oakland's Borough Council strongly supports the task force recommendations, which would take such decisions out of the hands of local boards. "We simply do not have the tools" at the municipal level to legally reject development plans, he said.

Ringwood Mayor Wenke Taule said she hopes the legislation provides for emergency state action to acquire vital sites that landowners refuse to sell and insist on developing, such as two tracts she cited in her town. But Wanaque Borough Administrator Thomas Carroll asked that the legislation provide exemptions for development already in the pipeline for seeking state permits. Wanaque, he said, can't afford to lose tax ratables.

A delegation of farmers asked for assurances that the regional plan, focused on protecting streams and reservoirs that supply water to half of the state, would not push them off their farms. And Michael Cerra, a New Jersey State League of Municipalities representative, asked that legislators issue a map of the areas targeted for preservation and allow the 90 Highlands towns in seven counties "opportunity to correct the map where necessary."

Assemblyman Guy R. Gregg, R-Morris, a member of the appropriations committee, questioned how the plan to preserve so much land and compensate Highlands communities will be paid for. "There is nothing in this plan that talks about dollars," he said. "Where is the funding?" Gregg said he wants to be supportive, but complained that "no one has reached out to us [Republicans]. We are in this together. I live in the Highlands. I certainly have a great stake in it."

Smith replied that he has been in close touch with Sen. Henry P. McNamara, R-Wyckoff, who previously headed the Senate environment committee when Republicans held the majority. Smith said legislation will be drafted based on the recommendations of a bipartisan task force. "The environment should not be a partisan issue," Smith said. "We will do our best to make it a bipartisan effort."

Assemblyman John E. Rooney, R-Northvale, said he also felt left out and wants to be included in drafting a bill. "I think this is a good beginning," he said. "I look forward to working with the committee." After the hearing ended, Rooney told reporters he "probably will support" the proposed legislation. But he remains

miffed that he wasn't invited to a recent news conference that announced the Highlands Task Force report. "I've been an environmentalist since I've been down here," said Rooney, an Assemblyman since 1983.

A draft bill is expected to be available Friday, Smith said. More hearings are set for March 30 at 7 p.m. at Skylands Manor in Ringwood, April 12 at 7 p.m. at the Frelinghuysen Arboretum in Morristown, April 15 at 7 p.m. at Voorhees High School in Lebanon, and April 22 at 10 a.m. at the State House Annex in Trenton.

* * *

Email: barry@northjersey.com

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STATEMENT BEFORE THE
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MARCH 15, 2012

By
Wilma Frey, Senior Policy Manager,
New Jersey Conservation Foundation

Thank you for the opportunity to provide comments.

First of all, I would like to thank Eileen Swan for her many years of exemplary public service. The past five have been as executive director of this Council – the Highlands Water Protection and Planning Council.

As you have heard,
Eileen has provided enormously competent, capable, experienced and courageous leadership to this body. I have heard most of the members of this Council express these opinions rather recently in a discussion about the authority of the executive director.

So –

This vote is not about the performance of the executive director.

the members of this Council & of
This vote is really about the integrity of the process of managing staff by the Council.

All of you took an oath of office to uphold the Highlands Act. By her leadership of an excellent staff and its work, Eileen has enabled and made possible your ability to do that.

Today – this vote is a test of your commitment to that oath – a promise you made to the public, to at the very least, more than six million of New Jersey's citizens, who are counting on this Council to preserve their water supply. We all count on the Council as well to protect the precious and beautiful landscape of the Highlands, with its forests, its farmlands, its wildlife, historic sites and recreational opportunities, as well as the vibrant towns and villages in the Region.

Under Eileen's guidance, the Council has acted enter to grow & enhance the
This vote is a test of your independence.

This vote is a test of whether you care about -- and will endeavor to secure -- New Jersey's long-term sustainable future -- or not.

I ask you to vote NO on any motion to remove Eileen Swan.

Please vote with integrity and with the vision and mission of the Highlands Water Protection and Planning Act first and foremost in your mind.

Thank you.

David Shope
383 Penwell Road
Port Murray, NJ 07865
March 9, 2012

Henry Patterson, Executive Director
New Jersey Water Supply Authority
1851 Highway 31
Clinton, NJ 08809

Dear Mr. Patterson:

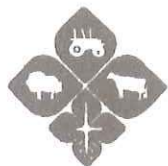
I am enclosing copies of sections E through G of the Hearing Officer's Report for Fiscal year 2012, Amendments to the schedule of rates, charges and debt service assessments for the sale of water from the Raritan Basin System N.J.A.C. 7:11-2.1 et seq. I am asking that these be considered as part of my testimony, evidence and request in support of my source water protection land acquisition proposal for the proposed F.Y. 2013 rate schedule. I am again, proposing an additional \$50.00 per million gallons (mg) In addition to the \$8 per mg already collected for the source water land acquisition fund component of the N.J.W.S.A's rates with other details as described in my prior testimony letter. I do not feel that my prior testimony and evidence has had the issues I raised addressed, so I am resubmitting it all. Further, I would like to address more specifically the impacts of the Highlands Act and associated regulations on the normal expectations of farmers and landowners as it pertains to their real estate assets. Farmers and landowners in other, freer parts of the state have such things as market forces, etc. to worry about. We, in the Highlands, really, have only one buyer – The State – and that buyer is essentially broke. "Non profits" and municipal and county governments play a small selective role. We, in the Highlands really have no lender that will consider our land as a collateral asset. (See the attached letter from First Pioneer Farm Credit faxed to Bob Tucker on May 2, 2003) I have borrowed from First Pioneer Farm Credit twice in the past (now called Pioneer East). Each time the appraiser inspected my buildings and equipment, and researched the lands' zoning so he could assess its potential value –

basically, the build rights. The letter was written when Eileen Swan, then Mayor of Lebanon Township was spearheading a down zoning effort for the Township. Dan Van Abs, then working for the N.J.W.S.A. appeared and spoke at several township meetings on this subject. The township ended up down zoning from 3 & 5 acres to, effectively, well over 7 acres, and in many cases well over 20 acres. Now with the Highlands Act, all but 7 acres of the township is in the preservation area with 25 or 88 acre zoning. What would First Pioneer's Mr. Grundbaum conclude about the impact of land equity as loan collateral now?

It is clear to me that if the Highlands Act was truly about maintaining water quality for the benefit of other parts of the state those who benefit from this should compensate those who have been forced to sacrifice to accomplish this end. This is why the N.J.W.S.A. must be a much bigger in this role of Highlands Land Acquisition.

I am also enclosing a copy of a research paper on inequity aversion; it is just one of many such studies that address the consequences of society's mistreatment of one of its constituent groups. I believe that many of the consequences noted involve the N.J.W.S.A. as an organ of the state; its involvement in the Highlands Act, and its subsequent policies and actions. These studies show that the negative impacts on the aggrieved groups are not just economic, but affect life expectancy and health as well.


David Shope



First Pioneer Farm Credit, ACA

Your First Choice For Financial Solutions

Mr. Robert A. Tucker, President
Stonegate Standardbred Farms, Inc.
500 West Hill Road
Glen Gardner, New Jersey
08826

Dear Mr. Tucker,

As per our discussion earlier in the week, I wanted to further discuss the impact down zoning would have on farm real estate owners in our area. First of all, First Pioneer Farm Credit specializing in lending to New Jersey agriculture has nearly \$130,000,000 in first mortgages on farm properties in the north central part of New Jersey. All of these loans are secured with a first mortgage on the farm property. Additionally, we have nearly \$50,000,000 in short term loans and almost all of them are secured with farm real estate. Down zoning would have a tremendous effect on almost all of our borrowers. First of all, interest rate to be paid by the customer is primarily determined by equity position. The loss of equity would most likely put First Pioneer in a position to increase the customer's interest rate.

Additionally, any new customers approaching First Pioneer would have additional costs involved in obtaining a loan commitment from our organization due to down zoning. The applicant would most likely be in a position to incur greater closing costs due to possibly having to pledge additional collateral in order to obtain the approval amount requested.

The additional costs coupled with a struggling agricultural economy could force a great many of our long time customers out of business.

We here at First Pioneer Farm Credit continue to work with the agricultural community and try to find ways to increase the viability of each and every operation with proper counseling and consulting. Down zoning would not contribute positively to our cause.

As always, if you have any questions or comments feel free in contacting us.

VERY TRULY YOURS,


HENRY GRINBAUM
VICE PRESIDENT

David Shope
383 Penwell Road
Port Murray, NJ 07865
March 9, 2012

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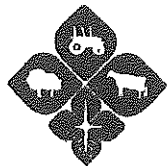
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As always, if you have any questions or comments feel free in contacting us.

VERY TRULY YOURS,


HENRY GOLDBAUM
VICE PRESIDENT

Warren County Strategic Growth Plan

Water Quality Analysis: Recharge-Based Nitrate Dilution Model

August 2003

Prepared by:

**Edwards
& Kelcey**

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Appendix B-1	2 mg/L Water Quality Standard, Minimum Lot Sizes
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Note – Appendices are available upon request from the Warren County Planning Department

WARREN COUNTY WATER QUALITY ANALYSIS

I. Introduction

The Warren County Strategic Plan is being developed to coordinate and guide land use planning by local municipalities. The Strategic Plan sets forth 11 goals for future development, one of which is the protection and enhancement of water quality and quantity. Thus, the New Jersey Geological Survey's "Recharge-Based Nitrate Dilution Model for New Jersey" was used to examine the potential impacts of minimum lot size on water quality for individual wastewater treatment systems.

The following report documents the methodology and assumptions used to apply this model to Warren County. The results of the analysis are then presented for each municipality. The potential application of alternative individual wastewater disposal systems is also reviewed.

By developing an understanding of environmental constraints, the County, Steering Committee members, municipalities and other interested parties can determine the feasibility of implementing the defined goals, refine goals that do not comply with established environmental initiatives, protect valuable environmental features, and plan upgrades or expansion to existing infrastructure.

II. Environmental Impacts of Onsite Waste Disposal Systems

The effluent from individual wastewater disposal systems has the potential to impair water quality if the systems. As noted by the NJGS "where these systems are too close together the cumulative impact may exceed the natural ability of the environment to clean and dilute the effluent..."¹

Nitrate is one pollutant discharged from individual on-site waste disposal systems. Nitrate production is a result of the anaerobic conversion of ammonia by bacteria in the unsaturated zone.² Concentrations of nitrate in drinking water greater than 10mg/l can cause methemoglobinemia in infants and are a health threat to the elderly.³ Nitrate contamination is also typically an indicator of other types of groundwater contamination.

Most developable properties within Warren County are located within the Northwest New Jersey Sole Source Aquifer. Sole source aquifers serve as primary drinking water sources and are irreplaceable should they become contaminated. Sole source aquifers typically provide more than 50% of the drinking water in a designated area.

III. Model Description

The Recharge-Based Nitrate-Dilution Model is a synthesis of two independent methods: the NJGS Groundwater Recharge Model and a modified version of the Trela-Douglas Nitrate Dilution Model. Each of the three models is explained below.

a. NJGS Groundwater Recharge Model

Onsite waste disposal systems allow development in rural areas not currently serviced by municipal sewer systems; however, they do discharge pollutants into the groundwater. In response to growth in rural areas of New Jersey, the New Jersey Geological Survey (NJGS) developed the Groundwater Recharge model (GSR-32) in 1993. The NJGS model calculates groundwater recharge per annum for a particular parcel as base on lot size, municipality, soil type and land use. As defined by the NJGS, groundwater recharge is the water that infiltrates through the soil, reaching the groundwater table. Therefore, lots located in undeveloped areas on very permeable soils will experience greater groundwater recharge than lots located in highly developed urban areas on clay, or other less permeable soils.

The NJGS model is represented by the following equation to calculate recharge:

$$R = s(1 - 0.179A^{-0.5708}) \quad \text{Equation 1}$$

where:

s = Maximum recharge for soil type (in/year)
 A = Area (acres)

b. Trela-Douglas Nitrate Dilution Model

The Trela-Douglas Nitrate Dilution Model was developed in 1978 to determine the lot size necessary to dilute the concentration of nitrate in groundwater. The Trela-Douglas Nitrate Dilution Model utilizes a user-defined nitrate concentration Standard to determine the area needed for each onsite waste disposal unit in order to reach this Standard. The following equation represents groundwater recharge in inches per year, using the Trela-Douglas model. Equation 2 represents the modified Trela-Douglas Nitrate Dilution Model, where recharge varies with respect to impervious surface on a subject property.

$$R = 0.0134HWF_u \frac{C_e - C_q}{(A(1 - 0.179A^{-0.5708})C_q)} \quad \text{Equation 2}$$

where:

H = Household size
 W_u = Water usage
 C_e = Concentration of Nitrate in Effluent (mg/L)
 C_q = Water Quality Standard (mg/L)
 A = Lot Size (acres)

As illustrated by the Equation 1 and Equation 2, the NJGS Model calculates groundwater recharge by evaluating lot size and maximum recharge for given soil types. Alternately, the Trela-Douglas Nitrate Dilution Model calculates groundwater recharge by evaluating household size, land use and cover conditions, water consumption, and nitrate concentration before and after treatment.

c. NJGS Residential Carrying Capacity Model

The NJGS Model and the Trela-Douglas Nitrate Dilution Model both express expected groundwater recharge rates for, however, the determined rates are based on two independent sets of variables.

If the Equation 1 and Equation 2 are set equal to one another, Equation 3 results. The unknown variable in Equation 3 is A, or lot size. When Equation 3 is represented graphically, the minimum lot size necessary to dilute nitrate from the effluent generated by onsite waste disposal systems is equal to the point that the two curves, or two models intersect. Equation 3 is also known as "A Model of Residential Carrying Capacity for New Jersey Based on Water Quality". This model was developed in May of 2000 by the New Jersey Geological Survey and published by the New Jersey Department of Environmental Protection, Division of Science, Research and Technology. Figure 1 graphically illustrates the Water Quality Model for Allamuchy Township, in Zoning District SFR-1. This Example utilizes a 2mg/L water quality standard and recharge data available for Edneyville soils.

$$0.0134HW_u \frac{C_v - C_q}{A(1 - 0.179A^{-0.5708})C_q} = s(1 - 0.179A^{-0.5708}) \quad \text{Equation 3}$$

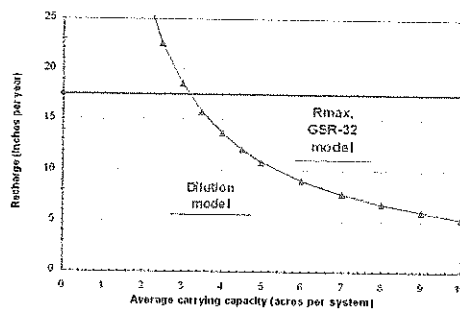


Figure 1 – Nitrate Dilution Model. Allamuchy Township, Zoning District SFR-1, 2 mg/L Water Quality Goal

IV. Water Quality Thresholds

The modeling described above was used to assess the ability of soils under existing zoning densities to adequately protect water quality. The modeling was performed at the two thresholds – 10 mg/l and 2 mg/l. The lot sizes recommended by the modeling are for overall density of a subdivision and do not necessarily apply to each lot within a subdivision.

The 10 mg/l threshold is based on several factors. The maximum contaminant level Standard (MCLG), a non-enforceable level, for nitrate in drinking water is 10 mg/L in accordance with the 1974 Safe Drinking Water Act. The Maximum Contaminant Level (MCL), which is the enforceable standard, has also been set at 10 mg/L. If water is

consumed with concentrations of nitrate greater than this primary drinking water standard, it can cause health problems for infants and the elderly.

The State of New Jersey uses a more stringent standard of 2 mg/l to protect water quality. This standard represents a desired nitrate concentration found in groundwater at the property boundary of a particular lot. This concentration is typical of nitrate levels found naturally in groundwater in developed areas without agricultural land uses. Thus, this standard is consistent with the State's policy of non-degradation of water quality.

The 10 mg/l standard is useful for determining the minimum lots sizes for clustering in each community. The State's Realty Improvement Act establishes 8 mg/l as the minimum threshold for minimum lot sizes in cluster subdivisions. In order to further protect water quality in cluster subdivisions, the New Jersey Geological Survey recommends that deeper well casings be used and lots be arranged so that septic systems are down gradient of wells and the permanently protected open space replenishes the wells.

V. Basic Assumptions and Methodology

The model for Warren County was developed by generating a list of soil types available within a given municipality. The soil types located in each municipality were determined by analyzing existing soils data obtained from the Warren County Planning Department. An analysis of each soil was performed on developable land in each municipality within Warren County to determine the estimated recharge rate. Soils with the highest estimated recharge rate as well as the lowest recharge rate were selected for each municipality for use within the NJGS model. Soils with higher recharge rates require smaller lot sizes than soils with lower recharge rates. By utilizing the highest and lowest recharge rate values, a range of suggested lot sizes can be developed.

Other assumptions used in this analysis include:

1. The model is only used to evaluate residential carrying capacity. Commercial development is not analyzed as part of this model.
2. It was assumed that zoning districts with lot sizes greater than 0.5 acre lots are not currently serviced with municipal sanitary sewer. It was then assumed that zoning districts less than 0.5 acres are serviced by municipal sanitary sewer.
3. All soils located within the municipality are also located within the identified developable areas.
4. This model did not account for potential impacts on individual wells. It was assumed that all on-site waste disposal systems will be installed with proper setbacks from all individual well systems.
5. Average household sizes for each municipality were obtained from the year 2000 United States Census.
7. Household size will remain consistent as growth occurs.

8. A nitrate-loading rate of 10 pounds per person per year was assumed for all municipalities.
9. Water usage occurs at a rate of 88 gallons per capita per date.
10. The nitrogen concentration of the effluent is 40 mg/L.

The Water Quality Model was utilized for each Township and Boro located in Warren County. Belvidere and Phillipsburg were removed from the model, since it can be assumed that all developable parcels are serviced by municipal sanitary sewer.

Each zoning district in each municipality was first analyzed to determine if it met basic criteria for onsite waste disposal. For example, there must be developable land within the zoning district and specified lot sizes within the district must be greater than 0.5 acres.

The model was then run using three separate nitrate dilution conditions. The first two conditions assumed traditional septic systems were used, namely, systems that utilize a concrete tank with an absorption field. One trial was run using the standard of 2 mg/L and the second was run using the 10 mg/L MCL for traditional individual wastewater disposal systems. The third nitrate dilution condition was analyzed for alternative wastewater disposal systems approved by the New Jersey Pinelands Commission.

The results of the Water Quality Model indicate the minimum lot size needed for each onsite waste disposal system given the variables described in preceding paragraphs. When compared with the minimum lot sizes assigned to zoning districts, the zoning regulations can be analyzed in terms of the impacts growth may have on the environment.

VI. Model Results

The model was performed for each municipality not entirely serviced by sanitary sewer within Warren County. Phillipsburg, Belvidere and Washington Boro are entirely serviced by sanitary sewer. It was not necessary to conduct the model on those municipalities. The results from this model can be used to identify possible zoning changes or deficiencies, identify areas where the extension of the municipal sewer system may be prudent or utilize alternative on site systems that have been proven to reduce the nitrogen in the effluent, thus allowing density to be increased.

For each water quality standard, the minimum and maximum lot sizes required to dilute nitrate from onsite waste disposal systems to the specified level for each zoning district was determined. A soil analysis was performed for each zoning district to determine which soils, located on developable land, provided the lowest and highest recharge rates. Those soils with the lowest recharge rates resulted in the largest area required to dilute nitrate to the specified level. Those soils with the highest recharge rates resulted in the smallest area required to dilute nitrate to the specified level.

Allamuchy

From the 2000 Census, a population density of 2.28 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 3.2 acres per system to 3.8 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.7 acres per system to 0.9 acres per system.

Allamuchy					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
SFR 1	1 Acre		3.8		0.9
RR	4 Acres	3.2	3.2	0.7	0.7
PPE	1 Acre		3.8		0.9
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
SFR 1		Edneyville		Bartley	
RR		Edneyville		Washington	
PPE		Edneyville		Bartley	

As illustrated in the table above, the minimum lot sizes required by the SFR 1 and PPE zoning districts are insufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The lot sizes, however, are sufficient to comply with the 10 mg/L Drinking Water MCL.

Alpha

From the 2000 Census, a population density of 2.5 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.1 acres per system to 4.8 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

Alpha					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-1	3 Acres		4.1		0.9
R-2	2 Acres	4.1	4.8	0.9	1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-1		Washington		Washington	
R-2		Washington		Bartley	

As illustrated in the table above, the minimum lot sizes required by the zoning districts analyzed are insufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The lot sizes, however, are sufficient to comply with the 10 mg/L Drinking Water MCL.

Blairstown

From the 2000 Census, a population density of 2.81 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.4 acres per system to 5.1 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.1 acres per system.

Blairstown					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-5	5 Acres	4.4	5.1	1.0	1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-5		Washington		Bartley	

As illustrated in the table above, the minimum lot sizes required by the zoning districts analyzed are sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary if the soils on the property have recharge rates better than Bartley soils. The lot sizes are sufficient to comply with the 10 mg/L Drinking Water MCL.

In addition, approximately 52 acres are zoned VN and VR that require only 10,000 sf minimum lot size. This area does not meet the minimum area required to meet the Drinking Water MCL.

Franklin

From the 2000 Census, a population density of 2.84 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.6 acres per system to 5.5 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.2 acres per system.

Franklin					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
RC	5 Acres	4.6	5.5	1.0	1.2
R-75	30,000 SF	4.7		1.1	
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
RC		Parker		Bartley	
R-75		Washington		Bartley	

As illustrated in the table above, the minimum lot size required by the RC zoning district is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality

Standard at the property boundary if the soils on the property have recharge rates better than Bartley soils. The lot size required by the R-75 zoning district is insufficient to dilute nitrate from onsite waste disposal system effluent for either the 2 mg/L Water Quality Standard or the 10 mg/L Drinking Water MCL.

Freilinghuysen

From the 2000 Census, a population density of 2.81 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.1 acres per system to 4.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

Freilinghuysen					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
AR-4	4 Acres	4.1	4.9	0.9	1.1
AR-3	3 Acres		4.9		1.1
VN-2	2 Acres		4.2		0.9
VN-1	1 Acres		4.2		0.9
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
AR-4		Washington		Bartley	
AR-3		Washington		Bartley	
VN-2		Washington		Hazen	
VN-1		Washington		Hazen	

As illustrated by the table above, the minimum lot size required in zoning district AR-4 is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary if the soils on the property have recharge rates better than Bartley soils. The minimum lot sizes required for zoning districts AR-3, VN-2, and VN-1 are insufficient to comply with the 2 mg/L Water Quality Standard. The lot sizes in these districts are large enough to dilute nitrate in onsite waste disposal system effluent to the 10 mg/L Drinking Water MCL.

Greenwich

From the 2000 Census, a population density of 3.07 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 5.0 acres per system to 5.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.1 acres per system to 1.3 acres per system.

As illustrated in the table on the following page, the minimum lot sizes required by the R-1 and R-2 zoning districts are insufficient to dilute nitrate from the 40 mg/L to the 2 mg/L

Water Quality Standard at the property boundary. The minimum lot sizes required in all three zoning districts are sufficient to comply with the 10 mg/L drinking water MCL.

Greenwich					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-7	10 Acres	5.0	5.2	1.1	1.2
R-2	2 Acres	5.0	5.9	1.1	1.3
R-1	1 Acre	4.9	5.9	1.1	1.3
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-75		Washington		Hazen	
R-2		Washington		Bartley	
R-1		Parker		Annandale	

Hackettstown

From the 2000 Census, a population density of 2.41 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 2.8 acres per system to 2.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.7 acres per system to 0.8 acres per system.

Hackettstown					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-30	30,000 SF	2.8	2.9	0.7	0.7
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-30		Hazen		Washington	

As illustrated in the table above, the minimum lot size required by the zoning districts R-30 is insufficient to dilute nitrate from the 40 mg/L to the 2 mg/L Water Quality Standard or the 10 mg/L MCL at the property boundary.

Hardwick

From the 2000 Census, a population density of 2.85 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.2 acres per system to 4.8 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

Hardwick					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
Low Density	5 Acres	4.2	4.8	0.9	1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
Low Density		Washington		Swartswood	

As illustrated by the table above, the minimum lot size required in the Low Density zoning district is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary .

Harmony

From the 2000 Census, a population density of 2.68 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.3 acres per system to 5.1 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.1 acres per system.

Harmony					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
AR-500	5 Acres	4.3	5.1	1.0	1.1
AR-300	3 Acres	4.4			1.0
AR-200	2.5 Acres	4.3			1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
AR-500		Parker		Califon	
AR-300		Edneyville		Califon	
AR-200		Parker		Califon	

As illustrated by the table above, the minimum lot size required in zoning district AR-500 is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot sizes required for zoning districts AR-300 and AR-200 are insufficient to comply with the 2 mg/L Water Quality Standard. The lot sizes in the three districts are large enough to dilute nitrate in onsite waste disposal system effluent to the 10 mg/L Drinking Water MCL.

Hope

From the 2000 Census, a population density of 2.71 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.5 acres per system to 5.2 acres per system. If the 10

mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.2 acres per system.

Hope					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
LDAR	5 acre	4.5			
LDAR-H	5 acre	4.6	5.2	1.0	1.2
HMHC	40,000	4.6			
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
LDAR		Edneyville		Bartley	
LDAR-H		Hazen		Bartley	
HMHC		Wassaic		Bartley	

As illustrated by the table above, the minimum lot size required in zoning district HM HC is insufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard and is slightly below the 10 mg/L Drinking Water MCL threshold.

Independence

From the 2000 Census, a population density of 2.61 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 3.2 acres per system to 3.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.7 acres per system to 0.9 acres per system.

Independence					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
AR	10 Acres				
R-30	3 Acres	3.2	3.9	0.7	0.9
R-2	2 Acres				
R-1	1 Acres				
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
AR		Palmyra		Annandale	
R-30		Edneyville		Annandale	
R-2		Edneyville		Annandale	
R-1		Palmyra		Bartley	

As illustrated by the table above, the minimum lot size required in zoning district AR is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot sizes required for zoning districts R-30, R-2 and R-1 are not large enough dilute nitrate in onsite waste disposal system

effluent to the 2 mg/L Water Quality Standard. All lot sizes are sufficient to dilute nitrate in onsite waste disposal system effluent to the 10 mg/L Drinking Water MCL.

Knowlton

From the 2000 Census, a population density of 2.87 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.7 acres per system to 5.5 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.1 acres per system to 1.2 acres per system.

Knowlton					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
FPD	5 Acres				
AR-1	1 Acre	4.7	5.5	1.1	1.2
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
FPD		Pope		Bartley	
AR-1		Pope		Bartley	

As illustrated by the table above, the minimum lot size required in zoning district FPD is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot size required for zoning district AR-1 is insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard or 10 mg/L Drinking Water MCL.

Liberty

From the 2000 Census, a population density of 2.79 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.7 acres per system to 5.4 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.1 acres per system to 1.2 acres per system.

As illustrated by the table below, the minimum lot size required in zoning district A-G is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot sizes required for the R2 and R3 are insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard, however, they satisfy the 10 mg/L Drinking Water MCL.

Liberty					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
A-G	6 Acres	4.8	5.4	1.1	1.2
R2	2 Acres	4.7	5.3	1.1	1.2
R3	3 Acres	4.7	5.3	1.1	1.2
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
A-G		Hazen		Bartley	
R2		Palmyra		Annandale	
R3		Palmyra		Annandale	

Lopatcong

From the 2000 Census, a population density of 2.55 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.1 acres per system to 4.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

Lopatcong					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-2	2 Acres	4.1		1.0	
R-3/2	3 Acres	4.1	4.9	0.9	1.1
R-5/2	5 Acres	4.1		0.9	
R-10/2	10 Acres	4.1		0.9	
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-2		Parker		Bartley	
R-3/2		Parker		Annandale	
R-5/2		Parker		Annandale	
R-10/2		Parker		Annandale	

As shown above, zoning district R-MF requires lot sizes sufficient in size to dilute nitrate in effluent from onsite waste disposal systems from 40 mg/L to the 2 mg/L Water Quality Standard. Districts R-2 and R-3/2 require lots insufficient in size to comply with the 2 mg/L Water Quality Standard, however, lots in each zoning district are in compliance with the 10 mg/L Drinking Water MCL.

Mansfield

From the 2000 Census, a population density of 2.76 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 3.5 acres per system to 4.2 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.8 acres per system to 0.9 acres per system.

Mansfield					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
A	6 Acres				
R-1	3 Acres	3.5	4.2	0.8	0.9
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
A		Edneyville		Annandale	
R-1		Washington		Annandale	

As illustrated by the table above, the minimum lot size required in zoning district A is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot size required for zoning district R-1 is insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard, however, it does satisfy the 10 mg/L Drinking Water MCL.

Oxford

From the 2000 Census, a population density of 2.6 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.2 acres per system to 5.0 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.1 acres per system.

Oxford					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
AR-200	200,000 SF	-	-	-	-
R-120	120,000 SF	4.2	5.0	1.0	1.1
R-80	80,000 SF	4.3	5.0	1.0	1.1
R-40	40,000 SF	4.3	5.0	1.0	1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
AR-200	-	-		-	
R-120	-	Parker		Bartley	
R-80	-	Edneyville		Bartley	
R-40	-	Parker		Annandale	

As illustrated by the table above, the minimum lot size required in zoning district AR-200 is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot size required for zoning districts R-120 and R-80 is insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard, however, it does satisfy the 10 mg/L Drinking Water MCL. The minimum lot size required in zoning district R-40 is insufficient in size to satisfy the requirements of the 2 mg/L Water Quality Standard as well as the 10 mg/L Drinking Water MCL.

Pohatcong

From the 2000 Census, a population density of 2.54 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.1 acres per system to 4.9 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

Pohatcong					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-1	5 Acres	4.1	4.9	0.9	1.1
R-2	2.5 Acres	4.2	4.9	0.9	1.1
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-1	-	Parker		Annandale	
R-2	-	Pope		Bartley	

As illustrated by the table above, the minimum lot size required in zoning district R-1 is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary. The minimum lot size required for zoning districts R-2 is insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard, however, it does satisfy the 10 mg/L Drinking Water MCL.

Washington Township

From the 2000 Census, a population density of 2.95 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.7 acres per system to 5.6 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 1.0 acres per system to 1.2 acres per system.

As illustrated by the table below, the minimum lot size required in zoning district MR is sufficient to dilute the nitrate from effluent from 40 mg/L to the 2 mg/L Water Quality Standard at the property boundary if the soils on a subject property exhibit recharge rates greater than Annandale Soils. The minimum lot size required for zoning districts R40 and VR is insufficient to dilute nitrate in onsite waste disposal system effluent to the 2 mg/L Water Quality Standard, however, it does satisfy the 10 mg/L Drinking Water MCL.

Washington Township					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R40	1 Acre	4.7			
VR	4 Acres	4.6	5.5	1.0	1.2
MR	5 Acres	4.7			
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R40		Washington		Annandale	
VR		Parker		Annandale	
MR		Washington		Annandale	

White

From the 2000 Census, a population density of 2.47 people per home was utilized. Using a 2 mg/l NO₃ Water Quality Standard, the minimum recharge areas needed to dilute the nitrate ranges from 4.0 acres per system to 4.2 acres per system. If the 10 mg/l NO₃ MCL is used, the minimum recharge area ranges from 0.9 acres per system to 1.1 acres per system.

White					
Zoning		Water Quality Model			
		2mg/L Water Quality Goal		10 mg/L Drinking Water MCL	
District	Min Lot Size	Min Lot Size	Max Lot Size	Min Lot Size	Max Lot Size
R-1	3 Acres	4.0	4.7	0.9	1.1
R-1C	65,000 SF	4.1	4.2	0.9	1.0
Soil Analysis					
Zoning		Soil Type			
		Highest Recharge Rate		Lowest Recharge Rate	
R-1		Parker		Hazen	
R-1C		Pope		Venango	

The table above illustrates that the lot size required by zoning districts R-1 and R-1C is insufficient to dilute nitrate from onsite waste disposal systems from 40 mg/L to the 2 mg/L Water Quality Standard. The lot size, however, is sufficient to comply with the 10 mg/L Drinking Water MCL.

VII. Model Summary – Traditional Systems

As illustrated in the Water Quality, the density of most zoning districts is greater than the minimum lot size needed to dilute the nitrate in the effluent to the 2 mg/l water quality Standard. If the nitrate dilution standard is increased to 10 mg/l or the water quality standard, a greater number of zoning districts are of an adequate density to sustain drinking water quality. The 2 mg/l water quality Standard provides an adequate factor of safety to ensure that MCL is obtained.

One of the Standards of the Sustainable Development Study is to increase density and establish identified Town Centers. As a result of this NJGS model analysis, it is recommended that the establishment of Town Centers should be coupled with upgrades to municipal infrastructure, or alternative waste disposal methods should be researched.

Figure 2 summarizes compliance with the 2 mg/L Water Quality Standard as well as the 10 mg/L MCL for each zoning district.

Figure 2

Municipality	District	Satisfies 2 mg/L Water Quality Standard	Satisfies 10 mg/L Drinking Water MCL
Allamuchy	SFR1	X	X
	RR		X
	PPE		X
Alpha	R-1		X
	R-2		X
Municipality	District	Satisfies 2 mg/L Water Quality Standard	Satisfies 10 mg/L Drinking Water MCL
Blairstown	R-5	*	X
Franklin	RC	*	X
	R-75		X
Frellinghuysen	AR-4		X
	AR-3		X
	VN-2		X
	VN-1		X
Greenwich	R-7	X	X
	R-2		X
	R-1		
Hackettstown	R-30		
Hardwick	LD	X	X
Harmony	AR-500	*	X
	AR-300		X
	AR-200		X
Hope	LDAR	*	X
	LDAR-H		X
	HMHC		X

Independence	AR R-30 R-2 R-1	X	X X X X
Knowlton	FPD AR-1	*	X
Liberty	L-G R2	X	X X
Lopatcong	R-2 R-3/2 R-5/2 R-10/2 R-MF	X X	X X X X X
Mansfield	A R-1	X	X X
Oxford	AR-200 R-120 R-80 R-40	X	X X X X
Pohatcong	R-1 R-2	X	X X
Washington Twp.	R40 VR MR	*	X X X
White	R-1 R-1C		X X

* Satisfies criteria on some lots, based on soil type

VIII. Alternative Systems

Alternative waste disposal systems have been approved by the New Jersey Pinelands Commission that reduce the nitrate levels in effluent from onsite wastewater disposal systems. The 2001 Final Report from the New Jersey Pinelands Ad Hoc Committee on Alternative Septic Systems researched several systems that can reduce the nitrate concentrations in effluent from onsite waste disposal systems. Examples of systems are listed below.

Technology	Expected Effluent Concentration
FAST	14 mg/L
Cromaglass	14 mg/L
Bioclere	14 mg/L
Amphidrome	14 mg/L
Ashco AFSIII	20 mg/L

The systems were analyzed to assess their ability to achieve a Standard of 2mg/l.

FAST – Fixed Activated Sludge Treatment

FAST wastewater treatment systems can be used for individual residences or for clustered subdivisions. FAST wastewater treatment systems can effectively reduce nitrate in effluent by fostering the growth of microorganisms that process wastewater.

Cromaglass

Wastewater enters the system and flows through a screen - liquid waste flows through the screen while solids remain behind the screen. Mixed liquor is pumped through the screen to degrade solids by turbulence. Wastes are aerated and mixed by submersible pumps and aspirators. Denitrification occurs by cutting off the air supply while mixing continues. Liquids are then transferred into a clarifier where settlement occurs. After settlement is complete, effluent is discharged from the clarifier. Sludge is transferred from the Clarifier into the main Aeration sections.

Bioclere

The Bioclere system is a modified trickling filter over a clarifier. They are appropriate for both smaller flows and large flows from clustered subdivisions. An anoxic tertiary upflow filter may be installed to reduce the nitrogen in the effluent.

Amphidrome

The Amphidrome system is a sequencing batch aerated/anoxic biofilter. The Amphidrome system consists of two tanks and a bioreactor. Wastewater enters the system through the first tank. This tank provides equalization, settling and sludge storage. The biochemical reactions that process wastewater occur within the Amphidrome reactor.

The Pinelands Commission examined the cost implications of alternative systems compared to conventional systems.(Final Report – Adhoc Committee on Alternative Septic Systems (2001)). The installation costs vary by alternative system (excepting the Ashco RFS system) but range from \$13,000 to \$21,000. The ASCHO system ranges from \$15,000 to \$25,000. A similar sized conventional system would cost \$15,000. Maintenance costs for alternative systems range from \$150 to \$400 per year.

Should communities wish to maintain existing zoning to preserve water quality, alternative septic systems could be required as a provision to new construction. Assuming the alternative systems can reduce nitrate in the effluent from 40 mg/L to 15 mg/L, minimum lot sizes for each zoning district within each municipality in Warren County will be reduced as follows in order to achieve the 2 mg/L standard.

Figure 3

Municipality	Zoning		Alternative Septic Systems	
			2 mg/L Water Quality Standard	
	Designation	Min. Lot Size	Minimum Lot Size	Maximum Lot Size
Allamuchy	SFR1	1 Acre	1.49	1.73
	RR	4 Acres	1.49	1.49
	PPE	1 Acre	1.49	1.73
Alpha	R-1	3 Acres	1.89	1.89
	R-2	2 Acres	1.89	2.15
Belvidere	-	-	-	-
Blairstown	R-5	5 Acre	1.97	2.25

Municipality	Zoning		Alternative Septic Systems	
			2 mg/L Water Quality Standard	
	Designation	Min. Lot Size	Minimum Lot Size	Maximum Lot Size
Franklin	RC	5 Acre	2.05	2.4
	R-75	30,000 SF	2.09	2.4
Freelinghuysen	AR-4	4 Acres	1.86	2.15
	AR-3	3 Acres	1.86	2.15
	VN-2	2 Acres	1.86	1.90
	VN-1	1 Acre	1.86	1.90
Greenwich	R-7	10 Acres	2.23	2.29
	R-2	2 Acres	2.23	2.55
	R-1	1 Acre	2.19	2.53
Hackettstown	R-30	30,000 SF	1.36	1.57
Hardwick	Low Density	5 Acres	1.89	2.12
Harmony	AR-500	5 Acres	1.96	2.25
	AR-300	3 Acres	1.96	2.25
	AR-200	2.5 Acres	1.98	2.25
Hope	LDAR	5 Acres	2.00	2.29
	LDAR-H	5 Acres	2.07	2.29
	HMHC	40,000 SF	2.07	2.29
Independence	AR	10 Acres	1.52	1.77
	R-30	3 Acres	1.52	1.77
	R-2	2 Acres	1.52	1.77
	R-1	1 Acre	1.52	1.77
Knowlton	FPD	5 Acres	2.11	2.41
	AR-1	1 Acre	2.11	2.41
Liberty	A-G	6 Acre	2.11	2.35
	R2	2 Acres	2.10	2.35
	R-3	3 Acres	2.10	2.35
Lopatcong	R-2	2 Acres	1.95	2.19
	R-3/2	2 Acres	1.88	2.17
	R-5/2	2 Acres	1.88	2.17
	R-10/2	2 Acres	1.88	2.17
	R-MF	5 Acres	1.91	2.19
Mansfield	A	5 Acre	1.63	1.90
	R-1	3 Acres	1.64	1.90
Oxford	AR-200	200,000 SF	-	-
	R-120	120,000 SF	1.91	2.21
	R-80	80,000 SF	1.93	2.21
	R-40	40,000 SF	1.93	2.21
Phillipsburg	-	-	-	-
Pohatcong	R-1	5 Acre	1.87	2.16
	R-2	2.5 Acres	1.89	2.18
Washington Boro	N/A	-	-	-
Washington Twp.	R40	1 Acre	2.09	2.45
	VR	4 Acres	2.05	2.45
	MR	5 Acres	2.09	2.45
White	R-1	3 Acres	1.83	2.11

Municipality	Zoning		Alternative Septic Systems	
			2 mg/L Water Quality Standard	
	Designation	Min. Lot Size	Minimum Lot Size	Maximum Lot Size
	R-1C	65,000 SF	1.86	1.91

IX. Conclusions

Individual subsurface waste disposal systems are a viable means of managing residential sanitary sewage in rural areas not serviced by municipal systems. For drinking water quality to be maintained, it is necessary to analyze the existing zoning regulations to ensure lot sizes are adequate to dilute nitrate from sewage to an assigned post-treatment level. If zoning regulations permit densities greater than those indicated by the nitrate dilution model, municipalities should reassess the validity of their existing regulations and take immediate action to ensure development does not occur that will sacrifice overall groundwater quality.

Groundwater is an important natural resource that is integral to the sustainability of development in most rural communities. Groundwater within Warren County is particularly important since most of Warren County is located within the Northwest New Jersey Sole Source Aquifer. Because of its geographical location, it is even more important to implement development practices that sustain this natural resource.

By assessing the density of development in the rural areas of the county, and the ability of the groundwater system to dilute pollutants that are associated with development, County officials can focus key growth areas where capital improvements to the municipal sanitary sewer systems are feasible. In addition, County Officials can better understand the environmental constraints associated with development.

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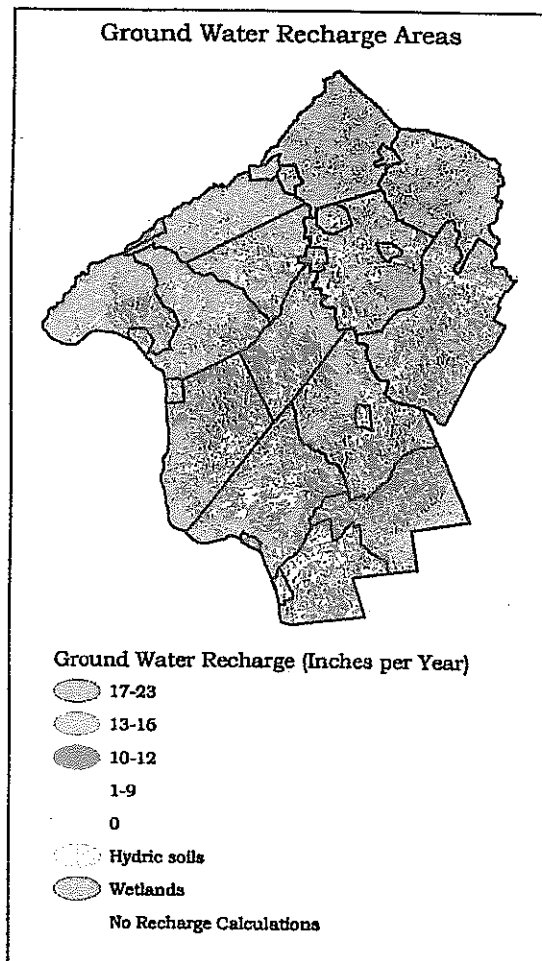
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County Profile - Natural Resources

New Jersey Geological Survey has ranked aquifers throughout the state according to their relative water bearing capabilities. High ranking aquifers are not necessarily aquifer recharge areas. To be a good aquifer recharge area, rain-water must be able to percolate into the ground (i.e. areas of good ground water recharge) and eventually reach an aquifer with good bearing capacity. This is a function of soils, fractures in the rock, and type of land cover, among other factors. The best aquifer recharge areas occur where areas of good ground water recharge overlap higher ranking aquifers (Maps 16, 17 and 20). None of Hunterdon County's are very high ranking aquifers from a statewide perspective. The better aquifer recharge areas within the County are located principally in areas of carbonate rock along the Musconetcong River, near Round Valley Reservoir in Clinton Township, and in Union Township. Other notable aquifer recharge areas include Brunswick shale in portions of Union and Tewksbury Townships. Most of the County's prime ground water and the best of the aquifer recharge areas are located in the Highlands.

Hunterdon County also exhibits areas of good ground water recharge but poor aquifer recharge. In these instances, there may be impermeable clay layers, glacial deposits, lack of fractures or other factors that prevent ground water from percolating all the way down to the underlying aquifer. Examples include the Sourland Mountain and many places in the Highlands region. This water enters the soils, but unable to migrate below that, ends up flowing underground, parallel to the ground surface, eventually intersecting with wetlands, streams or other surface waters. This is called "interflow."



Map 16. Ground Water Recharge Areas in Inches per Year.

Primary data source: NJ Geological Survey (NJGS).

It is important to note that the state-generated map of aquifer yields was based on statewide data from select high capacity, non-domestic wells. Municipal studies may generate differing results. For example, state mapping of aquifers in the non-carbonate rock areas of Lebanon Township indicates an average yield of 26 to 100 gallons per minute. However, recent hydrogeological studies of Lebanon Township revealed an average of 14 gallons per minute. The average is slightly less in Union and Bethlehem Townships and probably a little higher in Tewksbury Township.

Changes in Ground Water Recharge Patterns

The NJ Water Supply Authority analyzed changes in ground water recharge within the Raritan Basin between 1986 and 1995. Of the communities in Hunterdon County falling within the Raritan Basin, all experienced a loss in recharge quantities. The greatest losses in recharge (5-10%) occurred in portions of the South Branch watershed, from Three Bridges to Spruce Run, especially in Union and Clinton Townships as well as the Lamington River watershed in Clinton and Readington Townships and Lebanon Borough. The NJWSA attributes recharge reductions to the heavy conversion of farmland and forestlands to residential and commercial uses.

Ground Water Quality

Ground water quality can be affected by a variety of nonpoint source pollutants. According to the Hunterdon County Health Department, contamination usually results from volatile organic compounds released from industrial uses, from underground storage tanks and from areas used as automotive repair sites over the course of many years. Septic systems can also present problems if they are improperly sited or maintained, if homeowners dispose of hazardous materials that cannot be treated by a septic system, or if densities are too high.

Ground water contamination can occur anywhere and at any depth.

County Profile--Natural Resources

However, well water contamination is more likely to occur where wells tap large open fractures. These fractures are open conduits with little filtration capacity. Ground water travels long distances through fractures before contaminants are either degraded, diluted or removed by natural processes. This situation is typical in wells tapping carbonate rocks, among other bedrock formations.

Much like its surface water quality permitting program, NJDEP regulates discharges to ground water in order to protect ground water quality. It does so by establishing constituent standards for various groundwater pollutants. Not only must discharges meet ground water quality standards, but they also must achieve compliance with surface water quality standards if they subsequently empty into surface waters.

NJDEP regulations classify ground water according to physical characteristics and designated use(s) that must be protected. The regulations establish three major classes of ground water, two of which apply to Hunterdon County. Class I-A resources are Exceptional Ecological Areas. In Hunterdon County, examples of Class I-A ground water resources includes the Ken Lockwood Gorge, a state Natural Area in Lebanon Township. NJDEP does not approve any discharge which causes degradation to the natural water quality. Degradation limits are imposed for Class II waters, though they are not as stringent as Class I-A waters.

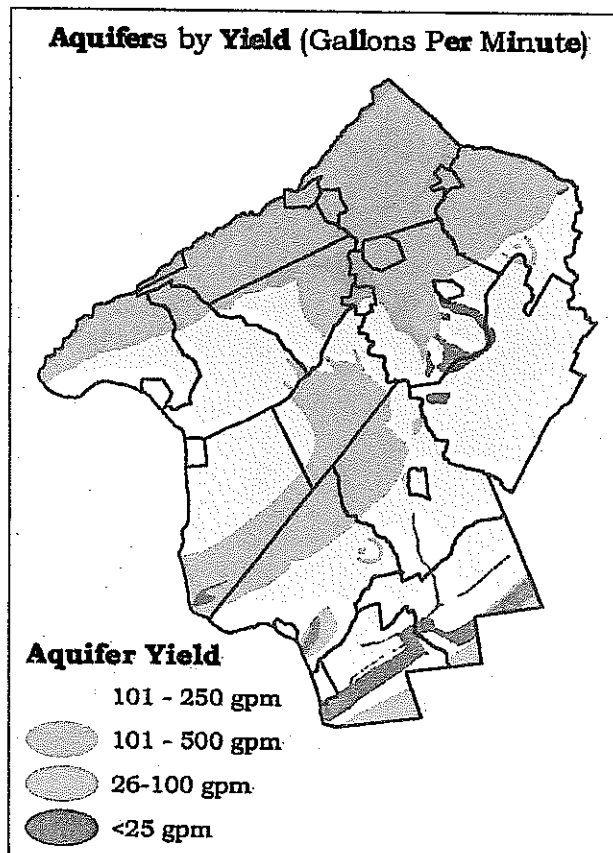
At the local level, municipal health boards contract the County Health Department to enforce municipal regulations by issuing permits for new private wells. Once wells are approved, boards of health generally do not deal with wells unless a problem arises. Standard well tests address no more than five parameters, none of which include volatile organic compounds. Only one municipality requires a VOC test for new wells. However, new state regulations, which recently went into effect, require testing for VOCs, heavy metals and pesticides. These tests will be mandatory for all real estate transactions, including existing and new wells.

The County Health Department, under contract with NJDEP, also conducts periodic compliance inspections of public non-community wells. These are wells serving more than 25 individuals or 15 connections more than 60 days a year other than residential supplies. They include schools, businesses, restaurants, municipal buildings and other institutions. Monitoring helps to identify contamination problems that arise, but is not necessarily a preventive planning tool to protect aquifers from contamination.

Ground Water Limitations Based on Nitrate Concentrations

Nitrate concentration levels in ground water are one indicator of ground water quality. Nitrates originate from a variety of sources, including septic systems. When they occur in sufficiently high concentrations, they can pose public health threats when consumed. They also can cause the build up of algae in surface water, depleting oxygen levels in the water and killing fish.

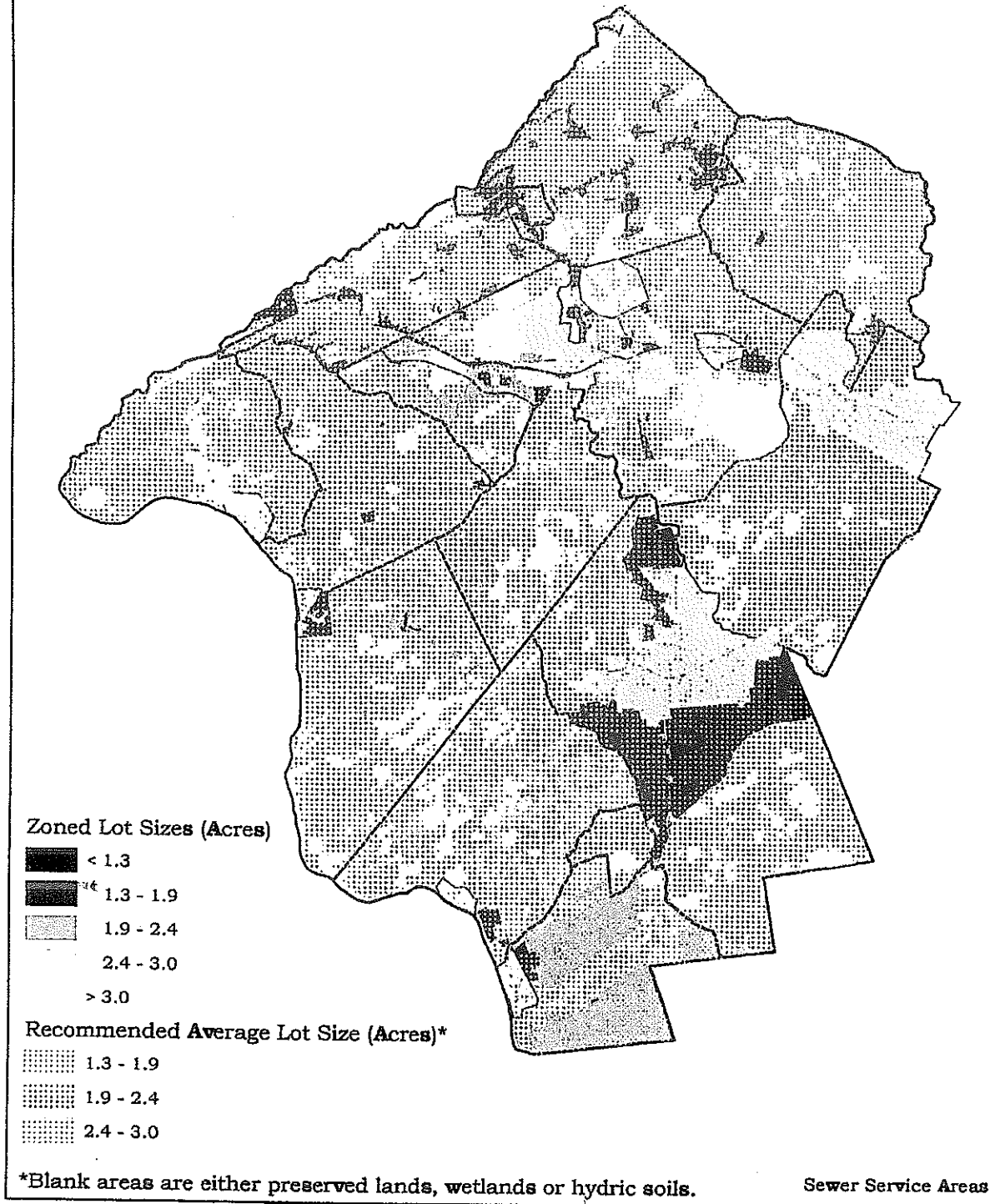
One tool that municipalities can use to plan for ground water resource protection is something called nitrate dilution modeling. Nitrate dilution modeling provides an indication of average lot sizes necessary for residential developments served by on-site wastewater disposal systems to make sure that nitrate concentrations



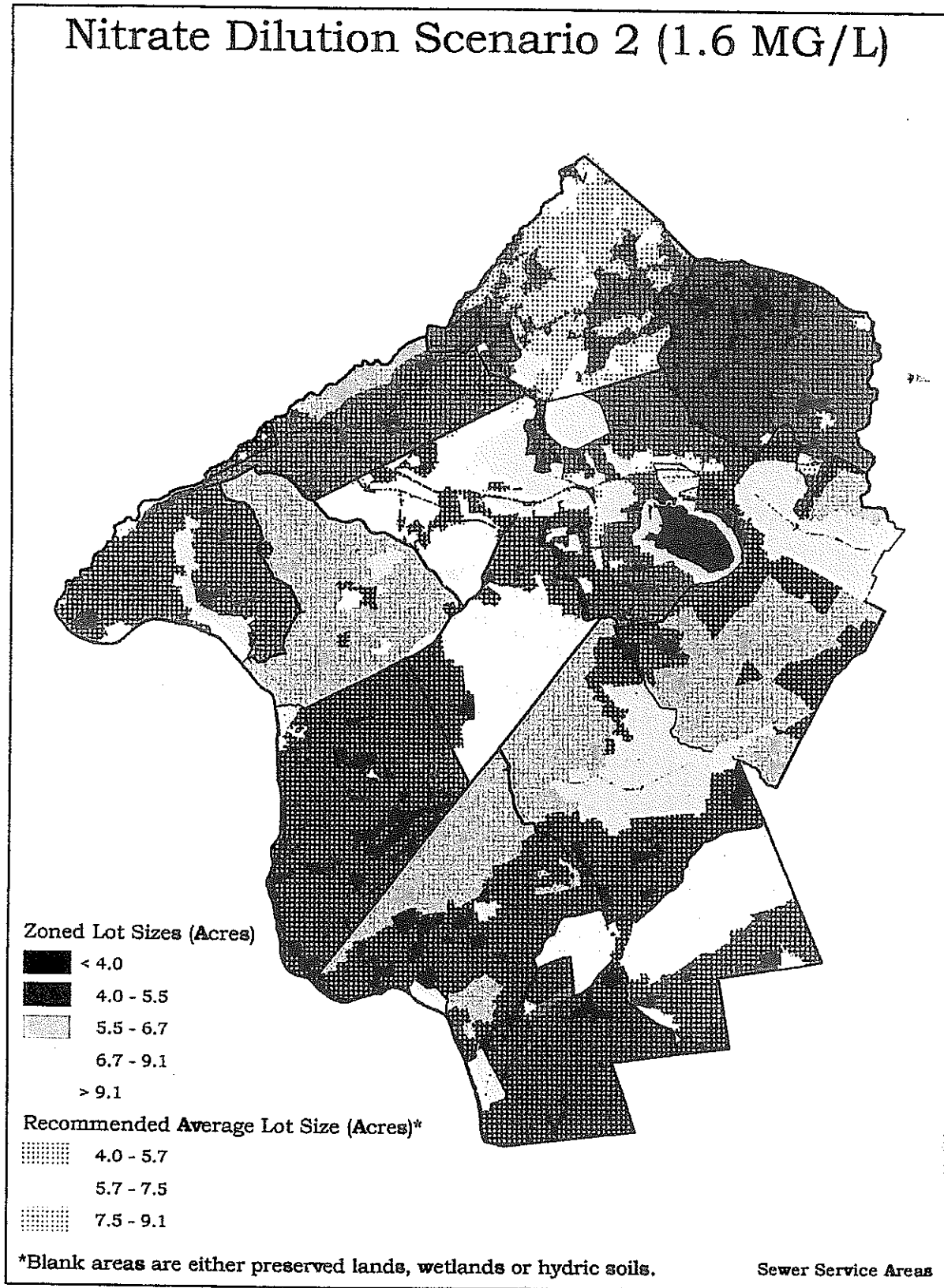
Map 17. Aquifers by Average Yield.

Derived by NJDEP using statewide data from 8,000 non-domestic wells. Primary data source: NJGS

Nitrate Dilution Scenario 1 (5.2 MG/L)



Map 18. Average Lot Sizes to Dilute Nitrate Levels to 5.2 Milligrams per Liter.
Primary data source: New Jersey Geological Survey.



Map 19. Composite Zoning Map for Hunterdon County.

Primary data source: Hunterdon County Planning Board. Map prepared by Banisch & Associates, Inc.

A8 - Lancaster Farming, Saturday, January 16, 2010

Editorial

Mamas, Don't Let Your Babies Grow Up to Be Farmers?!

TRACY SUTTON

Regional Editor

As if it isn't hard enough these days to be a farmer, the Wall Street Journal turned the screw a little more this week when it came out with its 2010 list of the 200 Best and Worst jobs in the U.S. Farmers didn't rank too well. The list bases its ranking on five criteria — environment, income, employment outlook, physical demands and stress — and farming scored as one of the more thankless professions, ranking at 161 out of 200. I don't think it will make you feel any better if I tell you that piano tuners (109), undertakers (134), and sewage plant operators (117) scored better.

But it gets worse.

They actually distinguished between different sorts of farming just so they could sift out dairy farmers and place them at the bottom (198). Taking the ignominious win of Worst Job was lumberjack (199) and roustabout (200, one who cleans pipes).

So dairy farmers, I'm sorry to report, you've got the third worst job in America, at least according to the country's most well-known business rag.

Oh sure, parole officers (29), philosophers (11) and dental hygienists (10) can be smug. But do we really need them? Is the world any better for having another expert on Heidegger or a young person to harangue us on proper flossing technique? I suppose we could make an argument for parole officers, but doesn't it bust your chops that people who counsel hardened criminals *report more job satisfaction* than farmers?

Just how bad is farming that it ranks more than 100 points below parole officer? Everybody has to eat. We *need* farmers. Not everyone is on parole.

But I guess necessity to the social order wasn't a deciding factor for the Best and Worst list, because actuaries made number one. Yes. *Actuaries*. According to Websters that is: "Someone versed in the collection and interpretation of numerical data." The sorts of some-ones, in fact, who would compile a Best and Worst Jobs list. Hmmm. Coincidence?

They were followed by software engineer (2) and computer systems analyst (3). Professionals whom you can pretty much guarantee have never milked a cow. But when their starting salary is \$54,000, I don't think they're that much bothered about it.

I don't know how to interpret this data (I guess I'm not an actuary). But I do know that we need farmers. I'm sorry it's not glamorous. I know your profit margins are just about as predictable as the chance of hail storms obliterating your crops this summer. And while the Wall St. Journal might not appreciate your efforts or award you the professional respect due to your life's calling — all thinking people who eat should. You may not rank, but you matter. A lot.

Farming has its own rewards, which are not recognized by the likes of the Wall St. Journal. Independence, the connection to the land and the generations who farmed before you, a sense that you do something — grow food — for which every person in the country relies upon for their survival. These are passions that systems analysts can't understand or measure.

So, farmers, please do not be dismayed by the Wall St. Journal. Pay no attention. I just hope no young FFA kids are scared off by this report and become actuaries as a consequence.

Michael E. Webber is associate director of the Center for International Energy and Environmental Policy and assistant professor of mechanical engineering at the University of Texas at Austin.



FOR MORE THAN 50 YEARS FOSSIL FUELS AND FERTILIZERS have been the key ingredients in much greater global food production and distribution. The food-energy relationship has been a good one, but it is now entering a new era. Food production is rising sharply, requiring more carbon-based fuels and nitrogen-based fertilizers, both of which exacerbate global warming, river and ocean pollution, and a host of other ills. At the same time, many nations are grappling with how to reduce energy demand, especially demand for fossil fuels.

its on land, freshwater, fertilizer runoff, and fossil-fuel affordability and emissions, the inefficiencies can be daunting. The energy used to make food is vastly greater than the amount of energy we get out of it. The U.S. expends roughly 10 units of fossil energy to produce one unit of food energy.

Although transportation, power plants and buildings receive a lot of policy attention as targets for reducing energy consumption, our food supply is often overlooked. In the U.S., about 10 percent of the energy budget goes to producing, distributing, processing, preparing and preserving the plant and animal matter we consume. That is a considerable wedge of the energy pie.

Examining our food supply through the lens of energy use reveals opportunities for smart policies, innovative technologies and new dietary choices that can potentially solve food and energy problems together. The same steps would also make our bodies, and our ecosystems, healthier.

FARM TO FORK IS HIGHLY INEFFICIENT

SIMPLE MATH shows that food production is an inefficient process. Plant growth is not energy-efficient: photosynthesis typically converts less than 2 percent of incoming solar energy into stored energy. That low rate is worsened when animals convert plant matter into beef (5 to 10 percent efficiency) or chicken (10 to 15 percent). We then ingest that food and convert it into human energy stored as glycogen in muscles and as fats—notably around our midsection.

Given the abundance of photons striking the earth every day, low efficiencies hardly seem to matter. But when faced with lim-

The magnitude of consumption is remarkable when one considers the entire population. A healthy, active adult male's nominal instantaneous power consumption is approximately 125 watts. That equates to roughly 2,500 nutritional calories per day, or about 10,000 British thermal units (Btu). Thus, the 312 million people in the U.S. need about one quadrillion Btu (one quad) of food energy every year. Because we use 10 units of fossil energy to produce one unit of food energy, feeding the population requires 10 quads—which is 10 percent of the total annual U.S. energy consumption of 100 quads. If we as a society wish to reduce our food-energy consumption, we need to find ways to reduce the 10:1 ratio of energy input to food output.

The food energy needed to feed the world's seven billion people is about 25 quads a year, which is only about 5 percent of the world's 500 quads of annual consumption. It is not that the rest of the world is more efficient than the U.S. Rather one billion people are hungry, another billion are at risk of hunger and many more simply do not consume much.

Extensive energy use has dramatically increased food production through innovations such as diesel-powered tractors, electric irrigation pumps, and fertilizers and pesticides made from natural gas and petroleum. Since the mid-20th century crop yields from this green revolution have gone through the

IN BRIEF

About 10 percent of U.S. energy consumption is for raising, distributing, processing, preparing and preserving the plant and animal matter Americans eat. Energy use can be cut by converting agricultural waste

such as manure into power; implementing new, pilot-level farming techniques such as drip irrigation, no-till planting, laser-leveling of fields and GPS-driven machinery; reducing spoiled and wasted food, which

amounts to 25 to 30 percent of all food produced; and eating less meat, which is energy-intensive to create. The same steps would make our bodies, and our ecosystems, healthier.

roof, and we have transformed deserts such as the Central Valley of California into the world's fruit baskets. At the same time, the percentage of workers needed for agriculture has plummeted.

Cheap energy, primarily petroleum, has also created transportation networks that have improved food distribution significantly, bringing us unexpected fare such as salads and fresh oranges in the middle of winter from far-flung corners of the globe. We expend more energy still to preserve and prepare our food.

When fossil-fuel prices were low and we did not care much about pollution or emissions, we did not worry about the energy waste. Now that prices are higher and we care more about environmental impacts, we have to improve that 10:1 ratio. The inefficiency could get even worse in the U.S. as more people, powered by cheap air conditioning, move into areas where local food production can support a mere fraction of the growing population (think Phoenix). In these cases, even more energy is used either to bring inferior lands into production through energy-intensive fertilizers and irrigation or to move food from remote markets.

Global trends will aggravate the challenge. World population is projected to grow to more than nine billion by 2050. Per capita energy and food consumption will rise, too: notably, as people get richer, they consume more meat, which is much more energy-intensive than other foods. And climate change implies that food production will be hurt by crop losses from droughts and floods, saltwater intrusion into aquifers, higher temperatures (which will decrease the effectiveness of photosynthesis in many places) and competition from biofuels for farmland. As a consequence, experts predict that food production will have to double by 2050.

LOCAL FARMING MIGHT NOT HELP

UNFORTUNATELY, thinking about some popular food production "solutions" through the lens of energy shows that they do not always help. For example, many people have latched onto the local-food movement, billing themselves "locavores," as an antidote to the energy used to transport food long distances and the energy intensity of large-scale industrialized agriculture. "Eat local" campaigns encourage residents to shop for local food from farmer's markets or nearby community-supported farms.

Spending our money in the local community rather than sending it far away can be economically valuable, and having a vibrant local-food system creates resiliency in the event of unexpected occurrences such as war or drought. Local farms, however, sometimes use marginal lands to produce nonnative crops that require more chemicals and more energy for irrigation, and they still get low yields. Strangely enough, shipping food thousands of miles can sometimes require less energy, emit less carbon dioxide and do less environmental damage.

For example, it is typically less energy-intensive to grow lamb in New Zealand, where the animals graze on rain-fed grass that grows mostly without fertilizer or irrigation, and ship it to the U.K. than it is to grow lamb in the U.K. using energy-intensive inputs. Further, large

industrialized farms, outfitted with laser-leveled fields (to minimize water losses and fertilizer runoff) and GPS-equipped tractors (to optimize fuel use and crop density) and planted with genetically modified crops designed to use minimal water can be surprisingly resource-efficient when compared with a bunch of distributed farms that inefficiently use energy and water but are closer to home. A Stanford University study concluded that Big Agriculture has spared a lot of carbon emissions because of its yield improvements and economies of scale.

Vertical, urban farms or algae production for feed, now in prototype stages, also has the potential for even greater biomass production per square foot of land than local farms.

Some popular solutions for renewable energy actually complicate the food-energy system. Food-based feedstocks—corn, soy, sugar and palm—dominate the world markets for biofuels and create unhealthy competition for farmland and freshwater. In 2010 in the U.S., about 30 million acres—more than one fourth of overall corn production—were used to produce 12.7 billion gallons of ethanol. That share will rise significantly as the U.S. tries to meet the federal mandate that 20 percent of all liquid transportation fuel come from biofuels by 2022.

EXPLOIT THE WASTE

DESPITE ALL THE CONCERNS of the food-energy nexus, there is some cause for optimism. With different innovations, policies, markets and cultural choices that focus on reducing waste and inefficiencies, we can reduce the 10:1 ratio of energy used to energy eaten, as well as mitigate environmental damage.

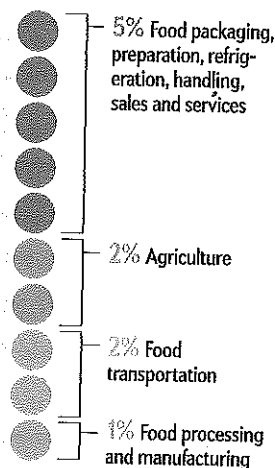
A first step is to stop using corn kernels for starch-based ethanol, which is the current U.S. practice. Let us use the kernels to feed people and livestock and use only the cellulosic stover (the

WEIGHTY CHALLENGE

A Big Bite of the Energy Pie

A surprising 10 percent of the U.S. energy budget is used to produce food for 312 million Americans. Greater efficiency in farming, transport, processing and storage could reduce the demand, especially for fossil fuels.

U.S. Energy Budget Spent on Food



stalk and leaves of the plant) to make ethanol or synthetic fuels. U.S. energy policy already includes a push for this solution. The Energy Independence and Security Act of 2007 has a renewable fuels standard that mandates that we consume 36 billion gallons of biofuels per year by 2022 and that 16 billion of those gallons come from cellulosic sources. The latter requirement is a rare acknowledgment by politicians in Washington, D.C., that corn might not solve all our energy problems; experts predict we can produce only up to 15 billion gallons a year from corn-based feedstocks grown on available farmland without undercutting our ability to feed ourselves.

The aggressive biofuels rollout, however, pushes the food-based forms online the quickest, with cellulosic forms many years behind because they are more difficult to produce. Nature has designed cellulosic materials over many millennia to *not* break down. Breaking them down for ethanol means we have to reverse nature, which requires enzymes—code for money; producing enzymes at industrial scales is expensive. Nevertheless, we can overcome the technical hurdles and move more strongly in that direction. Using cellulosic sources instead of food-based sources can help the U.S. energy supply and also free up tens of millions of acres for other food production.

Another step to improve the food-energy equation is to convert agricultural waste products into power. Livestock manure is one rich resource. In the old days, small farms had a mix of animals and a variety of crops in one location; farmers spread manure instead of chemical fertilizer on fields of crops. Today, with large farms that grow just a handful of mega crops and with concentrated animal-feeding operations, that closed-loop practice has been lost. The massive amounts of manure created by large animal operations far exceed any local demand, and it is too expensive to ship cross-country to big farms. The system also creates environmental hotspots such as manure lagoons, which are significant emitters of greenhouse gases and sources of toxic waste. The lagoons are remarkably energy dense, however, and there are many of them; U.S. farms generate more than one billion tons of manure annually.

Anaerobic digesters and micro turbines could convert that manure into enough renewable, low-carbon biogas-fired electricity to displace 2.5 percent of the nation's power generation while reducing greenhouse gas emissions. This approach would also yield another revenue stream for farmers. Researchers at leading agricultural institutions such as Texas A&M University and Cornell University College of Agricultural and Life Sciences are looking at new ways to incorporate anaerobic digestion of manure into farm operations. Juehnde, a small German village working with Frank Mitloehner of the University of California, Davis, is generating so much biogas for heating and cooking that the town has become independent from the national gas grid. Policy makers could encourage the installation of more digesters and turbines by giving farmers access to low-cost capital, creating incentives such as property-tax breaks for the equipment, offering information and training sessions so that potential users know how to operate the systems, and establishing net metering—a system allowing any electricity generated on-site to reduce farmers' utility bills.

Another waste stream that can save food energy is carbon dioxide from smokestacks at coal plants. It can be used to grow algae for human food, animal feed and fuel, thereby avoiding some traditional energy inputs for agricultural production.

Some people already eat algae directly for nutritional reasons, and some national restaurant chains use them as a stiffening ingredient. Algal lipids can also be converted into biodiesel, providing a low-carbon, domestic, renewable fuel that is made from something other than food-based feedstock. The remainder of the algal biomass is typically made up of proteins and carbohydrates, which might displace corn-based feed for animals, making more corn available for food and thereby contributing positively to the food-energy nexus. Some algae grow well in brackish water or saltwater, too, eliminating demand for freshwater. Private industry (through a variety of start-ups such as Solazyme), national labs such as the National Renewable Energy Laboratory, and universities such as the University of Texas at Austin and the University of California, San Diego, all have active testing and pilot programs. Although algal solutions seem to be decades away from large-scale implementation, their promise warrants additional research, so policy makers should continue funding development.

MORE CROP PER DROP

SIMPLY IMPLEMENTING innovative agricultural techniques that have already been perfected in pilot programs on a much wider scale could significantly reduce the 10:1 energy-food ratio. For example, drip irrigation provides more crop per drop, sparing freshwater and the energy needed to pump it. The conventional approach—the center-pivot sprinklers that create alienlike green crop circles in the middle of brown deserts (easily visible when flying overhead)—is extremely wasteful, spraying water into the air where a major fraction evaporates. Droplets that do land on crops are likely to hit the leaves and stalks instead of the roots, causing more evaporation loss. In a typical drip-irrigation setup, long sections of narrow tubing laid at the bottom of plants sown in a row deliver water directly to the roots. Researchers at Iowa State University estimate that corn farmers in that state would use 40 percent less water and lower their energy bills by 15 percent with drip irrigation. Half a dozen large farm suppliers now offer the systems, which, if used widely, could save thousands of megawatt-hours of electricity nationwide every year. Incentives to switch to drip irrigation, combined with penalties for wasted water, might hasten adoption.

No-till agriculture is another promising approach. It reduces the disturbance of soils by using special planting equipment that places seeds into untilled soil through narrow surface slots rather than the blunt approach of turning the soil. Disturbing the soil less reduces labor, irrigation, energy, erosion and carbon emissions. Argentina is the world leader; more than half the farms there deploy this advanced technique. Training for farmers about the advantages of no-till can be implemented through agricultural extension services nationwide.

Laser-leveled fields can minimize erosion, irrigation and fertilizer runoff. Most fields have a gradual slope, which causes unequal water distribution and uneven collection of runoff. Rather than risking one portion getting less water than it needs, farmers often overfill the entire field, with the excess spilling over into local waterways. By making fields level, farmers waste less energy pumping water, and less fertilizer is needed because less runs off.

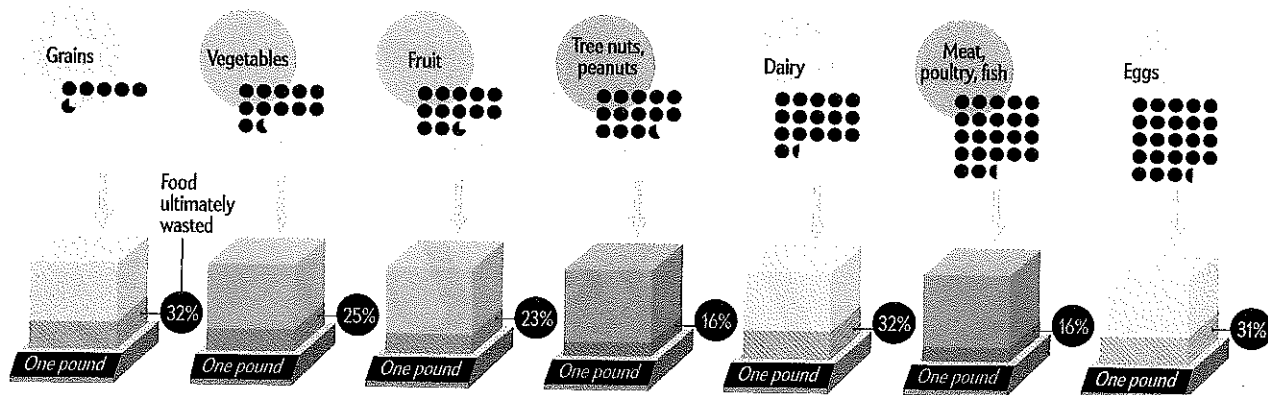
The advent of GPS-enabled tractors, combines and other machinery—today a standard feature offered by manufacturers such as John Deere—has introduced the concept of “precision

SLIMMING DOWN

More Efficient Foods, Less Waste

Different foods require vastly different amounts of energy to produce. Meat is four times as demanding as grains are. If consumers would gravitate toward less intensive foods, energy use would drop. Reducing the enormous amount of food that is wasted would save energy as well.

Energy Required to Produce Food British thermal units (Btu) of energy inputs per pound of food produced (● = 1,000 Btu)



farming," which drives up productivity and drives down energy use. GPS guidance allows farmers to tend fields and plant crops literally to the inch, reducing wasted space, time and fuel, without even needing to steer machines with their hands. Although the upgrades for a moderately sized farm might cost \$10,000, researchers at Purdue University have shown that the benefits outweigh the cost. For one thing, fuel use decreases. Incorporating GPS with field diagnostics allows farmers to map out soil conditions and fine-tune the application of chemicals, which can vary from one end of a field to the other, ultimately requiring less. Fields can also be worked at night and during fog and rain, when human visibility is limited, pushing productivity up.

BETTER BEHAVIOR

REDUCING WASTED FOOD can also lower the 10:1 ratio of energy used to food eaten. An egregious 25 percent or more of the food grown is wasted annually. That massive amount represents 2.5 percent of annual U.S. energy consumption—more energy than all the ethanol produced in 2011 in the U.S. and more than the energy that will be produced in 2030 from lifting drilling restrictions today on the outer continental shelf. Simply decreasing the amount of food we throw away might reduce energy consumption and greenhouse gas emissions more over the next decade or two than many of the expensive or controversial energy supply policies that have been proposed.

Many methods of reducing food waste can begin tomorrow. We can invest in diagnostics that monitor food spoilage instead of using the crude date-based labeling system that has been in place for several decades. One example is temperature- and time-sensitive inks on food packaging that cause labels to change color if the food has been exposed to the wrong temperature for too long. Start-up companies produce these labels, which could spare a lot of food that is unnecessarily thrown away by stores that are worried about making their customers sick. The labels could indeed also prevent a lot of illnesses in-

duced by spoiled food. Requiring companies to keep track of the temperatures that food has been exposed to—in addition to how long the food has been packaged—might give retailers and consumers better information about the risks of spoilage.

Different attitudes and dietary choices can help, too. Restaurants can stop serving mammoth portions, and consumers can stop bragging about their conquests at all-you-can-eat buffets. More extra food can be kept and eaten as leftovers. We can shift our diets to replace at least some of our energy-intensive meats with less energy-intensive fruits, nuts, vegetables, beans and grains. These behaviors do not require invention; they just require new thinking. Many of them end up saving consumers money as well. Having meatless Fridays or veggie Mondays might start to get us there.

As the original green revolution showed, large-scale changes can be implemented relatively quickly over just a few decades. The changes can be dramatic, achieving outcomes far better than anticipated. Yet surprises can arise, too: years of abundant food production have increased the incidence of obesity and aggravated climate change. Technology alone is not enough; even with the original green revolution, hunger has not been solved. A global approach to reducing the energy waste in food that incorporates new behaviors, attitudes and policies will be critical to widespread success. There is no reason to think this new green revolution will be any different. ■

MORE TO EXPLORE

Wasted Food, Wasted Energy. Amanda D. Cuéllar and Michael E. Webber in *Environmental Science and Technology*, Vol. 44, No. 16, pages 6464–6469; July 21, 2010.

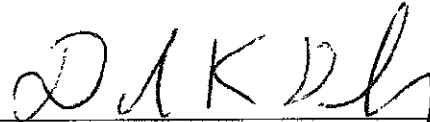
BP Foreseer project, a tool to predict trade-offs among energy, water and land use: <http://bit.ly/rCqkNL>

SCIENTIFIC AMERICAN ONLINE

For an interactive graphic revealing how much energy is required to produce various foods, see ScientificAmerican.com/jan2012/webber

Planning Impacts of the Highlands Act
in Support of
the County of Warren, et.als. v. State of New Jersey, et. als.
(Dkt. # MERL 1021-07)

PREPARED BY;

A handwritten signature in black ink, appearing to read 'D K Dech', written over a horizontal line.

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September 20, 2007

Introduction

In general the Planning Department finds the Act, Rules and draft Regional Master Plan written to be the justification from prohibiting new development in the non-urbanized areas of the Highlands Region, leaving limited opportunity for meaningful economic growth that would be needed to maintain an equitable property tax base and quality of life for highlands residents.

The premise behind the Act, Rules, and Plan is purported to be to protect Highlands water quality and quantity for use by the Highlands and non-highlands populations. Eighty percent of the highlands' drinking water is consumed by those living outside of the Highlands Region. The means to accomplish water quality and quantity "protection and supply" is cloaked behind the preservation of virtually all natural resources in the region. There is very little planning discussion on prioritizing contaminated areas for clean up or methods to conserve water consumption outside of the Highlands Region which uses 80% of the water, or to increase available water supply through the construction or expansion of reservoirs, impoundments, and other surface water and groundwater systems.

In terms of water quality, there seems to be a misconception that limiting future development on individual septic systems to extremely low densities, 25 acre and 88 acres, will actually improve water quality. The basis for the lot sizes are based on a NJDEP report that identified samples of nitrates in a limited number of areas throughout the Highlands Region. The samples accepted for the report and ultimately inclusion into the rules, were from the most remote areas of the region where very limited development or agricultural uses were taking place, usually on State parkland. Therefore the nitrate levels included in the modeling reflect "pristine" conditions, and are not reflective of actual conditions nor do they reflect the accepting thresholds for nitrate modeling taking into account the public health standards.

One effect of the low densities is that they negatively impact a farmer's land equity reducing the value of farmland thereby affecting his ability to use it as collateral for farm loans. Another effect is that by significantly limiting land areas available for development, the cost of "appropriate" land areas for development will increase making it less affordable to live in the region.

Clearly the value of plant and animal life is paramount and weighs heavily on the location of future human development. Available water is to be reserved for the maintenance of ecosystem health. A proportion of the available water is to be reserved for residential and economic growth in the Planned Community Zone which contains only 1.1% of the Warren County's vacant land area and is targeted for future development.

The whole Highlands planning and protection process is contrary to traditional planning and rule making procedures. Traditional planning practice has been to plan first then develop the regulations. In the Rules, 7:38-1.4 the definition of *Regional Master Plan* states that the Regional Master Plan shall mean “the standards established in the Regional Master Plan...” It is clear that the Regional Plan is intended to be a regulatory document rather than a planning document.

It should be noted that great strides were being made by the counties in preparing and adopting Strategic Growth Plans using funding from the NJ Office on Smart Growth. Through an inclusive process with interested groups, individuals, appointed and elected officials the Warren County Strategic Growth Plan was prepared and adopted by the County Planning Board. It represents a true balance of growth and preservation goals without succumbing to such draconian measures as described in the draft RMP.

It is also noted that the Five County Coalition prepared a set of recommendations to be considered by the Highlands Task Force in its deliberations on how to deal with the Highlands.

Below are additional comments that have been made on the Regional Master Plan and Highlands Rules. They are organized by category.

RMP is Advisory in Planning Area?

The Highlands Act states that the Plan is to be advisory in the Planning Area. The statement is contradictory inasmuch as another section of the statute states that the New Jersey Department of Environmental Protection should not issue a permit for sewer extension until after it has consulted the RMP.

However, section 7:38-1.1 (g) of the Highlands Water Protection and Planning Act Rules state that the NJDEP will give regulatory weight to the Regional Master Plan when making decisions in or affecting the highlands region including activities in the Planning Area. This can be interpreted as saying that NJDEP will not issue any approval if a project is incompatible with RMP. It is apparent that the major decisions regarding growth in the planning area will be made by the NJDEP after consulting with the “advisory” Highlands Regional Master Plan.

This further reinforces the duplicity of the Act’s intentions regarding the “voluntary” nature of the Plan for the Planning Area. Growth decisions in the planning area involving wastewater and water quality plan amendments will be made by the NJDEP regardless of a municipal “opt-in” to the RMP.

Plan Development Process

It is noted that Warren County participated in and endorsed the Five County Coalition’s recommendations concerning the Highlands when Governor McGreevey created the

Highlands Task Force in 2002. It is disappointing that many of the Coalition's key recommendations failed to be considered in the Act and failed to be considered in the draft RMP.

In addition it appears that the Council did not use the local plans in any way to establish land use planning policy or to understand the unique needs of the 88 municipalities. Using the local plans, an analysis could have been conducted to project what the future impacts on the natural and built environment (including transportation, water, and sewer) could have been if the local plans were implemented as written. Then the RMP could have been developed to identify where problems relating to development could occur, identify the positive outcomes and then outline methods to prevent or mitigate the negative outcomes.

The Highlands staff has said that the RMP does not include a build out and fiscal impact analysis because the Draft RMP policies and Land Use Capability Map are subject to change based upon the Council's decisions to change the RMP when it is adopted. Any specific data evaluation based on the draft would be subject to change. Of course this true but how can the draft plan be evaluated fully if the analysis of future conditions is not provided?

The draft Plan Conformance guidelines indicate that the impacts of the regional plan will be analyzed as municipalities enter the plan conformance process. Impacts need to be analyzed regionally rather than in a piecemeal fashion during plan conformance.

Lastly, according to the statute, within 18 months after the date of the Highland's Council first meeting, and holding the requisite public hearings, it was to adopt a regional master plan for the Highlands Region. The first meeting of the Council took place in December 2004 making the adoption date of the Plan due by June 2006. The Highlands Council is therefore in violation of the Highlands Water Protection and Planning Act.

Water Quality

One of the planning area goals is "to protect, restore, and enhance the quality and quantity of surface and ground waters therein;" There is little to no discussion in the RMP where the existing contaminated sites are located and no meaningful discussion in setting priority to clean up these sites. According to the RMP, most of the watersheds have impaired water quality. It seems logical that cleaning up contaminated sites that are known to be significant polluters of our environment should be of top priority. Instead the RMP focuses on new development as the culprit and devotes most of its attention to stopping it.

One major known contaminated site is in Warren County. Known as the Pohatcong Valley Groundwater Contamination Superfund Site it encompasses over 5,000 acres. It is polluting the carbonate limestone aquifer underneath the Borough of Washington and follows the Rt 57 corridor through Washington and Franklin Township affecting Brass Castle, Broadway, the County College and the Technical School. Because the limestone aquifer is affected, the

contamination can travel further distances in a shorter amount of time. This plume of contamination will only continue to expand if not remediated.

Concerning the map on Impaired Waters, the areas in red are described as impaired which are in the predominately rural areas while the non-impaired waters are shown in the built up areas of Morris County. This is counter intuitive and calls to question the validity, reliability, and the methodology used in the analysis. Is the map suggesting that all waters within the HUC 14 watershed are impaired?

In the proposed rule summary, the section on *Drinking Water Treatment* states that New York City is meeting its EPA drinking water standards by acquiring land areas in upstate New York and saving about \$8 billion in water treatment costs by doing so. It is not clear how preventing the further degradation of the New York water supply helps meet the EPA standard. Simply protecting land from development does not improve water quality if no other measures are taken to clean up the existing sources of contamination.

Rule Making Process

On page 72, the RMP states that land uses are prohibited that would increase pollutant loadings for which NJDEP has proposed or indicated a need for a Total Maximum Daily Load (TMDL). Since when does an indication of need or a proposal for a TMDL transform into a full rule to prohibit land use? This violates due process and has the potential for official abuse.

Transfer of Development Rights

According to the Act, a detailed and complete TDR program is to be provided. So far, only the framework is provided. The Act states that the Highlands Master Plan may not be adopted until the receiving zones are recommended and the capacity defined for the receiving zone. Nor has adequate funding been provided to compensate land owners in the preservation area for demonstrated loss of values.

Cost of Implementing the RMP

The RMP does not discuss what the annual operating expenses of the Highlands Council, and other state and local programs to implement the plan would be. In addition, the costs to municipal and county governments for conformance and “opt-in” are missing.

If the RMP is implemented as written, the staff will have to be expanded significantly. The RMP fails to discuss future Highlands staff functions and resources needed in a detailed manner. A number of planners, engineers, surveys, scientists and attorneys will be needed to handle the work load.

If municipalities defer their development review process to the Highlands Council for applications in the Preservation area, can applicants expect the timely review as outlined in the Municipal Land Use Law?

In the Rule summary, Appendix A: Valuation of Wetland Ecosystem Services it states Species Protection that people will pay \$83,159 per acre for wildlife habitat based on willingness to pay studies. This becomes an expensive land acquisition program if the Council bases its land acquisition values on these studies. Land values are based on competent appraisals and bonafide sales transactions, not through willingness to pay studies. If the NJDEP wishes to justify the taking of land based on willingness to pay studies then the fair thing to do would be compensate all of the landowners within the critical habitat area at the \$83,159 per acre rate.

The Financial Technical Document estimates that approximately 85 million dollars will be available for the Highlands Region on an annual basis. But for how long?

The RMP and Financial Technical Document implies that local and county open space funds would have to used to meet the acquisition goals of the RMP. Local funding is programmed for specific local purposes. The Highlands Plan's needs are different and should not look to local funding to satisfy the plan's priorities. If compatible with local priorities, then partnerships can be entered voluntarily.

To estimate funding needs for acquisition the RMP should compare the existing amount of open space with the Balanced Land Use Method used by Green Acres and using the methods provided in the SADC Strategic Targeting Plan. On page 56 of the Regional Master Plan, Council estimates a range of acres for lands that would be appropriate for preservation, over the next eight years, as between 75,000 and 125,000 acres. Surely, the analysis should have a geographic component to target where the land areas should be preserved. A county by county and preservation area, planning area listing should be provided.

Funding

The financial component includes only the amount of grant money that may be available five years after the plan is adopted. The sources of revenue are federal, state, and local government. The other source of revenue is a proposed water consumption tax to be placed on residents of Highlands and water purveyors. It is noted that last year, the water fee bill died in the legislature. One of the main reasons reported was that it was going to raise the annual water bill by \$3.50. According to the objectors, it was too much to pay to protect water supplies and repair water infrastructure.

Furthermore, the Garden State Trust Fund has now expired and no reliable source of long term state funding can be expected although a the public question to authorize the state to bond for \$200 million will be on the ballot in the November 2007 election. This is to fund the entire state.

On page 16, the RMP states that in the 1930's, the City of Newark took the initiative to buy land for water supply. Why aren't the other highly populated cities paying for this water supply today?

Land Equity

One of the fundamental issues that is critical to the future of the farming industry in New Jersey is the need to retain the value of the land. Farmers need the land value to use as collateral to borrow against for equipment purchases etc. Once the ability to borrow against land value is gone, how can a farmer sustain a reliable business? Off farm income from agri-tourism may help pay a portion of the bills but a capital base is needed for collateral. If the average farm size in Warren County in 2002 was 96 acres, and the Preservation Zone requires 25 acre septic density, 3 lots can be created from the average farm. The Warren County Department of Land Preservation has produced a report that documents that the Preservation Area standards have significantly reduced the value of the land. The major issue and concern is that the environmental standards in the planning area are just as detrimental as those in the Preservation area.

The Warren County Department of Land Preservation has produced a report that documents the fact that farms in the Preservation Area have lost at least 80% of their pre Highlands values. The Highlands Acts requires two appraisals on Highlands Preservation Area properties; pre-highlands act and post-highlands act, with the higher value to be offered. Because every farmer is not going to enroll in a government sponsored preservation program, the argument should not be made that land equity is maintained because the State will pay pre-highlands values.

At a minimum the intrinsic value of creating improved habitat for a threatened or endangered species should be defined so that it could be include as a monetary figure that private land owners could use to help them with their farmland assessment.

Buildout Analysis

As required in the Act, the draft Plan does not discuss the amount and type of human development that can be sustained. The build out analysis and septic density analysis are not complete. They need to be performed to indicate what the natural systems can sustain. Build out analyses were performed for many County Strategic Plans, including Warren County.

In the Proposed Rules Summary under *Cost of the Rules Proposed for Re-adoption with Amendments* it states that it is not within the department's resources to measure of the increase in development from exemptions. It is difficult to understand that while the NJDEP analyzed various "studies" to justify the economic benefits of the rules an analysis of development potential under the exemptions could not be completed. Most

counties have parcel mapping available with MODIV tax assessment records to identify vacant and farmland parcels.

In addition, the build out figures provided in the Proposed Rules Summary in Tables 6 and 7 are based on erroneous assumptions. The development potential is not reduced by factoring out environmentally constrained lands, preserved lands, and lands already developed. Failing to exclude these land areas as undevelopable will yield high buildout numbers. Any worthwhile buildout will factor out these land areas and provide for further reductions for roadways and other easements that are typically necessary. The buildout provided in the summary is flawed and should not be used for rule making purposes.

Furthermore, in the same section, the projected population of the preservation area relies on federal and state estimates of population growth in the highlands region as a whole. Growth in the preservation should not be based on these estimates because in Warren County, most of the public sewer and more developable lands areas are in the planning area. In the preservation area, it is more difficult to construct septic systems and drill wells because of its geologic formations, depth to bedrock, slopes, etc. Using general growth figures and applying them to the preservation area is misleading the reader into thinking that the preservation area is experiencing the same amount of growth as the planning area when in fact it is much less.

The NDJEP could have estimated population growth in preservation area by reviewing the development applications that have been approved. The NJDEP could have obtained the information from the respective county planning departments.

Capacity Analysis

A lot of work was done to determine water supply capacity and water quality using modeling and other techniques. While it appears that the existing capacities of sewage treatment plants and public water systems are contained in the Utilities Technical document, the results are not reflected in the Smart Growth Component. The amount of growth that can be sustained in the region based on utility capacity needs to be fully understood. The Act states that the capacity analysis must identify transportation, water, wastewater, and power infrastructure that would support or limit development and redevelopment in the planning area. This analysis shall also provide proposed densities for development, redevelopment, or voluntary receiving zones for the transfer of development rights.

On page 54, the RMP states that as part of the implementation and plan conformance process, the Highlands Council will develop growth thresholds by municipality based on limitations in Net Water Availability, and ensure that no sub watershed is utilized for water supply purposes beyond its own Net Water Availability. The thresholds should be

done now. The data is available throughout the Highlands Region and there is no need to wait until municipalities seek plan conformance.

The Proposed Rule Summary on *Water Supply and Water Quality* implies that out of region withdrawal is acceptable if it is intended to support development outside of the highlands region. The summary fails to recognize that out of region withdrawal is more costly because the need to transport the water from one watershed to another requires some form of public or private infrastructure to convey the water to a central system.

Septic Density

The RMP states that it will use GSR 32 for the water recharge model. Concerns were voiced last year at the committee level about the use of GSR 32 because it does not reflect the unique geological conditions that are prevalent in the Highlands Region particularly the karst limestone formations. Another model called GSR 39 was being developed at the time to address the highlands geology. If GSR 39 is available, it is recommended that it be considered instead of GSR 32.

On page 78 concerning Nitrate Concentrations and Septic Suitability, the RMP discusses the impacts of high nitrate concentrations. The RMP should include the fact that the EPA standard of 10mg/l is the maximum level for public health. This will bring into context that the median nitrate concentrations measured in the highlands region range from .17mg/l to 3.6mg/l. are well below the public health standard. It should be noted that the NJDEP program for 50 or more realty improvements require nitrate dilution analysis to be modeled at 5.2 mg/l. The Warren County Strategic Growth Plan used 2 mg/l which was considered to be an acceptable model assumption to protect groundwater resources. The idea to limit nitrates to the background ambient median level .83 mg/l or lower as suggested in the RMP has no public health basis.

The Warren County Strategic Growth Plan recommended that alternate septic systems be explored for use in the rural areas to promote clustering on smaller parcels and to provide for a better quality effluent. The RMP should be more supportive of this concept and provide more discussion on its potential use.

In the Proposed Rule Summary for *Loading Rate for Nitrate*, it states that the municipal household population is not available. This is not true. Household rates are available through the 2000 Census.

The section on *Water Quality Target Selection* states that the septic densities will provide for the restoration of groundwater quality. However the rules provide no mechanism to clean up polluted sites. To restore water quality the use of existing septic systems will have to be discontinued and homes will have to be connected to a better system that cleans the water before discharging and existing contaminated sites will have to be remediated.

Water Supply

The RMP repeats several times of the significance of the Highlands Region in supplying water to five million New Jersey residents. Page 51, Water Use and Availability states that 500 million gallons per day (MGD) is for public water supply service areas within and outside the Highlands Region. The needs of Highlands residents and municipalities are largely met through withdrawals from wells tapping local aquifers and some smaller surface water resources. On Page 52, it says that the growth analysis projects that sustainable capacity will be exceeded by major cities like Newark, Jersey City, and Hackensack. And that the several reservoirs may have insufficient amounts of water to provide anticipated water needs, resulting mainly from growth outside the region.

If the water supply is at such a deficit because of the growing population outside of the Highlands Region, preventing growth in the Highlands Region will not solve the problem. One or a combination of the following should take place: construct new drinking water reservoirs or storage facilities, utilize existing non drinking water reservoirs, require strict water conservation measures on non-highlands users of water, repair leaking water supply lines, curtail future growth outside the highlands region to reduce the demand for water, and/or construct water purification plants along the major rivers and Atlantic Ocean to supply potable water.

Page 59 discusses the imposition of water conservation and recycling measures on existing and new residential and commercial areas within the Highlands Region. 80% of Highlands's water is exported outside of the Highlands. Requiring conservation measures on the highlands will do very little to conserve water when most of users are somewhere else. Legislation is needed to require water conservation statewide.

Transportation

The plan lacks meaningful discussion on regional transportation priorities and instead focuses on site specific issues that should be addressed at the municipal level. To address regional transportation, the RMP states that trails, and safe bicycle and pedestrian paths need to be provided. No roadway and public transportation improvements are proposed and supported.

The North Jersey Transportation Planning Authority Regional Transportation Plan should be incorporated into the RMP as the RTP was developed with extensive stakeholder input throughout the 13 county region it covers. And, as required in the Act, the list of federally mandated projects and programs is not provided.

The Warren County Strategic Growth Plan also contains a transportation component that modeled existing and future traffic on the county road network. Realizing the impacts of future growth, the county plan recommended certain roadway and transit improvements, center based development, and curtailing the amount of strip commercial development proposed along some of the major highways. The RMP does not contain or acknowledge

any of the recommendations that resulted from the planning efforts from any county or municipality in the Highlands Region.

Impact of Existing and Proposed Regulations

Within the last 10 years, the Warren County Planning Department has found that most municipalities have become more cognizant of the impacts of their land use decisions and have made significant strides to mitigate those impacts. They have recognized that the increase in traffic, municipal and school services, and flooding, in pursuit of rateables does not work. All levels of government have increased open space and farmland preservation efforts as well.

State agencies, most notably the NJDEP, have adopted some of the most stringent environmentally protective rules in the nation to deal with storm water management, C-1 stream classification, and freshwater wetland protection rules. The impacts of all the rules when applied should be modeled to determine how much and where new development can occur. More importantly, the analysis should evaluate the impact on the natural and built environment. This analysis should be conducted before the RMP recommends even more stringent regulation. Part of the analysis should include how well the rules are enforced. It is the WC Planning Department's belief that if the rules are enforced, more stringent rules would not be needed.

The RMP recommends that the Highlands Council initiate the process to become the designated water quality planning agency for the Highlands Region. The NJDEP is released rules on May 21, 2007 that would have the counties become the wastewater planning agencies, instead of the municipalities and MUA's. It is unclear what effect these rules will have on the Highlands proposal to become the planning agency. Will the counties or the Highlands Council have the first right to refuse becoming the wastewater planning agency.

Pre-Conformance

The draft RMP states that technical guidelines, model ordinances, local master plan requirements and procedures related to each element within the Resource Assessment Component and Smart Growth Component are to be developed more fully during the pre-conformance phase. The RMP provides a listing of actions that will need to be completed by the Council subsequent to the adoption of the Plan but before the official conformance period begins. The RMP refers to this period as Pre-Conformance. The pre-conformance period is not established by the Highlands Act. The Highlands Council is misconstruing the 9 month conformance period as established in the Act, as an intermediate period of time between plan adoption and plan conformance which is not established in the Act.

Inter Agency Coordination

Page 13 of the Regional Master Plan speaks to the 2002 Update to the Forest Study and that it reiterated the recommendation from the 1992 Study to establish a permanent regional entity to oversee the planning and management of the study area. If read in context, the 1992 report describes the roles of the regional council as; information and education, natural resource conservation and protection through voluntary programs available at the federal and state levels, data coordination and management, planning assistance, and administration, conflict resolution and consensus building. Nowhere does it say that the council should have land use regulatory control. The study recognized that keeping land use control in the hands of the county and local governments was appropriate.

According to the Highlands Act, the Council on Affordable Housing shall take into consideration the regional master plan prior to making any determination regarding the prospective fair share of the housing need in any municipality in the Highlands Region under the "Fair Housing Act". Will this obviate the need for municipalities in the Highlands protection and conservation zones to provide affordable housing? The restrictive nature of the plan will curtail the provision of affordable housing in the conservation and protection zones and drive it into the PCZ. This is inconsistent with the Fair Housing Act in as much as the PCZ is not located in every municipality in the Highlands thereby making affordable housing more difficult to obtain in municipalities with no PCZ.

In the Proposed Rule Summary for *Waivers* it states that the construction of 100% affordable housing in preservation area may qualify for a waiver. These projects generate wastewater and pollute the environment just like the others that are being prohibited in the Preservation Area? Affordable housing should be in or near towns, villages and cities so services are close by, ideally within walking distance. Building affordable housing in the Preservation Area goes against conventional smart planning practice.

The interagency agreement with the State Planning Commission has not been prepared and signed yet. Failing to secure such an agreement with the statewide planning agency is of major concern when it pertains to state agency consistency and coordination. The State Planning Commission is responsible for ensuring that agency programs are coordinated and consistent with one another.

It is also important for the Highlands Council to enter into Memorandum of Agreements with other state agencies to define what the review, permitting and regulatory authority and responsibilities are to add clarity to all who participate in and are part of the respective processes.

Lastly, it is interesting to see that in the Acknowledgment section, of the Regional Master Plan, that 19 of the 21 persons credited as contributing to the plan are employed by the NJDEP. Clearly this indicates that the Plan is biased to environmental protection and pays little attention to the needs of agriculture, transportation, housing, and economic

growth in the Highlands Region. There was no interagency coordination in writing the RMP.

Land Use Capability Map

About 56% of the portion of Warren that is in the Highlands Region is in the Protection Zone (about 94,744 acres). The majority of acres designated as Protection Zone 53,041 acres (56%) are found within the Preservation Area. 41,703 acres or 44% of the Protection Zone is in the Planning Area.

About 37% of Warren that is located in the highlands region is in the Conservation Zone (about 64,113 acres). 22% or about 13,962 acres is in the Preservation Area. 50,151 acres or 78% of the Conservation Zone is located in the Planning Area.

About 7% of Warren that is located in the highlands region, (12,239 acres, or 19 sq.mi.) is identified as Planned Community Zone / SPA, of which about 99.6%, or 12,192 acres is in the Planning Area.

Land Use Capability Map Indicators and Factor Maps

On pages 49 and 50 concerning the indicators/criteria used in defining the Land Capability Map zones are duplicative in many ways and overly complicated. For example, if an area is in a Total Forest Area, it will also be in a Forest Resource Protection Area, and be a Forest Core of greater than 250 acres. From Land Use Capability Map Abstract dated March 2, 2007 provided by the Highlands Staff, it states that if 6 protection zone indicators were found, the area would qualify for protection zone. Under the duplicative scenario just mentioned, three of the six can be found in the same forest criteria.

Also, in the Land Use Capability Map Abstract, the rational for selecting 6 indicators for protection zone, 3 indicators for the conservation zone, and 3 indicators for the Planned Community Zone should be provided.

For the planned community zone, it is recommended that the planned future sewer service area be included as one of the indicators. The planned sewer areas provide an indication of where local communities are envisioning growth and/or see the need to sewer an area to protect ground and surface water.

The accuracy of the indicator mapping needs to be checked as well. One example includes the area south of Belvidere that includes the Warren County Administration Building Complex, Country View Estates, Colby Court, Wyntryst Apartments, and Village Square. The indicator maps show this area as moderately developed, suburban fringe, and sewer. The indicator maps do not show that the area is also served with public water. If this area is incorrectly mapped then there are probably others.

Each factor map should be overlaid to demonstrate the areas within the Highlands region where growth may occur. In addition they should be shown individually to show each constraining environmental feature that would need to be mitigated should development be proposed. This would be a better way to mitigate impacts instead of prohibiting development altogether.

The Act requires the identification of undeveloped areas in the planning area, which are not significantly constrained by environmental limitations such as steep slopes, wetlands, or dense forests, are not prime agricultural areas, and are located near or adjacent to existing development and infrastructure, that could be developed. Policies in the RMP allow extensions of water and sewer to adjacent properties only. However they may be properties near existing developed areas within planned sewer service areas that could be and perhaps should be served with water and sewer.

The Act requires an assessment of scenic, aesthetic, cultural, historic, open space, farmland, and outdoor recreation resources of the region. Statements and discussion is provided but a comprehensive assessment of the resources is lacking. Warren County completed a comprehensive Historic Site Inventory in 1992 and maintains a comprehensive inventory of preserved open space and farmland in the County. Existing inventories and related documents should have been consulted when the RMP was developed.

Redevelopment Areas

The Act states that the RMP is to identify existing developed areas capable of sustaining redevelopment activities and investment. The RMP states that the Planned Community Zone and Specially Planned Areas may contain those areas capable of sustaining redevelopment. However, no analysis is performed to document what the limitations may be to redevelopment such as wastewater availability, water availability, transportation access and capacity, and other environmental constraints such as limestone karst geology. In addition, there may other areas capable and more appropriate for redevelopment that are not considered because they have less than 70% impervious cover and are located outside the Planned Community Zone.

Contradictory Policies and Maps

Many of the policies are contradictory. For example the extension of water lines into a conservation or protection zone are permitted only if the parcel is adjacent to a property already served with the utility and the development is clustered on 20% of the parcel and 80% remains as open space or agriculture. Another policy in the same section will then state that all development is prohibited in the protection or conservation zones if located in an Agricultural Resource area or in a Forest Resource Area. In some cases the Agricultural Resource Area and the Forest Resource Area overlap. The land should be in one or the other.

Other inconsistencies involve how many of the environmental features are depicted in the County's urbanized area. The Critical Habitat Map shows most of the Town of Hackettstown and Oxford Village to be in a Critical Habitat. The Watershed Values by HUC 14 map shows Hackettstown, Washington Borough, Oxford Village, and a portion of Belvidere to be high value watersheds. The Forest Integrity Area by HUC 14 shows Hackettstown, Washington Borough, Oxford Village, and a portion of Belvidere to be high value forest. The Riparian Area map shows most of Belvidere and the area between Belvidere and the County Administration Building complex two miles south of Belvidere as being in a riparian area. The Agricultural Resource Area map shows the entire Borough of Alpha and the urbanized portions of Pohatcong, Greenwich and Lopatcong as agricultural. The plan maps depicting these features and other features need to be re examined to ensure that they are accurate.

There is at least one example of where public policy only applies to private landowners and not to public agencies. Nearly all forestry operations occur on private land within the Highlands. There is limited management occurring on State owned land and non-profit land. The RMP should recommend that the public land also have management plans. Currently the State doesn't manage its own lands.

Economic Impacts

In the Proposed Rule Summary in *Impact on Property Taxes*, a statement reads that "development results in substantial costs to society". The statement ignores the fact that development also has a benefit to society. Otherwise why would our society build homes and businesses unless there was a social and economic benefit and need.

In Appendix B of the Proposed Rule Summary: *Estimation of New Jersey Ecotourism Benefits*, the analysis should compare preservation area employment gains resulting from land development vs. the ecotourism benefits. The analysis should provide this comparison to see if ecotourism is the preferred industry for the area.

The extreme prohibitions placed on existing and future land use will create a scarcity of land. This scarcity will increase the cost of remaining land that may be used for new development. The Highlands Act and Plan is creating an area that can be affordable only to the wealthier segment of the population. For the others less financially able to live here, economic conditions may force them move out the region, or they may be forced to live in enclaves until the property tax burden ultimately forces them out as well. A declining population is not a symptom of a healthy economy.

A Warren County Planning Department GIS analysis shows that approximately 2000 acres of assessed vacant land exists in the PCZ consisting of 1,127 parcels. They range in size from .002 to 94 acres. The average size is 1.78 acres and the median size is .17 acres indicating that the vacant land available in the PCZ is scattered and small in size. The larger parcels, are mostly golf courses, already have development proposals on them, or are environmentally constrained in some way. Of the 2000 acres, approximately half

are “developable” after factoring out the environmental features of steep slopes, 300 foot buffers, wetlands, and flood prone areas. If development is severely limited in the protection and conservation zone, to maintain a viable economy, future development in the PCZ in Warren County will have to include redevelopment. Because of the scarcity of vacant land, smaller less expensive structures may have to be torn down and replaced with larger more expensive structures. Single family homes may be replaced with large multifamily multiple story apartments.

The RMP focuses on tourism as the economic driver. What studies have been conducted to show tourism effects on the local highlands communities as opposed to industrial, commercial and employment rich development that will be stymied by the Highlands Act? It is unlikely that agri-tourism is going to promote enough revenue to support local governmental operations and schools, and provide a viable income source for residents of the region. Those that live here will have to commute outside of the region for jobs pay well enough to support a family.

A tourist based economy with limited opportunity for a growth in ratables will lead the region into an economic downturn. The cost of government and school services will continue to increase, but the taxable base will not increase and those residing in the Highlands will not be able to pay the higher taxes to sustain current services. Balanced growth is needed and the current RMP does not provide for balanced growth.

Preservation Area Requirements for Exemptions

In N.J.A.C. 7:38-2-3 (a) 6 The exemptions should apply to firehouses and other emergency service related structures as well. The facilities are for the public good and necessity.

It has been the NJDEP’s practice to require deed restrictions on properties that are deemed to be exempt from the Preservation Area requirements. The restrictions are being required on projects that were submitted to the NJDEP for a Highlands Area Determination for the construction of a single family home. After reviewing the application the NJDEP would declare the project exempt and then require a conservation restriction on the balance of the property to prohibit further disturbance and development. Warren County contends that this practice is beyond the scope of NJDEP’s authority and must cease the practice.

Water Body Buffers

As defined **Highlands Open Waters** – “All springs, wetlands, intermittent and ephemeral streams, perennial streams, and bodies of surface water, whether natural or artificial, located wholly or partially within the boundaries of the Highlands Region, but shall not mean swimming pools.”

As defined a 300' buffer on all HOW with exceptions (if in Low Resource Value Watershed and Low Integrity Watershed) must be maintained. Using the criteria, only the Phillipsburg area would qualify for exception in Warren County leaving towns such as Belvidere, Washington and Hackettstown subject to the 300 feet. All three towns have stream/river corridors that affect the central business districts. Excessive buffers in existing urbanized areas will stifle growth in these traditional towns.

Major Items Not Defined in the Plan

The following is a list of items that the Highlands Act requires to be included in the Regional Master Plan and have not been included in the November 30, 2006 draft.

- Specifically defined receiving zones. All PC/SPA areas are considered *potential* receiving zones.
- Preservation Zones, i.e. zones in the Preservation Area where development shall not occur. The Protection zone is not equivalent to the Preservation zone. Development may still occur in the Protection zone, pursuant to NJDEP regulations. Specific sites where development is to be prevented entirely are still to be prioritized.
- A detailed and complete TDR program – so far, only the framework is provided. Details not yet developed.
- Standards for minimum lot sizes. (*Septic Standards have been deferred to the Pre-Conformance Phase*)
- Maximum appropriate population densities.
- Development capacity of areas served by sewer.
- Development / Septic capacity of areas not served by sewer.
- Regulated uses for specific portions of the Preservation Area or for any other area where “appropriate” land uses are to be defined. (*For example, wellhead protection prohibited uses*)
- Specific recommendations for amendments to the NJDEP regulations concerning Planning or Preservation Area boundaries, septic densities, exemptions or any other specific changes.
- Highlands Build-Out Calculations.
- Technical guidelines, model ordinances, local master plan requirements and procedures related to each element within the Resource Assessment Component and Smart Growth Component

DAVID K. DECH, P.P. #LI 00521200

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Belvidere, NJ 07823
908-475-6532 (Office)

EDUCATION: **Rutgers, The State University of New Jersey** **January 1993**
Master of City and Regional Planning. Concentrated in land use
and transportation planning, and research methods.

The Pennsylvania State University **May 1986**
Bachelor of Science degree in Community Studies, Physical
Development option.

EXPERIENCE: **Planning Director** **February 1995 – Present**
Warren County Planning Department **Belvidere, NJ**
Responsible for the preparation of departmental budgets for
operating and capital expenditures, oversee a staff of four
planners, the preparation of the County Master Plan, including
the general development plan, transportation plan, open space
plan, strategic growth plan, and development review regulations;
review subdivision and site plan applications for compliance with
the county development review standards and offer
recommendations to the county planning board the coordination
of the open space acquisition program with the Board of
Recreation Commissioners; the preparation of the solid waste
management plan for the Solid Waste Advisory Council and Board
of Chosen Freeholders, conducted and participated in the three
rounds of cross acceptance of the State Development and
Redevelopment Plan, Alternate voting member for Warren County
on the North Jersey Transportation Planning Authority, member of
the North Jersey Resource Conservation Development District,
Co-Chairman of the Structural and Non-Structural Committee for
the Interstate Flood Mitigation Task Force.

Senior Planner **October 1991 – February 1995**
Warren County Planning Department **Belvidere, NJ**
Responsibilities included transportation planning, air quality
planning, reviewing local zoning ordinances, assisting general
public for information requests, serving as the County Data Center
Contact to the NJ State Data Center, served on the committee of
Long-Term Healthcare, supervised the Internship Program,
appointed as co-chairman of the County Computer Policies
Committee.

Page 2

Assistant Planner **November 1988 – October 1991**
Warren County Planning Department **Belvidere, NJ**
Responsibilities included county facility space planning, administering a \$100,000 two-year grant for a countywide historic resources survey, negotiating cross-acceptance for the State Development and Redevelopment Plan, sludge management planning, reviewing local zoning ordinances, assisting general public for information requests, served as 911 coordinator.

Assistant Transportation Planner **September 1986 – October 1988**
Passaic County Planning Department **Paterson, NJ**
Responsibilities included gathering and compiling data for transportation studies, computing statistics, updating computer database, and monitoring development activity.

Project Planner **Summer 1986**
Intern **January 1986 – May 1986**
Centre Regional Planning Commission **State College, PA**
Responsibilities included updating the region's socio-economic and housing database, preparing maps and conducting a land use inventory for the comprehensive plan.

MEMBERSHIPS: **Belvidere Planning Board (Alternate)**
 Sept. 2006 to Present

Pollution Control Financing Authority of Warren County
August 2007 to Present

North Jersey Resource Conservation and Development Council
2005 to Present

American Planning Association
NJ Chapter of American Planning Association

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October 5, 2007

Stephen H. Shaw, Esq.
Hueston, McNulty, P.C.
256 Columbia Tpk., Suite 207
Florham Park, NJ 07932

Re: Warren County et al. v. State of New Jersey, et al.
Docket No.: MER-L-1021-07
Your file no.: 8542

Dear Mr. Shaw:

You have asked me to supply you with a report concerning the above-referenced case. I have previously sent you my c.v. You have provided me with or directed me to abundant materials on the case for my review, including:

Comments on rule proposal from David K. Dech dated February 16, 2006 (planning)

Comments on Highlands Regional Master Plan from Warren County Planning Department dated May 11, 2007

Planning Impacts of the Highlands Act, by David K. Dech (undated)

Consulting Report from Holzhauer & Holenstein dated February 14, 2006 (value)

Technical Validity of the Highlands Water Protection and Planning Act of New Jersey by Frank Getchell of Leggett, Brashears, and Graham, dated July 27, 2007 (hydrogeology)

CD-ROM with maps

Complaint for Declaratory Judgment with Attachments A-D

OFP, LLC v. Superior Court, 2007 N.J. Super. LEXIS 289 (2007)

Defendants' Motion to Dismiss

The Highlands Act and proposed Rules

Miscellaneous maps of Highlands area available online

New Jersey Highlands Coalition web site

New Jersey Highlands Council web site

USDA Forest Service web site concerning Highlands of Connecticut, New Jersey, New York, and Pennsylvania

Miscellaneous U.S. Census data available online

Newspaper and journal articles concerning Highlands Act and the pending litigation.

In addition, on May 21, 2007, you took me on a drive through the New Jersey Highlands to see the area that lasted between two and three hours, and arranged for me to meet with affected individuals.

Based on my review of the foregoing, which include extremely detailed comments from several disciplines on the Act, proposed rules, and draft Regional Master Plan, and on my training and experience, I have some observations and opinions concerning the public policy initiative represented by the Highlands Act and its implementation.

1. This is a policy initiative of massive scope and utopian ambition that is certain to produce a host of adverse consequences for private landowners, public entities, and citizens in general within the area covered by the Act and to some extent elsewhere in New Jersey.
 - a. Some of these consequences are intended.
 - b. Some of the intended consequences are stated, and it may be that other intended consequences are less explicit.
 - i. It seems that water conservation and preservation of open space are to a substantial extent pretexts or euphemisms for what is in fact an anti-development measure. The Act places the 400,000 acre preservation area permanently off limits to development. The 400,000 acre planning area is subject to extremely strict limits (such as very low population densities) on development through eventual implementation of the Regional Master Plan, and these limits will effectively prevent nearly all the development that would have taken place otherwise. The net effect of the entire legislative scheme, when fully implemented, will be to take 800,000 acres, or about 1250 square miles, and place it off limits to major development.
 - ii. I have reference specifically to this language, from the Highlands Water Protection and Planning Council (Highlands Council) web site: "The Highlands Water Protection and Planning Act is a law

signed in August 2004 that will preserve open space and protect the state's greatest diversity of natural resources including the precious water resources that supply drinking water to more than half of New Jersey's families."

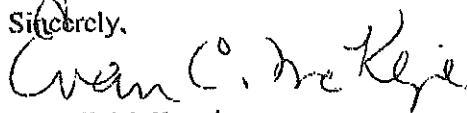
- iii. However, there is a relative absence of means that directly protect water quantity and quality (environmental cleanup, statewide water consumption measures, etc.), and instead the focus is on restricting development in the 800,000 acre area.
 - iv. It is unlikely that the Act could have been defended, politically or legally, if it were promoted as a state-imposed prohibition of market-driven real estate development across a large portion of the state.
 - c. Some of the consequences will be unintended and unanticipated. The Act will produce massive distortions of the private real estate market in the state and undermine the system of local government, and these effects will in turn have further ripple effects. It does not appear that the full scope of these consequences has been adequately considered.
 - 2. This initiative carries enormous negative consequences for private landholders in the preservation and planning areas.
 - a. Among these consequences is a loss in the value of their property so great as to be tantamount to public confiscation. Many of them have lost all, or nearly all, the value of their property that was represented by the potential for development of the property. For agricultural and other non-residential land, that development value was about 80% of the land's value. The total loss in property value within the preservation area alone is estimated at over \$15 billion.
 - b. There is at present no adequate compensation scheme for these owners to replace the lost value that has been taken for public purposes.
 - i. It is highly unlikely that the TDR program will ever be made to work as an effective compensation system for the many property owners who have lost value. The voluntary nature of the program and its ephemeral nature at present militate against it ever being a significant attempt to offset the losses. In order for a TDR program to work, two conditions must be satisfied: first, there must be localities willing to accept increased development pressure and density; second, there must be in those areas sufficient demand for new development. There is no rational basis to believe that those conditions exist. Moreover, implementation of a TDR program does not appear to be a high priority in any event.
 - ii. The provision of waivers and exemptions is also unlikely to offset much of the cost that the Act imposes on the vast majority of owners.
 - iii. The Green Acres, Farmland Preservation, and Garden State Preservation Trust and other compensatory funds will total far less than the actual economic loss.

- c. Consequently, private landowners are bearing the costs of preservation that is intended to benefit people living elsewhere in New Jersey. The net effect is the public taking of private land value for public purposes, without compensation.
3. The initiative will also have major negative consequences for public entities located in the area covered by the Act, including Warren County and the municipalities located in Warren County.
 - a. The ability to control and plan for land use is one of the most important powers possessed by local governments
 - b. The existence of this power makes local governments significant in the lives of their citizens, and makes these governments the focal point of local politics.
 - c. Where the Highland Council states, "The Highlands Act provides the necessary mechanism to enhance local land use planning efforts," it would be more accurate to state that the Act strips local governments of their power to control and plan for land use within their jurisdictions.
 - d. Local governments in the area covered by the Act have therefore been deprived of what is arguably their most important function.
 - e. This fact will have significant consequences in the future and will diminish the importance of local governments in the lives of their residents, transforming the nature of local politics in the part of New Jersey covered by the Act.
 - f. These impacts will not be experienced by local governments outside the area covered by the Act, creating a distortion in the system of local government in New Jersey. Some communities will have control over land use and the power of self-determination, while others will not.
 - g. Recommendations from affected local governments on these issues, specifically the Strategic Growth Plans prepared by counties, and recommendations from the Five County Coalition, seem not to have been taken into account.
 4. To the extent that local governments in the area covered by the Act have lost control over land use and development, the citizens residing in that area have lost their powers of self-determination. But for this Act, those citizens would have been able to guide the course of real estate development in their communities. They would thereby have been able to give their local communities certain identities; chart particular courses of economic development; attract or try to exclude particular activities; and perhaps compete with other communities for the types of development that are attractive to residents. The Act effectively transfers that power of community self-determination to the State of New Jersey, which has imposed a different vision on the entire area. That vision holds that this area is to be a largely undeveloped region whose open spaces are to be maintained in perpetuity as a resource for others.
 5. Consistent with that vision, the Act seems to anticipate that, in addition to some amount of agriculture, a "recreation, ecotourism, and wildlife activities" economy will emerge in the area covered by the Act. This expectation is

- unsupported and speculative at best and may prove to be a Potemkin Village. However, the loss of many billions of dollars to the area is real. That loss consists of economic development that would have come to this area had the Act not been passed and development allowed to take its natural course.
6. The implementation of the Act has not complied with the statutory time limits, to the detriment of property owners and local governments. This delay is apparently being attributed to the enormity of the tasks imposed on the Highlands Council by the Act. The Council is taking the position that it is unable to do what it has been asked to do within the time it was given.
 - a. The Regional Master Plan (RMP) has not been adopted (due by June 2006)
 - b. The Transfer of Development Rights (TDR) program does not exist, and as noted above it does not appear to be a high priority task.
 7. The adverse consequences have already hit landowners and local governments but measures to offset those consequences have not been implemented and in all likelihood will never be implemented as claimed.
 8. The boundary of the area covered by the Act is based in large part on considerations other than science.
 - a. The area covered by the Act was first enlarged beyond the limits suggested by science in order to prevent development in as much land as possible
 - b. Thereafter, certain areas were carved out of the area covered by the Act through a process of negotiation and political compromise that was not based on science
 - c. Consequently, it seems that the boundaries are arbitrary and were politically brokered rather than being established by science. This raises issues of rationality and equal treatment.

If you have any questions or need any further response from me on this matter, please do not hesitate to contact me.

Sincerely,



Evan C. McKenzie

EVAN C. McKENZIE
Curriculum Vitae

Associate Professor of Political Science

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EMPLOYMENT HISTORY

Teaching:

1997-present: **Associate Professor of Political Science**, University of Illinois at Chicago
(1994-97, **Assistant Professor of Political Science** at UIC)

Undergraduate courses: American Government, Judicial Process, Constitutional Law, Civil Rights and Liberties, The Privatization of Public Life.

Graduate courses: Introduction to Policy and Governance, Introduction to Public Policy Analysis, Urban Politics, Topics in State and Local Government, Advanced Public Policy Workshop, Administrative Law

Administrative experience 1994-present: Associate Department Head, Acting Departmental Undergraduate Director, Department Head Search Committee, Campus Research Board Social Science Committee, Chair of Departmental Promotion and Tenure Committee, College of Liberal Arts and Sciences Strategic Plan Committee, Faculty Law Interests Committee

1999-present: **Adjunct Instructor**, The John Marshall Law School

LL. M. Program in Real Estate Law: Course: RE 617: The Law of Condominiums, Cooperatives, and Other Common Interest Communities

1990-1994 **Assistant Professor of Political Science**, Albright College, Reading, Pennsylvania

Courses: American Government; Constitutional Law; Civil Liberties; Political Theory; Political Parties and Interest Groups

Administrative experience: Faculty Executive Committee

1985-1989: **Adjunct Instructor**, School of Public Administration and Urban Studies, San Diego State University.

Courses: The Administration of Criminal Justice; The Prosecution Function in the Criminal Justice System.

1982-1985: **Adjunct Instructor**, Criminal Justice Administration Department, National University.

Course: The Juvenile Offender.

Law Practice:

2004-present: **Attorney in private practice**, Lake County, Illinois.

Practice emphasizing legal representation, expert witness services, and consulting on matters dealing with condominium and homeowner associations, land use, and related issues.

1985-1990: **Attorney in civil litigation practice**, San Diego, California.

Practice at three firms; emphasis on cases involving homeowner associations in construction defect and insurance bad faith litigation and other civil litigation. Firms were Higgs, Fletcher and Mack; Law Offices of C. Bradley Hallen; Aguirre and Eckmann.

1981-1985: **Deputy District Attorney**, San Diego County.

I handled cases ranging from petty theft to homicide, and prosecuted over eighty jury trials in Municipal and Superior Court.

EDUCATION

Doctor of Philosophy in Political Science 1989, University of Southern California. **Master of Arts**, 1979. Major field: Law and Public Policy. Minor fields: American Politics and Political Theory. Dissertation: "Private Covenants and Public Law: A Perspective on the Rise of Private Governments in Common Interest Housing."

Juris Doctor 1975, University of California at Los Angeles Law School. Moot Court.

Bachelor of Arts with High Honor in Political Science 1972, California State University at Los Angeles.

PROFESSIONAL ACTIVITIES

Books:

Privatopia: Homeowner Associations and the Rise of Residential Private Government. New Haven: Yale University Press, 1994 (cloth), 1996 (paper). Recipient of "Best Book on Urban Politics Award" from American Political Science Association in 1995.

The Kids Nobody Wants: Treating the Seriously Delinquent Youth. Reno, Nevada: National Council of Juvenile and Family Court Judges, 1982. (with Robert A. Roos)

Articles, Book Chapters, Monographs, and Reports (* indicates refereed journal):

2006. Emerging trends in state regulation of private communities in the U.S. *Geojournal* Vol 6 nos 1-2, pp. 89-102

2006. "The Dynamics of Privatopia: Private Residential Governance in the USA," in Glasze, G., Webster CJ and Frantz, K. (eds.), *Private Cities: Local and Global Perspectives*. London: Routledge.

2005. "De opmars van privatopia: Gemeentelijke verplichting tot privaat beheer ontleed." *Agora* Vol. 21, No. 5*

*2005. "Planning Through Residential Clubs: Homeowners' Associations." *Economic Affairs*, 25(4): 28-31.

*2005. Constructing the *Pomerium* in Las Vegas: A case study of emerging trends in American gated communities. *Housing Studies*, 20 (2): 187-203.

*2003. Common Interest Housing in the Communities of Tomorrow. *Housing Policy Debate*, 14 (1-2): 203-234.

"Privatopia: Der Erfolg von 'Gated Communities' Symbolisiert die Transformation der Gesellschaft: Privilegierte Kinken Sich Aus." *GDI-Impuls* 2.02 (Summer 2002) pp. 54-60.

"The Politics of School Desegregation in Oak Park, Illinois," *Great Cities Institute Working Paper*, University of Illinois at Chicago, May 2000.

"Reflections on a New Paradigm for the Governance of Common-Interest Communities," book chapter in Bill Overton (ed.), *Community First: Emerging Visions Reshaping America's Condominium and Homeowner Associations* (Alexandria, VA: Community Associations Institute, 1999).

"Doing Well, Doing Good, or Doing Both? Rethinking the Practice of Community Association Law," *Journal of Community Association Law*, Vol. 2, No. 1, 1999.

"Reinventing Common Interest Developments: Reflections on a Policy Role for the Judiciary," *John Marshall Law Review*, Vol. 31, No. 2, Winter 1998, pp. 397-427.

*"Homeowner Associations and California Politics: An Exploratory Analysis," *Urban Affairs Review*, September 1998.

**"Suburban Youth Gangs and Public Policy: An Alternative to the War on Violence," *Journal of Emotional and Behavioral Problems* May 1996

"Homeowner Association Private Governments in the American Political System," *Papers in Political Economy*, No. 73-76, Political Economy Research Group, University of Western Ontario.

"Morning in Privatopia," *Dissent*, Spring 1989; reprinted in Dennis Judd and Paul Kantor (eds.), *Enduring Tensions in Urban Politics*, (New York: Macmillan, 1992).

"Invisible Kingdoms," *California Lawyer*, Vol. 5, No. 12, December 1985 (with Michael Lee Bowler)

"Prison Sentencing Laws Need Reform," *California Journal*, March, 1985, (with Robert A. Roos)

"It's Time to Revise Prison Sentencing Again," *California Lawyer*, October, 1984 (with Robert A. Roos)

"Computer Programs and Copyright Law: The Object Code Controversy," *San Fernando Valley Law Review*, 11 San. Fern. V.L.R. 1 (1983)

"A Survey of Innovative Treatment Programs for Seriously Delinquent Youth." A 1981 report to the San Diego County Bar Foundation.

*"The Mentally-Disordered Juvenile Offender," *Juvenile and Family Court Journal*, Vol. 30, No. 4, November 1979 (with Robert A. Roos)

You Have the Right (Anchorage: Alaska Federation of Natives, 1976). An introduction to the criminal justice system of rural Alaska used in a community legal education program.

Book Reviews:

Review of Clarence Stone, et al., Building Civic Capacity: The Politics of Reforming Urban Schools, for *Journal of Politics*

Review of Richard E. Foglesong, Married to the Mouse: Walt Disney World and Orlando, for *Journal of Politics*.

Review of Ingrid Gould Ellen, Sharing America's Neighborhoods: The Prospects for Stable Racial Integration for *Urban Affairs Review*.

Review Essay of Charles M. Haar, Suburbs Under Siege: Race, Space, and Audacious Judges; Susan E. Clarke and Gary L. Gaile, The Work of Cities. By Susan E. Clarke and Gary L. Gail; and Nick Jewson and Susanne MacGragor (eds.), Transforming Cities: Contested Governance and New Spatial Divisions, for *Journal of Politics*.

Review of Mark Fenster, Conspiracy Theories: Secrecy and Power in American Culture. For *Government Information Quarterly*

Review of Edward Blakely and Mary Gail Snyder, Fortress America: Gated Communities in the United States, for *Political Science Quarterly*.

Review of Daniel Pipes, Conspiracy: The Paranoid Style in American Politics for *Government Information Quarterly*

Review of David Kirp, et al., Our Town: Race, Class and the Soul of Suburbia, September 1996 *Urban Affairs Review*.

Review of Kathleen M. Eisenbeis, Privatizing Government Information: The Effects of Policy on Access to Landsat Satellite Data, for *Government Information Quarterly*

Review of Henry H. Perritt, Public Information in the National Information Infrastructure for *Government Information Quarterly*, vol. 12, no. 4 (Winter 1995)

Invited Lectures, Conference Papers and Other Presentations (partial list):

“How Universal is the Spread of Privately Governed Gated Communities, and What Are the Implications for Urban Theory?”—presented at UIC Great Cities Institute, April 24, 2007

“How Universal is the Growth of Private Urban Governance, and What Are the Implications for Urban Theory?” UIC Urban Scholars Symposium, April 10-11, 2007. Also served as panel chair for panel on Los Angeles.

Participant in “Roundtable on Local Government and Regional Government in the US,” Forum on Federations conference at UIC, Jan 18, 2007

“Fence Me In: Local Leaders Learn How Homeowners Associations and Gated Communities Are Evolving Across the Nation,” National League of Cities Congress of Cities, Reno NV, December 9, 2006

“Does Privatopia Have a Future? Current Trends in Legislative Reform of Common Interest Developments,” Keynote Address, Conference at Center for California Homeowner Association Law, San Jose CA, October 25, 2006.

Panel Chair and Discussant, American Political Science Association, September 2006. Panel on “Governing Cities: Federalism, Taxes, and Eminent Domain”

“Choice, Consent, and Legitimacy in Community Association Governance: The Impact of Recent Trends in State and Local Public Policy.” Paper presented at Policy Conference of the Association for Public Policy and Management, November 5, 2005, Washington, DC.

Keynote address, “Private residential governance in the USA: Why is it happening and what does it mean?” International Conference on Gated Communities. University of Mainz, Germany. June 5-9, 2002

“Diversity Assurance and Pro-integrative Initiatives in Ten Communities,” conference on Building Blocks for Inclusive Communities. Cleveland, Ohio. November 7-9 2002.

Wayne Hyatt Annual Lecture, “Common Interest Housing in the Communities of Tomorrow”, 24th Annual Community Association Law Seminar, New Orleans, January 31-February 1, 2003.

“The Perils of Suburban Ethnography,” American Anthropological Association Annual Meeting, New Orleans, Louisiana, November 21-24, 2002.

“Diversity Assurance and Pro-integrative Initiatives in Ten Communities,” Building Blocks for Inclusive Communities Conference, Cleveland, Ohio, November 7-9, 2002.

"Urban Space Since September 11," Chicago Historical Society and Center for Public Intellectuals, panel discussion, October 15, 2002.

"Oak Park and Common Interest Developments Compared," Harvard Law School, "Thinking About Cities" class, Profs. Gerald Frug and David Barron, October 3, 2002

Keynote address, "Private Residential Governance in the USA: Why is it Happening and What Does it Mean?" International Conference on Private Residential Governance, University of Mainz, Germany, June 5-9 2002.

"Reconsidering the Oak Park Strategy: An Assessment of Integration Maintenance Policies in a Chicago Suburb," Midwest Political Science Association Annual Meeting, April 25-28, 2002.

"Extending the State in Las Vegas? An Inquiry into the Means and Ends of Private Residential Governance," Western Political Science Association Annual Meeting, Long Beach, CA, March 22-24, 2002.

Keynote Address, "Common Interest Housing In the Communities of Tomorrow," Second Communities of Tomorrow Summit, American Institute of Architects, Washington, DC, March 21, 2002

Panel Discussion, "Government, Inc. When Private Organizations do the Business of Government," Privatization: The Legal Implications of Shifting Boundaries between Public and Private. Hastings College of the Law, Public Law Research Institute, November 9, 2001

"Private and Fortified Enclaves in Post Liberal America," The Vulnerable Citizen Conference, University of Illinois at Chicago, October 19-20, 2001

"Gated Communities: Good or Bad?" American Bar Association State and Local Government Section Meeting, Savannah, Georgia, October 13, 2001.

"Constructing the *Pomerium* in Las Vegas," paper presented at the Conference on Democracy, Violence and Cities: New Segregations and Changes in Public Space. University of California at Irvine, June 1-2, 2001.

"Politics by Design: The New Urbanism." Poster Session, Midwest Political Science Association Annual Meeting, April 20, 2001.

"Field Research in Oak Park, Illinois," Organizer and participant, University of Illinois at Chicago Office of Social Science Research, April 13, 2001.

"Fair Housing, Integration, and Diversity; The Changing Dynamics of Racial Policy in a Chicago Suburb," paper presented at Western Political Science Association Annual Meeting, March 15-17, 2001.

"Succession Theory and the Chicago School," paper presented at Great Cities Institute Winter Forum, Chicago, Illinois, December 1, 2000.

"Representing Race in Urban Politics," Panel Chair and presenter, Great Cities Institute Winter Forum, December 1, 2000,

New Legislators Briefing on "Corrections and Community Crime Prevention," Illinois State Legislature, December 1, 1999

"Emerging Trends in Residential Private Governance," at Lambda Alpha Conference on Building Community, De Paul University, November 12, 1999

"School Desegregation in Oak Park," presentation at Oak Park Long Term Diversity Conference, November 5, 1999

Invited lecture on "Managed Integration Public Policies in Oak Park, Illinois," Institute of Government and Public Affairs, University of Illinois, November 1, 1999

Panel discussion on "Self Governance Problems" at conference on "Affordable Housing Resources and Prospects, Midwest and Chicago Strategies." John Marshall Law School/American Bar Association, October 22-23, 1999.

Invited lecture on "Managed Integration Public Policies in Oak Park, Illinois," Law and Society Program, University of Illinois at Chicago, October 15, 1999

Invited lecture on "Suburban Youth Gangs and Public Policy: A Case Study," presented at panel on youth gangs at Illinois Academy of Criminology, Chicago, May 8, 1998.

Panel Discussion on "Making Places for Community: Transactional Lawyers in New Urban Work," at American Association of Law Schools/American Political Science Association Workshop on Inner Cities, San Francisco, January 7, 1998

Invited Lecture on "Gated Communities," with panel discussion, presented to annual meeting of American Planning Association, D.C. Area Chapter, Washington, DC, November 1997

Invited Lecture on "Reinventing Master Planned Developments," John Marshall Law School, Chicago, October 1997.

Invited Lecture on "Super-predators and the Politics of Juvenile Justice," presented to the Board of Directors of the John Howard Association for Prison Reform, Chicago, 15 April 1997.

Lecture on "The Juvenile Court in the Twenty First Century," Great Cities Institute, University of Illinois-Chicago, 18 February 1997

Invited Lecture on "Gated Communities and Suburban Youth Gangs," and panel discussion, in program on Gateways and Barriers: Defining Borders of a Community at The Urban Forum, National Building Museum, Washington, DC, 12 November 1996

Invited Lecture on "Suburban Youth Gangs and Public Policy," and panel discussion, in program on Urban-Suburban Gangs in Contemporary Society, Illinois Academy of Criminology, Chicago, 16 October 1996

Invited Lectures on youth gangs and public policy, at "Reclaiming Youth at Risk: From Risk to Resilience", Sponsored by Journal of Emotional and Behavioral Problems/Black Hills Seminars, South Dakota, June 1996

Invited Lecture on "Homeowner Associations and American Politics" at Political Economy Workshop, University of Western Ontario, Canada, December 4, 1995

"On-Line Data Access for Teaching Public Law in Political Science Departments," paper presented at the Western Political Science Association 1995 Annual Meeting, Portland, Oregon, March 16-18, 1995. [paper presented by Matthew A. Cahn in my absence]

"Directions in Public Policy Regarding Residential Private Governments in the Intergovernmental System," paper presented at the Annual Meeting of the American Political Science Association, New York City, New York, September 1-4, 1994.

"Homeowner Associations as an Emerging Force in California Politics," paper presented at the Annual Meeting of the Western Political Science Association, Albuquerque, New Mexico, March 10-12, 1994

Keynote speaker at Annual Seminar of the Executive Council of Homeowners, Santa Clara, California, October 23, 1993. Address: "The Future of Homeowner Associations."

"From Exclusivity to Exclusion: Homeowner Associations and Housing Segregation," paper presented at the 1993 American Political Science Association Annual Meeting, Washington, D.C., September 2-5, 1993.

"The Green Machine Meets the Growth Machine: Factors in Intergovernmental Relations and Environmental Policy in California," paper presented at the Western Political Science Association Annual Meeting, San Francisco, California, March 19-21, 1992 (with Matthew A. Cahn).

"Private Government: The Future of Democracy?" paper presented at conference on "Rethinking Democracy" held at Albright College, December 6-7, 1991.

"The New World Order and Democracy," roundtable presentation at conference on "Rethinking Democracy" held at Albright College, December 6-7, 1991.

"The Politics of Legal Education: Private Government or Public Policy?" paper presented at the Pennsylvania Political Science Association Annual Meeting, Carlyle, Pennsylvania, April 12-13, 1991.

"Private Covenants and Public Law," paper presented at the Western Political Science Association Annual Meeting, Salt Lake City, Utah, March 30-April 1, 1989

"Treating the Seriously Delinquent Youth," address given at Juvenile Justice Training Institute. Bend, Oregon, August 18-21, 1982. Co-sponsored by the Oregon Juvenile Judges Association and the National College of Juvenile Justice.

"Treating the Seriously Delinquent Youth," address given at 45th Annual Conference of the National Council of Juvenile and Family Court Judges. Portland, Oregon, July 11-16, 1982.

Organizer and speaker, Conference on Dispositional Alternatives for the Serious Juvenile Offender. San Diego, California, May 23-26, 1982, co-sponsored by Delta Institute and the National Council of Juvenile and Family Court Judges. Delivered conference theme address entitled "Considerations in the Treatment of the Seriously Delinquent Youth," and served on several panels.

Participant, United Nations Meeting of Experts on Juvenile Justice. National Judicial College, Reno, Nevada, May 27-June 1, 1979.

Newspaper and Magazine Articles:

Monthly column for Chicago Journal, September 2000 to May 2003.

"Welcome Home. Do as We Say." New York Times, August 18, 1994

"Trouble in Privatopia," The Progressive, October 1993; Chicago Tribune, October 30, 1993; San Diego Union-Tribune, January 9, 1994; San Francisco Chronicle, January 9, 1994.

"Political Science at the Laundromat," USA Today, May 12, 1992; Cleveland Plain Dealer, May 7, 1992; Little India, June, 1992.

"The Plot Against PC: Fat Cat Conservatives on the Prowl," San Francisco Examiner, July 1, 1991.

"Cold War Rekindled?" Christian Science Monitor, February 25, 1991

"Shades of Patty Hearst: What if Fawn Hall Were at Left, not Right?" San Diego Transcript, June 23, 1987

"There's a Loophole to Bypass Authority of the Presidency," San Diego Tribune, January 12, 1987 (With Michael Bowler)

"Politics and the California Bench," San Diego Magazine, October, 1986 (with Michael Lee Bowler)

"Do Police Have Duty to Protect?" San Diego Transcript, April 15, 1986

"The New City States," San Diego Magazine, April, 1986 (with Michael Lee Bowler)

"Behind-the-Scenes Look at Securing UN Crime Congress in San Francisco," Los Angeles Daily Journal, March 6, 1981

"Justice for Juveniles?" Anchorage Daily News, September 4, 1976.

Awards

Great Cities Faculty Fellowship, University of Illinois at Chicago, Great Cities Institute (awarded for 1996-7 Academic Year)

American Political Science Association, Urban Politics Section, award for "Best Book on Urban Politics," for Privatopia: Homeowner Associations and the Rise of Residential Private Government (awarded in 1995)

San Diego Press Club prize for "Best Consumer Article," for "The New City-States" (awarded in 1986)

Society of Professional Journalists awards for "Politics and the California Bench," and "The New City-States" (awarded in 1986)

Outstanding Undergraduate in Political Science 1972, California State University at Los Angeles

Reviewer of Manuscripts for:

Routledge
University of Minnesota Press
The Brookings Institution
Georgetown University Press
Urban Affairs Review
Journal of Policy History
City and Community

Grants Awarded:

UIC Great Cities Program, 1995--for study of homeowner associations.

UIC Office of Social Science Research, 1995--for study of homeowner associations.

Gertrude Anderson Trust, 1981-83--for study and evaluation of juvenile delinquency treatment programs.

San Diego County Bar Foundation, 1981--for study of juvenile delinquency treatment programs.

National Endowment for the Humanities, 1977: for completion of Valdez, 1976.

National Endowment for the Humanities, 1976: for production of Justice Delayed.

State of Alaska, 1976: for production of Justice Delayed.

Kellogg Foundation, 1976: for production of State of Alaska v. Thomas Okpik.

Selected Other Activities:

Numerous press citations and radio and television appearances as authority on homeowner associations, gated communities, and privatization. Examples: ABC's 20/20; National Public Radio's "Fresh Air," "Talk of the Nation," and "All Things Considered," New York Times, Wall Street Journal, Smart Money, Chicago Tribune, Los Angeles Times.

Member of award committee for Best Book on Urban Politics prize, American Political Science Association, 2002.

Expert witness, Committee for a Better Twin Rivers v. Twin Rivers Homeowners Association (New Jersey)

Expert witness, Pollard v. Heard. (Illinois)

Member of Board of Directors, Oak Park Regional Housing Center

Member (1995-2002) and Chair (1999-2002) Oak Park Township Youth Services Committee

Member of award committee for Best Dissertation on Urban Politics prize, American Political Science Association, 1996.

Addresses and workshops on "Political Extremism," at three conferences of the League of Women Voters of Chicago, State of Illinois, and national convention 1995-96.

"Why Does America Have So Much Crime?" Panel presentation at Berks County Democratic Party Annual Educational Seminar, Reading, Pennsylvania, May 8, 1993, and March 26, 1994.

Co-producer and co-host of "Professor's Roundtable," a monthly program on Berks Community Cable Television, 1993-4; numerous appearances on Berks Community Cable Television and Pottstown Cable Television on programs including "Alternative News and Different View," "Builders' Forum," and "Centering on Peace."

Taught course entitled "To Preserve These Rights," a continuing education course for teachers concerning the Bill of Rights, sponsored by the Pennsylvania Humanities Council and taught at Schuylkill Intermediate Unit, November 7 to December 14, 1991.

Commissioner, San Diego County Juvenile Delinquency Prevention Commission, 1981

Memberships:

Midwest Political Science Association

American Political Science Association

Admitted to law practice; California (1980-now inactive); United States Supreme Court (1986); Illinois (2004).

HOLZHAUER & HOLENSTEIN, LLC

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MICHAEL E. HOLENSTEIN, MAI, CTA, SCGREA

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CONSULTING REPORT

LIMITED-RESTRICTED FORMAT

IMPACT OF
HIGHLANDS WATER PROTECTION AND PLANNING ACT
AND ACT RULES
ON PROPERTY VALUE WITHIN THE
PRESERVATION DISTRICT

PROJECT REFERENCE

HIGHLANDS REGION

NJ HIGHLANDS PRESERVATION AREA

PREPARED BY

MICHAEL E. HOLENSTEIN, MAI, CTA
SCGREA; NY, NJ-RG01234, PA-GA1733-R

REPORT DATE

SEPTEMBER 1, 2007

FOR

BOARD OF CHOSEN FREEHOLDERS
WARREN COUNTY

%

HUESTON McNULTY, PC
ATTORNEYS AT LAW
256 COLUMBIA TURNPIKE
FLORHAM PARK, NJ 07932

NJ Highlands Act, Value Impact Summary

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September 1, 2007

Hueston McNulty, PC
Attorneys at Law
256 Columbia Turnpike, Suite 207
Florham Park, NJ 07932

Attn: Stephen H. Shaw, Esq., as Warren County Special Counsel, Highlands Litigation
Re: Appraisal & Consulting Services, Impact of the Highlands Act & Act Rules, Warren Co, NJ

Dear Mr. Shaw:

I understand that your Firm is Special Counsel to Warren County (the "Client") in prospective litigation related to passage of the Highlands Act Legislation (the "Act") and associated Rules (the "Act Rules").

In accordance with your request, I have prepared this consulting report for use by the Client, its Subsidiaries, and Assigns as an outline of expert testimony to be conducted by Michael E. Holenstein, MAI in connection with this work.

The "purpose" of the work is to demonstrate the impact that the Act and Act Rules have had on the value of property located within the Preservation District. The function ("use") of the work is to provide the Client with litigation support services.

Thank you for this opportunity to have continued our service to the Warren County Board of Chosen Freeholders.

Respectfully submitted,
HOLZHAUER & HOLENSTEIN, LLC
By:

MEH via Electronic 10/10/07

MICHAEL E. HOLENSTEIN, MAI, CTA
SCGREA: NY, NJ-RG01234, PA-GA1733R

MEH/tps
Enclosures
File #1073-10-07 Summary

NJ Highlands Act, Value Impact Summary

INTRODUCTION

The Highlands Act

The Highlands Act established two distinct areas of influence identified as the Preservation District and the Planning District. This report addresses the impact that the Act and ensuing Act Rules manifest on property values within the Preservation District.

The Act Rules

It is assumed that the reader has access to a copy of the “complete” Highlands Water Protection and Planning Act Rules, circa November 2006,

(www.nj.gov/dep/rules/rules/njac7_38_2006_1204complete.pdf)

and the “Readopted Rule”

(www.nj.gov/dep/rules/adoptions/njac7_38_20061204.pdf)

and is otherwise generally familiar with the Highlands Act and the body of land within NJ encompassed by the Highlands.

Act-Rules & Impacts

Discussion of the Act and Act Rules requires some convention to avoid confusion and excessive rhetoric.

Basis understandings relied upon within this document include:

1. That when presenting or discussing issues (pro or con) regarding the Act and Act Rules, the presenter must define the scope of influence under which their comments are being made. Specifically, comments must be discussed in the “macro” sense (Statewide NJ) or the “micro” sense (political and neighborhood subdivisions within the State, or smaller). Generally speaking, the Act and Act Rules are directed to a scope of influence intended to be “macro” in the sense of characterizing impacts and benefits to the State of NJ as a whole.
 2. Because the market for real estate is dynamic, findings and conclusions must either be expressed as of a date certain (e.g. a “value opinion”) or as a general affect that is likely to fluctuate over time (e.g. a “trend opinion”). Opinion regarding “impacts” might reasonably stated as point specific or as a general trend or as a wasting “stigma”.
 3. That the Highlands Act does not restrict development in a macro sense. In other words, while development may be restricted within the Preservation District (a more “micro” effect), the Act and Act Rules do not specifically prevent development outside the Preservation District.
-
-

NJ Highlands Act, Value Impact Summary

4. The Act and Act Rules are apparently intended to re-direct development from the Highlands Preservation area to “appropriate” areas of the State. Reliance is placed on regional planning and transfer of development rights (“TDR’s”) to facilitate re-direction of growth.
5. That the Act and Act Rules do not facilitate or insure that any area outside the Highlands will accept any, if not all, the redirected growth.
6. The impact that the Act and Act Rules have on property use, utility, function, and hence value, has dramatically different impact and ramification when viewed in a macro and micro sense.
7. The impact that the Act and Act Rules have on NJ economics is dramatically different when viewed in a macro and micro sense.

Scope of Work

Holzhauser & Holenstein, LLC (“H&H”) is retained by Hueston McNulty, PC on behalf of the County of Warren to assist with:

1. Critical review of the proposed Highlands Water Protection and Planning Act Rules (December 19, 2005) as readopted, and
2. Assessing the impact that the Highlands Act Legislation has on property value within the constituent communities located within the Highlands Preservation District.

Warren County is identified as the “Client” and “Intended User” of these appraisal services. This document is identified as a Consulting Report. Reliance on the report is restricted to the Client, its Affiliates, and Assigns. The appraisal services rendered by H&H are intended to form the basis for expert testimony before judicial and quasi-judicial bodies within the State of New Jersey.

The purpose of this consulting report is stated under #'s 1&2 above. The function (“use”) of the consulting report is to provide the Client with litigation support services and to provide the Intended Users with professional interpretation and opinion regarding the Act and Act Rules.

This document is characterized under USPAP as a “Consulting Service/Report”. To the extent that the report requires appraisal opinion and/or conclusions, it is identified as a Limited Appraisal in Restricted Report format (USPAP 2-2c). No specific departures from USPAP are invoked. Case study material and evaluations are generally complete appraisals specific to the identified subject properties.

NJ Highlands Act, Value Impact Summary

Special Assumptions & Limiting Conditions

1. It is assumed that the Act Rules accurately constitute the representations, findings, and conclusions of the NJ Department of Environmental Protection (the "Department") as preparer and the Act Rules are consistently prepared, or are intended to be consistently prepared, in accordance with the statutory requirements for a State rule.
2. That the Department has conducted appropriate due diligence when relying upon the studies and findings reported by others.
3. That the Department's responses to public comment (regarding the draft rules) are intended to reiterate, clarify, and ratify the firmly founded and correct findings, conclusions, and convictions of the NJDEP that form the substantive basis for the Act Rules.

Inspection, Land & Premises

Michael E. Holenstein, MAI, principal of H&H, LLC, has continually practiced real estate appraisal and consulting services within the NJ Highlands Region for the last 20 years. General familiarity with the region is represented. The cumulative results of approximately 200 independent appraisals are referenced. These properties were individually inspected IAW preparation of those appraisals. Approximately 80 of the appraisals cited were prepared by outside firms reporting to either the State or County Agricultural Development Boards. H&H, LLC is certified to prepare these reports and has prepared approximately 120 of the same within the last 5 years. Familiarity with the property inspection process is represented.

NJ Highlands Act, Value Impact Summary

FINDINGS & CONCLUSIONS

Structure of Review

During February 2006, H&H, LLC was retained by this Client to conduct a review of the then proposed Act Rules. Specifically, H&H, LLC was retained to conduct:

1. Critical review of the proposed Highlands Water Protection and Planning Act Rules (December 19, 2005), and
2. Assess the impact that the Highlands Act Legislation has on property value within the constituent communities located within the Highlands Preservation District.

The Act Rules section reviewed by H&H, LLC is found from Page 186 of 372, "Social Impact", through Page 266 of 372, "Agriculture Industry Impact".

The methodology and convention employed to conduct the work was to sequentially address facts, verbiage represented as fact, and findings and conclusions beginning on Page 186 of the proposed Act Rules and ending after Page 372. Periodic direct reference was made to the Act Rules text by citation; independent findings and analysis were inserted where appropriate.

The Holzhauer & Holenstein, LLC report (February 14, 2006) is included herewith by reference.

Act Rules Review

The following paragraphs are excerpts of detailed commentary prepared and submitted by H&H, LLC as subsequently responded to by the Department and recorded within the Act-Rules "re-adoption" text document (www.nj.gov/dep/rules/adoptions/njac7_38_20061204.pdf).

Despite the comments made by H&H and 114 other Commentators, NJDEP has apparently readopted the Act Rules with no substantive changes. Certain of the H&H Comments & Department Responses are listed following. H&H rebuttal comment is included as the same pertains to the Scope of Work associated with this document.

Initially, within the H&H February 14, 2006 report under the heading:

"Social Impact"

H&H Comment: There is no evidence presented (insert: *within the Act Rule Document*) that conclusively demonstrates that the Act Rules provide a macro social impact that is not redundant in the context of prior-existing rules and regulations. Further, the degree to which an impact will be realized is wholly dependant upon presupposed eventualities that have not occurred since adoption of the Act and may, or may not, occur outside the Preservation District. Implementation of TDR's is an excellent example.

NJ Highlands Act, Value Impact Summary

NJDEP Response: To Comment # 666 (Page 457) as above:

“The Highlands Act consolidates aspects of several existing programs, strengthens their protections, and adds some unique protection provisions as well...”

H&H Rebuttal: Upon review it is evident that the Department does not have a credible response to Comment #666. The assertion that the Act “adds some unique protections provisions” rings hollow. Given the scope and context of the Act and Act Rules together with the resources available to the NJDEP, it is incumbent upon NJDEP to come up with something better than “some unique protection provisions” as support for the Act and Act Rules as not being redundant in the context of the prior existing rules and regulations. As NJDEP has not produced the said examples and proofs it is left to the Reader to garner that the Act and Act Rules are wholly or largely redundant.

Initially, within the H&H February 14, 2006 report under the heading:

“Economic Impact”

H&H Comment:

The net result of transferring development potential and associated economic impact value from the Preservation District to areas outside the core is an effective transfer of property worth from owners within the Preservation District to other private property owners. The order of magnitude for transferred value from one group of private individuals to another is demonstrated by the following model:

The Act Rules cite several different development and buildout scenarios as probable occurrence with the Preservation District. These include (@ Page 217) that the potential dwelling units within the PD (at buildout) total 215,421 units (say 215,000).

H&H independent analysis (attached) supports that the 2006 median home value within the Highlands region is reasonably supported @ \$373,000. The impact that the Act-Rules have on property owners within the PD is estimated as follows:

$$215,000 \text{ units @ } \$373,000/\text{unit} = \$80,195,000,000.$$

This calculation demonstrates an \$80 Billion loss in ratable base for Highlands PD municipalities.

Further, the above depiction does not account for other forms of development, e.g. commercial and industrial. It also does not make a distinction among dwelling units as may be developed with other than SFR homes.

The “average economic multiplier” for the US is cited within the Act-Rules (@ Page 208) as being Factor = 2X. Therefore, the cost to local economies resulting from the failure to construct and sell 215,000 dwelling units is estimated as follows:

$$\text{\$80.195 Billion} * \text{Factor (2X)} = \text{\$160 Billion Dollars}$$

Given the methodology customarily cited within the Act-Rules, the loss in sales and realty transfer tax together with the lost jobs, and jobs spending multipliers results in the conclusion that the Act-Rules will have an astronomical impact on the economy and the ratable bases of the PD communities.

However, this statement is not necessarily true based on the same criticisms of the Act-Rules presentation of cost/benefit analysis. The problem must be evaluated on a micro and macro basis.

Therefore, it may be stated that Statewide, and over a period of time, the loss of ratable base, and the gross affects on the economy are likely to be negligible. The Act and Act-Rules don’t prevent development, the same are just redistributed.

The absorption of the theorized dwelling units will be delayed due to the increased regulation and the time necessary to facilitate increased density potentials within “appropriate” areas for development but the gross demand for housing will eventually be met.

What can be stated with certainty is that whatever economic benefit is received by areas outside the Preservation District will come at the expense of the property owners and the local economies within the PD.

NJDEP Response: To Comment # 719 (Page 492) as above:

In the interests of clarity, the H&H Rebuttal comments are inserted in the Response text as “Blue Bold”.

“For the reasons set forth at length in the economic impact analysis, the Department believes that the long-term statewide impact of the rules being readopted will be significantly positive rather than negligible or neutral.”

When making an argument or asserting a claim, it is inappropriate to assert that the argument or claim is, of itself, sufficiently self evident that it overcomes objection. Comment #719 challenges the Department’s claims, assertions, and purported facts. It is therefore “no argument or explanation” to say, *ipse dixit* that the argument or purported facts are either self evident or correct.

NJ Highlands Act, Value Impact Summary

"In terms of the asserted short-term redistributive impacts, the Department notes the following:

- 1. The commenters assume that the value of \$373,000 per home can be extrapolated to new housing. However, as the supply of housing increases, the price of new housing may decline as a result of supply and demand effects and because as new housing is built, the areas in which the construction takes place will, by definition, become more congested and therefore less attractive to subsequent homebuyers."*

There is no question that the unit, \$373,000/house, can be relied upon as it is the average of the reported median home prices for all homes sold within the Preservation District communities (50) during the cited time period adjusted for general property appreciation (only) to the date of the report (2006). Does the Department intend by their comment to assert that the unit of \$373,000 is too low? The probability is that new housing costs will continue to exceed old housing costs consistent with the movements of the market during the post WWII era.

As for an assertion that the "price of new housing may decline as a result of supply and demand effects", this comment belies the very fundamental of supply and demand. There has not been a single instance of sustained oversupply in the last 60 years. When supply exceeds demand, builders stop building. It is certainly true that there are periodic instances when the market corrects but there is not a single instance of declining values within the Highlands or proximate locations over any 10-year period since the end of WWII. There is also no evidence that the cost of developing homes (bricks & mortar) has declined in support of the Department's illusion that new housing would cost less than existing housing.

As to the issue of congestion affecting desirability, we have only to look at the trends in real estate development within the more suburban counties to the east. There will always be those who want to live in the country but it is the Department's own findings that cite that persons "prefer to live in neighborhoods...." the very like of which would have been built in the Highlands pursuant to Town & Country planning.

- 2. "To the extent that development occurs outside the preservation area, the communities in the preservation area will not have to bear the costs of development, for example, the costs of new roads, water and sewer lines, schools, fire and police protection, etc. To the extent that such costs are avoided, communities in the preservation area may experience no net fiscal impact."*

It was my apparent misconception that, under the format used by the Department to present the Act Rules, that a savings of costs equals a benefit. Further, that those costs are appropriately viewed to assess "natural value" as the present value of the cost savings for a period of 25 years discounted @ 5%. Following the Department's logic (when universally applied), the "benefit" to the preservation area property

NJ Highlands Act, Value Impact Summary

owners is no less than \$1,127 Billion dollars calculated as the present value of \$80Billion/year for 25 years @ 5%/annum.

This rebuttal comment is provided to demonstrate the Department's arbitrary application of its supporting logic and to demonstrate the utterly ridiculous use of similar application to assert a "benefit" based on "natural value" as differentiated from the more tangible and generally accepted term "market value".

3. *"Some portion of the new housing would likely be affordable housing, which, would likely have a lower average price than the existing median cited by the commenters".*

Under COAH, it is absolutely likely that some of the new units will be low to moderate. However, it is in the nature of averages to include the highs and lows. The Department's response lacks the illumination associated with an ability to average a series of numbers and is hence not credible.

4. *"Any change in sales tax or realty transfer tax revenues is already reflected in the multiplier, and such changes would not constitute additional benefits or costs to communities in the preservation area."*

So noted.

5. *"The Department's rules contain several exemptions to permit single-family dwellings so the estimated loss of 215,000 units is an obvious overestimate. To date, the Department has confirmed 351 exemptions."*

The Department's inability to be specific about the numbers and types of exemptions as differentiated from stating "some exemptions" highlights the utterly picayune relief that the exemptions offer affected property owners. The 351 confirmed exemptions reflect 0.20% (that's 1/20th of a percent) impact on the cited numbers. The reader is reminded that the number of units cited (@ 215,000) was taken directly from the Act Rules document (@ page 215) and was rounded down from the stated build-out numbers of 215,421 units. The confirmed exemptions (351) fall firmly within the rounding error (421) of the analysis and are therefore inconsequential.

6. *"The Department's regulations may result in some level of reduction in value for landowners in the Highlands but does not deny all use. Consequently, municipalities will not assess these lots as having zero value."*

The Department's acknowledgement that "some level of reduction in value" may be experienced is cavalier at best. The Department is the lead organization in the acquisition of open space and easements within the State of NJ. The Act itself calls for a special evaluation scheme to be implemented to insure that property owners attempting to voluntarily sell their land or easements to the State of NJ are paid "pre-Act" values. These acquisitions demonstrate that the value of development rights

NJ Highlands Act, Value Impact Summary

differs widely among impacted properties but that in many cases (as later cited herein) the damage is from 60% to 90% of pre-Act values.

Further, the Department's regulations clearly do not deny all use but the uses allowed may not be economic. This condition may change over time. Pursuant to the definition of an "uneconomic remainder", where a partial taking results in an uneconomic remainder the taking is tantamount to the fee. This condition may eventually result in the Department's Rules affecting a regulatory taking except as may (in the discretion of the issuing agency) be averted by Highlands Preservation Area Approval waiver (NJAC 7:36-6.4).

7. *"A transfer of development program is yet to be developed and its potential positive impacts on property owners cannot be assessed."*

For these reasons, the Department believes that any short-term redistributive impacts are likely to be significantly lower than the commenters project.

The H&H, LLC February 14, 2006 Report was predicated on a general perception that the Act and Act Rules did not limit development *per se* but rather facilitated its transfer to "appropriate" areas within the State.

It has since become clear that, while implementation of TDR's and voluntary cooperation among communities may facilitate the effective transfer of (a portion of) the lost development units, that there is, in all practicality the strong probability that most of the 215,000 "lost" units will never be located within NJ.

Given this probability, the H&H conclusion that,

"...the Act-Rules will have an astronomical impact on the economy and the ratable bases of the PD communities."

is irrefutable. The notion (held by H&H) that the value associated with lost and gained development potentials was being redistributed by the Department is evidently not appropriate. It may therefore be conclusively stated that, to the degree that development potentials are not able to be transferred, the worth of the same will be lost to the State of NJ as differentiated from just lost by the Preservation District Communities.

Regardless of the eventual disposition of the transferred or lost worth, it may be reliably stated that the communities and landowners within the Preservation District will lose property value and economic worth in the range of \$160 Billion dollars.

End discussion of H&H February 14, 2006 report and the Department's responses to Commentator comments regarding the then proposed Act Rules.

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Impact on Property Value

The Client has requested that the Act and Act Rules be evaluated for their impact on property values. For the purpose of analysis, “property” is separated into “premises” (buildings and supporting land) and “land” where the term is intended to mean vacant land or land having a Highest and Best Use for redevelopment as though vacant.

Impact on Premises:

The impact that the Act and Act Rules have had on premises is diverse.

Generally speaking, the Law of Supply & Demand supports that where demand exists and a commodity’s availability is limited, its value will increase. It may therefore be reasonably stated that existing homes within the Highlands Preservation District should be expected to increase in value at least commensurate with the general market as a whole.

To the extent that an existing home requires renovation or expansion, the Act and Act Rules contain a complex series of exemptions that facilitate work of this type. As each case is specific, the impact of the Act and Act Rules on individual premise is too specific for general comment herein.

Impact on Land:

The impact that the Act and Act Rules have on vacant land is extremely complex. There are many variables including human elements that collectively render each property unique. In the context of this appraisal and consulting assignment it is incumbent upon H&H to elucidate such areas as may be sufficiently common to facilitate generalization.

The first demonstration, identified as “**Development Rights Study**” deals with the value of development rights as a percentage of gross property values.

The second demonstration, identified as “**Warren County Development Rights Summary**” deals with the value of development rights as a percentage of gross property values but also offers insight relative to the difference in impact experienced by properties within and beyond the Preservation District.

NJ Highlands Act, Value Impact Summary

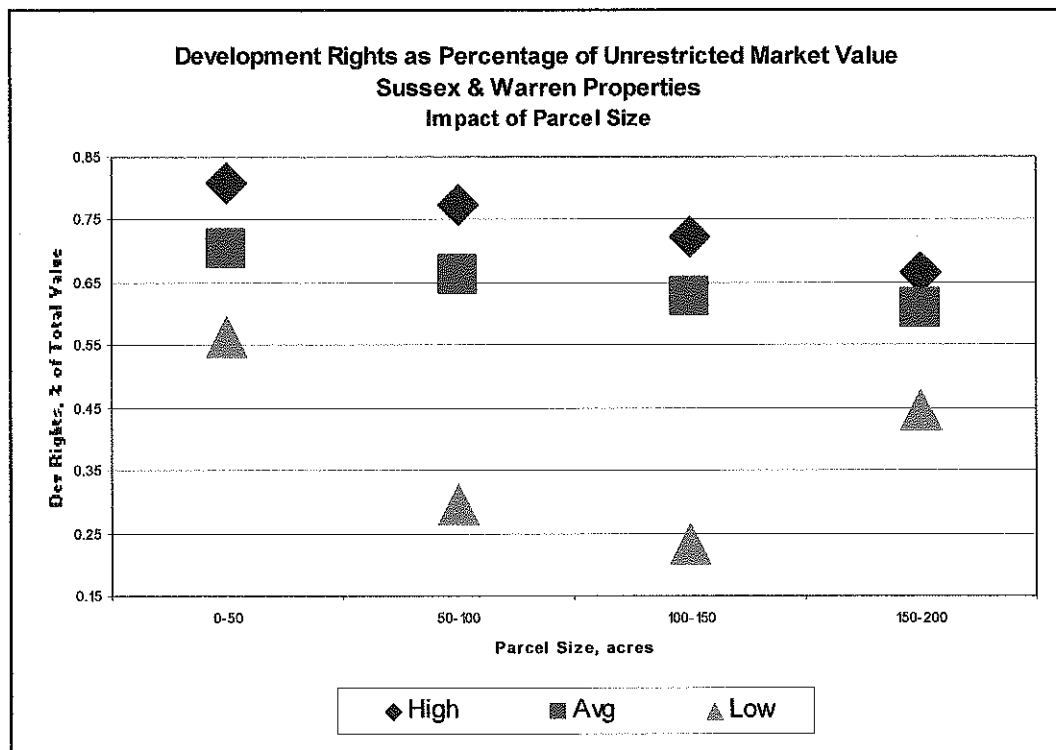
Development Rights Study:

This study was conducted to provide a pictorial demonstration referencing the impact of various factors on the value of Development Rights being acquired through the Farmland Preservation Program. The study utilized data developed through direct appraisal of properties by Holzhauer & Holenstein, LLC within Warren and Sussex Counties for the State Agricultural Development Committee and for private clients. The study covered the years 2002 through 2005, though the bulk of the data was developed between 2003 and 2004.

Development Rights Value is calculated as the mathematical difference between "Unrestricted Market Value" and "Restricted Market Value" as defined (addenda) consistent with the NJ Farmland Preservation Program Appraisal Standards.

Within the following point graph, the Development Rights Value was expressed as a percentage of Unrestricted Market Value for each parcel appraised. The graph is further differentiated to compare the relationship of Parcel Size and the DRV/Unrestricted Market Value percentage figures.

The data was initially sorted based on parcel size and then grouped as to acreage ranges from 0-50 acres, 50-100 acres, 100-150 acres, and 150 to 200 acres. Within these groupings, the maximum, minimum and average values were determined. The following graph indicates the range of percentage value attributable to development rights when sorted as a function of parcel size:



The graph indicates that a distribution of values is established within the various parcel size ranges.

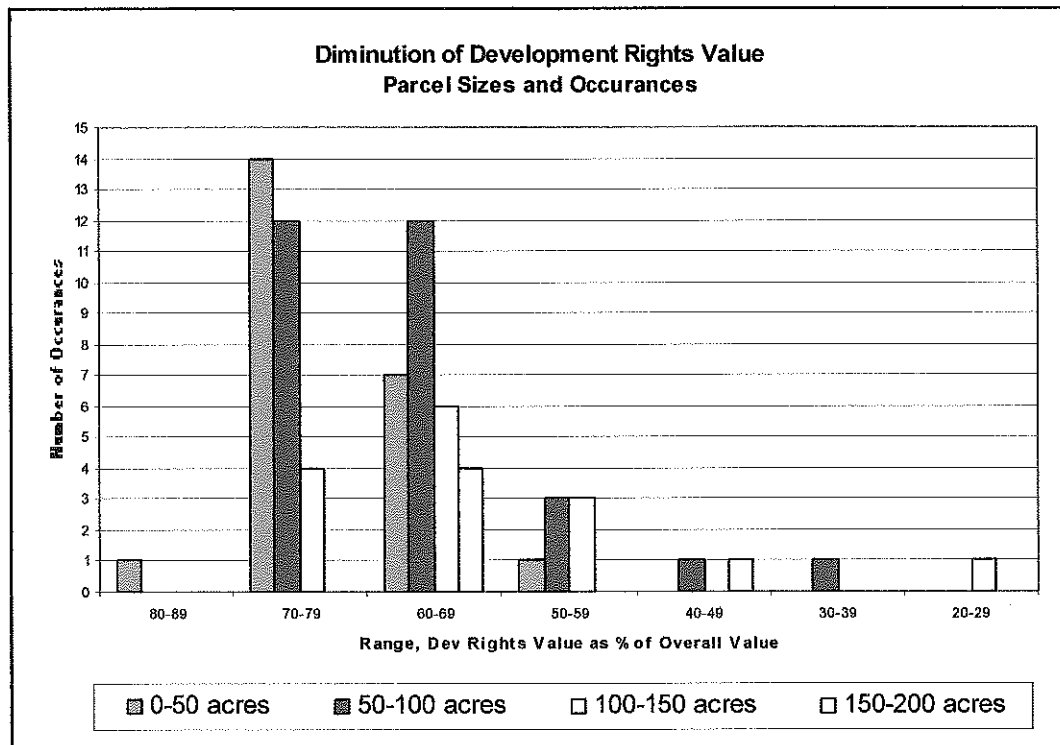
NJ Highlands Act, Value Impact Summary

H&H understanding of this data supports that the range among percentage values for a given group of properties (grouped by size) is due primarily to the quality of the parcels with respect to soils, topography, wetlands and the permitted density as determined by zoning and legislative restrictions.

The graph further indicates that development rights value, as a percentage of gross unrestricted value, tends to trend downward as gross parcel sizes become larger.

The graph supports a conclusion that development rights value as a function of unrestricted market value ranges from an approximate high differential of 65% to 80% to low differential of 20% to 55% with the average of all parcels studied ranging from 60% to 70%.

The previous graph prompted the question as to how the data points are distributed. In response, the following bar chart was developed:



The chart depicts the number of occurrences or distribution within the various percentile ranges for the studied parcels. The trend is confirmed that development rights value as a percentage of unrestricted market value tends to decrease as parcel size increases. Further, it is evident that most of the properties surveyed fell within the 60% to 80% range.

Conclusion: This study, based on appraisals and analysis that either pre-date the Highlands Act or were performed for the SADC completely independent of the Act and/or Act Rules clearly depicts that approximately 60% to 80% of property value is attributable to development rights. As these development rights were eradicated by the Act and Act Rules, it follows that the sample properties typically would lose 60% to 80% of their pre-Act value in response to the Act.

NJ Highlands Act, Value Impact Summary

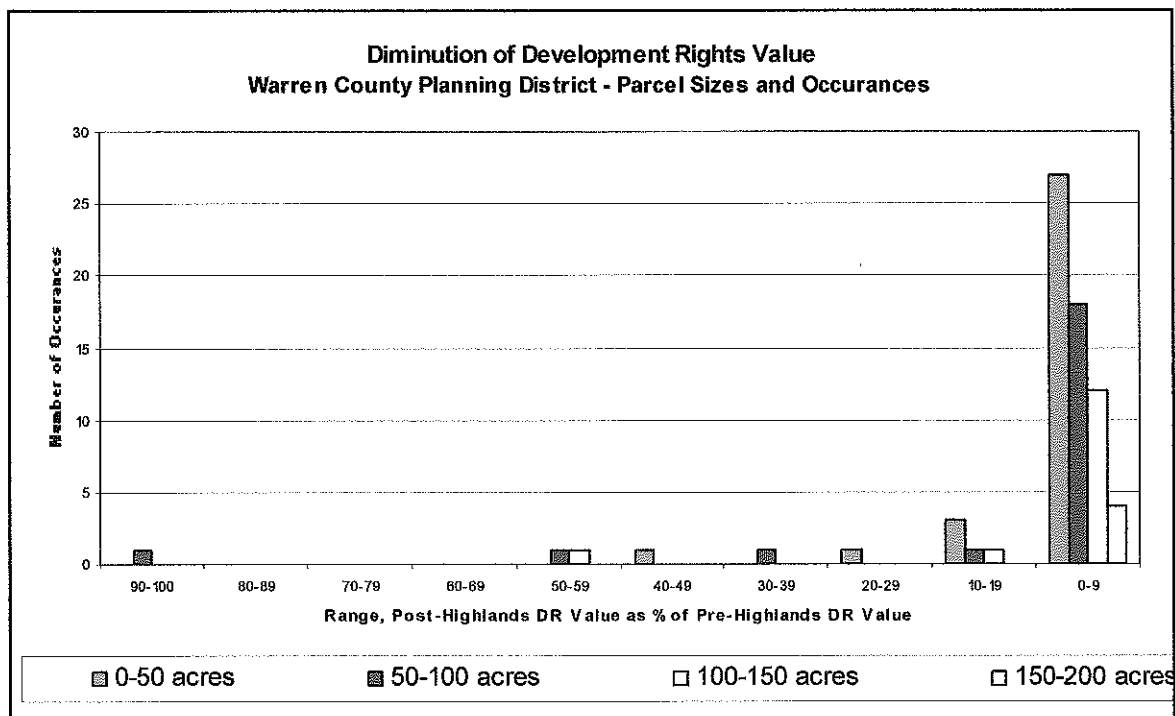
Warren County Development Rights Summary

Following are two point graphs and four bar charts demonstrating statistical data gleaned from a sample of 60 appraisals, 24 of which address property located within the Preservation District and 36 of which address property located beyond the Preservation district (mainly in the Planning District).

These appraisals were commissioned by the Warren County Department of Land Preservation ("WCDLP") for the 2006, 2007 and 2008 ADC acquisition rounds. The appraisals were hence conducted during 2005, 2006, and 2007. H&H, LLC prepared seven of the 60 appraisals.

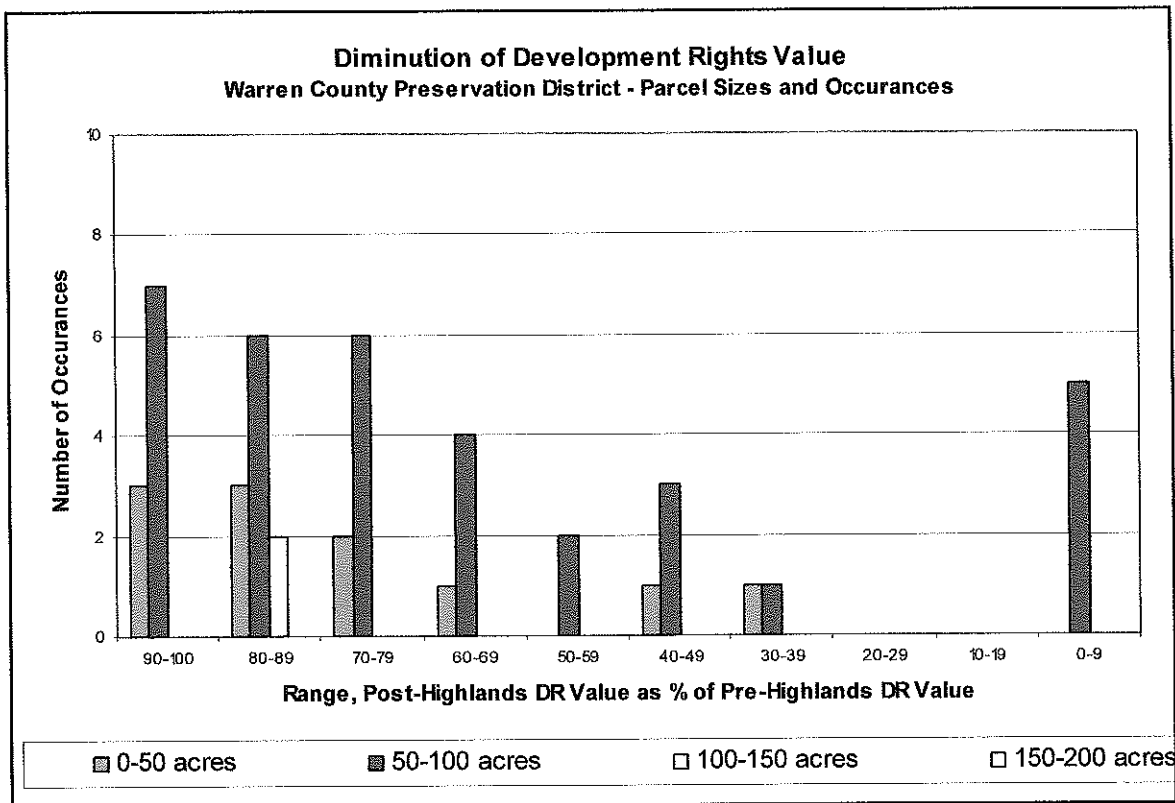
The basic data reported by these charts and graphs has been compiled by WCDLP in a cursory report titled "Property Value Analysis". The source copy is maintained within my files.

The interesting aspect of this data that differs from previous studies is its point in time (well after passage of the Act) and that WCDLP compiled the data separately for lands within the Preservation District and beyond the same. Comparison of the differences among properties and appraisal results is demonstrated by the immediately following "compilation" bar charts (two).



The above chart demonstrates that, of the properties surveyed outside the Preservation District, the Act and Act Rules marginally affected the value of imputed development rights with the largest occurrence falling below 10%. This data indicates that lands outside the Preservation District are not significantly affected by the Act or Act Rules. This bar chart is contrasted with the following chart that depicts the same data for properties located within the Preservation District.

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The above chart demonstrates that the imputed value of development rights for property located within the Preservation Area is severely affected by the Act and Act Rules.

Essentially, the greatest number of occurrences demonstrates a loss in development rights' value from 60% to 90% and the majority of properties surveyed experienced a loss in development rights value from 70% to 99%.

Interim Conclusion

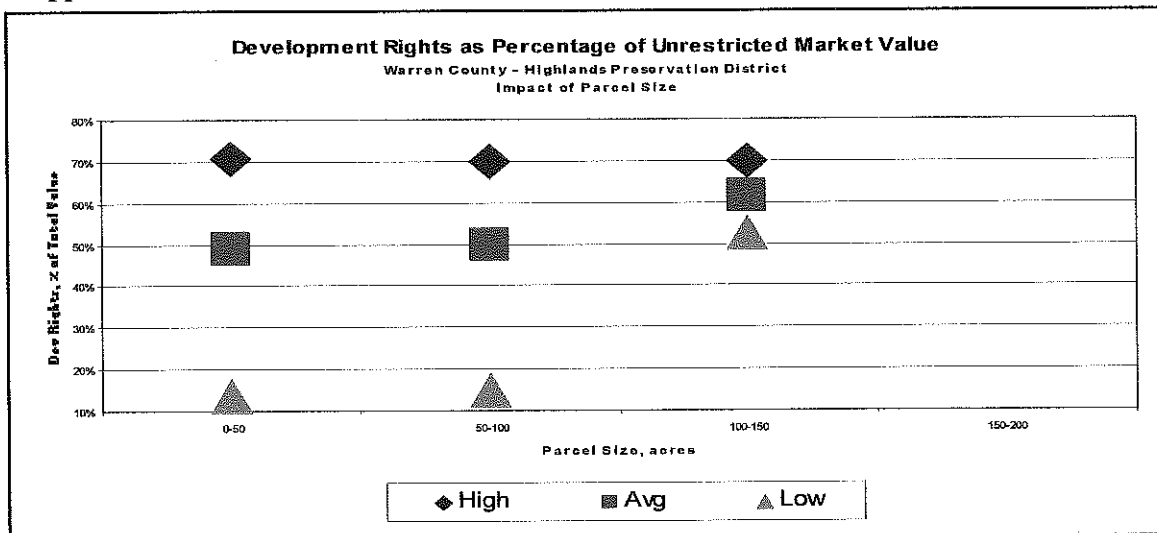
When comparing property located within the Preservation District to lands in the Planning District and beyond, it is evident that, if an allowance for "other factors" of 10% is applied to the data, it may be reasonably concluded that the Act and Act Rules are typically responsible for a loss of development rights value ranging from 60% to 89% of the pre-Act value.

Continuing:

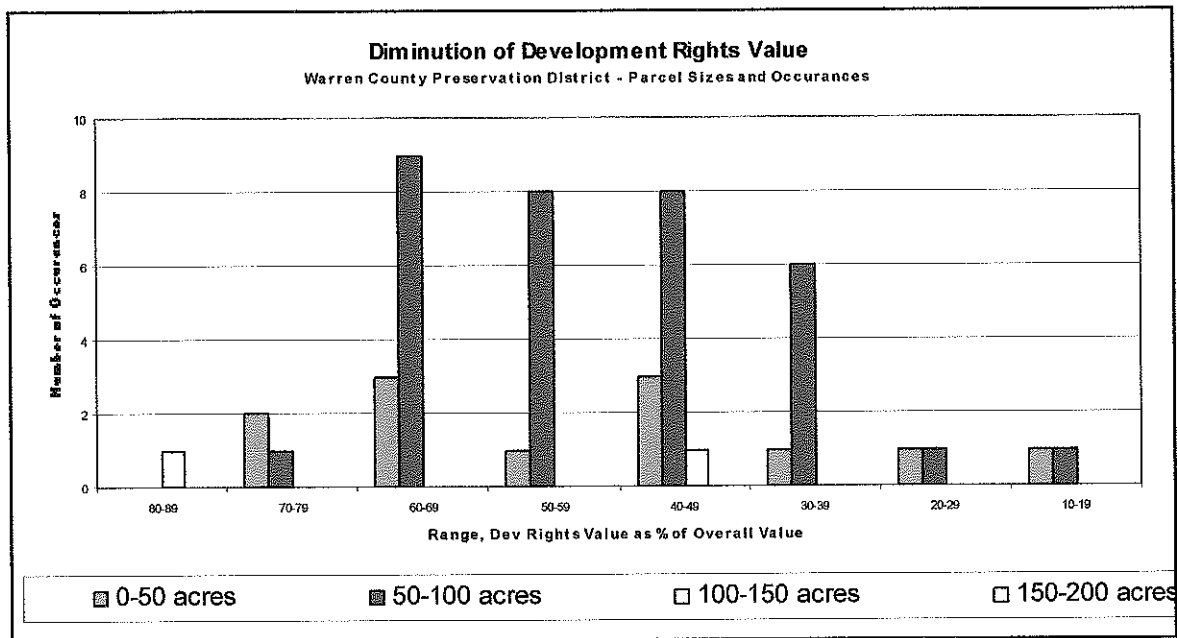
The following two point graphs and bar charts depict the "raw" data relied upon within the immediately preceding bar graphs.

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The first point graph (below) demonstrates the array of data for surveyed properties located within the Highlands Preservation District. This data is based on appraisals conducted during 2005, 2006, & 2007 that employ the "Lookback Provision" of the Act which requires that property be appraised pursuant to the rules and regulations in effect as of January 1, 2004. Under the Lookback Provision, the development rights eradicated by the Act are still part of the bundle of rights appraised.



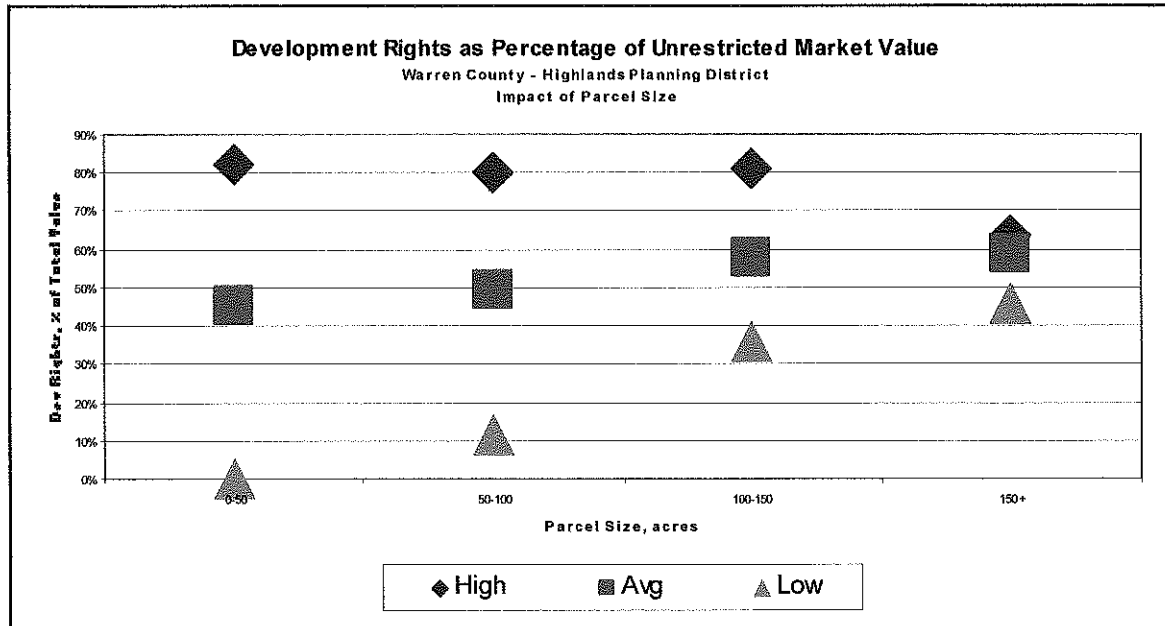
This data demonstrates that the value of development rights as a function of Unrestricted Market Value ranges from 0% to 80%. The data is distributed within the bar chart, following:



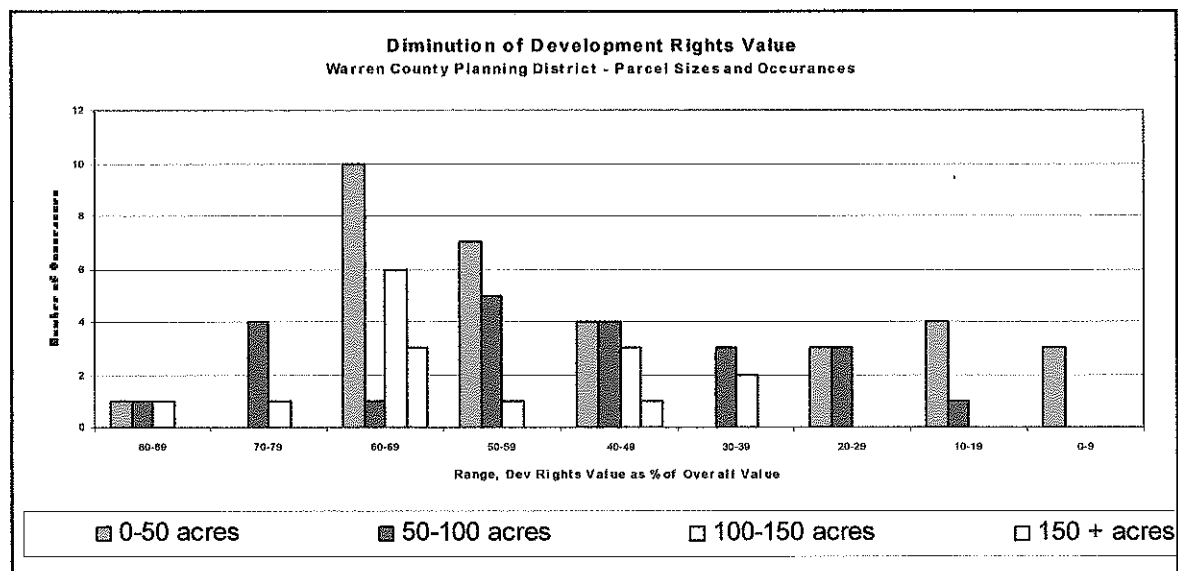
The bar chart depicts that in the post-Act years (2005-2007) that the residual value of property (net of development rights) has increased. The corresponding incremental value of property value attributable to the worth of development rights typically ranges from 30% to 70% and the frequency of occurrence is more evenly distributed to the middle of the chart.

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This next point graph demonstrates the array of data for survey properties located within the Highlands Planning District and beyond. This data is also based on appraisals conducted during 2005, 2006, & 2007 that employ the "Lookback Provision" of the Act. As previously noted, the Lookback Provision only affects the results of these appraisals by a factor typically less than 10%.



This data demonstrates that the value of development rights as a function of Unrestricted Market Value ranges from 0% to 80%. The data is distributed within the bar chart, following:



The bar chart depicts that in the post-Act years (2005-2007) that the residual value of property (net of development rights) has increased. The corresponding incremental value of property value attributable to the worth of development rights typically ranges from 30% to 70% and the frequency of occurrence is more evenly distributed to the middle of the chart.

NJ Highlands Act, Value Impact Summary

RECONCILIATION
& FINAL CONCLUSIONS

Introduction

The Act and Act Rules are complicated.

The real estate encountered within Northern NJ, in particular, the Preservation and Planning Districts, is diverse.

A fundamental axiom of real estate appraisal practice is that land has value and improvements contribute to value.

The value of land is based on its economic utility for some purpose.

The economic utility of land is base on its physical, functional, and legal uses. The use that demonstrates the highest value is said to be the "Highest & Best Use".

When land that is physically and functionally suited to development is legally prohibited from development, it will be less valuable than other land having the same physical and functional characteristics that is not legally prohibited from being developed.

The Act and Act Rules legally prohibit many of the heretofore legally permitted uses of land at the previously prescribed densities within the Highlands Preservation District.

Reconciliation

Comments # 666 & # 719 and associated Department Responses were presented above because the same represent candid objection to the Act and Act Rules and objective evidence of the Act and Act Rules' impact on property values. These estimates were developed using the Department's figures and the Department's methodology and the comments have been reviewed by the Department with responses published; the Department's responses have been rebutted.

The Client has requested an opinion of the gross diminution in property values experienced by the Preservation District in response to the Act and Act Rules.

Accepting that the direct impact on lost development (land & buildings for 215,000 units of housing) is reasonably stated as of 2006 @ \$80 Billion Dollars, the question becomes what portion of that figure is simply attributable to the land.

A "Builder's Cost Ratio" ("BCR") is a rule of thumb relied upon when developing property. Simply stated, a builder will target land as a percentage of the finished residential unit sale price. For residential housing in suburban and rural areas similar to the Preservation District, an acceptable BCR typically ranges from approximately 25% to 35%. Within more heavily suburban areas, the scarcity (and hence cost) of land will typically force the BCR to levels of 45%.

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This form of cursory analysis is supported by the actions of typical market participants and, most of the residential housing data loaded for all the CAMA systems currently on file within the State's listing of Class 2 properties (perhaps 1,000,000 entries).

Application of a BCR to practical circumstances includes that if a finished residential unit sells for \$100,000 the contributory value of the land will range from \$25,000 to \$35,000.

Adopting the most conservative estimate of BCR application @ 25% and the estimated total cost of lost development @ \$80 Billion Dollars, it is evident that the implicated loss in land value is approximately \$20 Billion Dollars net of any consideration for the residual value of land that is impacted by the Act and Act Rules.

The residual value of lands impacted by the Act and Act Rules is well supported by independent evaluation as ranging from 70% to 80% of pre-Act values.

I conclude that the residual value of lands within the Preservation District is reasonably stated at approximately 25% of pre-Act values and that the resultant loss in property value within the Preservation District *due to the Act and Act Rules* (as of 2006) is reasonably estimated @ \$15 Billion Dollars (75% of \$20 Billion).

Summary of Conclusions

1. Based on information provided by the Department as supplemented by the independent investigation and analysis of H&H, LLC, effective 2006, approximately **\$80 Billion Dollars** of real estate development will not occur within the Preservation District.
2. A portion of the \$80 Billion in development will be transferred from the Preservation District to other areas within NJ deemed "appropriate" by NJDEP that otherwise indicate an interest in "taking on" additional development. The balance of the development dollars will apparently not be invested in NJ.
3. Based on the Department's analysis and methods of presenting data, the \$80 Billion loss in development will have a \$160 Billion Dollar impact on the economy of the Highlands Preservation District Communities. To the extent that the development is never conducted in NJ, the impact may eventually apply to NJ in a macro sense.
4. Of the \$80 Billion Dollar impact experienced by the Preservation District Communities, approximately \$15 Billion Dollars is directly attributable to a diminution in land value. This loss in land value is borne by, and in many cases has a devastating affect upon, the constituent owners of property within the Highlands Preservation District.
5. On average, vacant and minimally improved properties located within the Preservation District have lost 70% to 80% of value depending upon many factors. The principal considerations in estimating loss to specific property are the property's physical and functional characteristics, particularly gross size.

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CERTIFICATION

This consulting report is certified to the Intended Users only; it is restricted for use by the Client & Intended User(s) to assist with professional interpretation and opinion regarding the Act and Act Rules. I certify that, to the best of my knowledge and belief:

1. The statements of fact contained in this report are true and correct.
2. The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, unbiased professional work.
3. I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event.
5. As an appraiser I am acting in an independent capacity; the appraisal assignment is not based upon a requested minimum valuation, a specific valuation, or approval of a loan.
6. My analyses, opinions and conclusions were developed, and this appraisal has been prepared in conformity with the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute, the Uniform Standards of Professional Appraisal Practice published by the Appraisal Foundation.
7. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
8. As of the date of this report the undersigned has completed the requirements of the continuing education program of the Appraisal Institute and Appraisal Foundation.
9. I am generally familiar the Highlands Region properties by type and location.
10. No one provided significant professional assistance to the report signatory with respect to the reported conclusions.
11. That I am in compliance with the Competency Provision of USPAP and have sufficient education and experience to perform an appraisal of the subject property.
12. That my opinions regarding the Act-Rules are as reported within the body of this letter-report.

Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser, the firm with which he is connected, or any reference to the Appraisal Institute or to the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media, or any other public means of communication without the prior written consent and approval of the undersigned.

MEH via Electronic 10/10/07
MICHAEL E. HOLENSTEIN, MAI, CTA
SCGRE: NY, NJ-RG01234, Pa-GA1733-R

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ASSUMPTIONS AND LIMITING CONDITIONS

1. No survey of the subject property has been prepared by the appraiser. I assume no responsibility for matters legal in character nor do I render any opinion as to the title, which is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated. Responsible ownership and competent property management are assumed.
3. The sketches, drawings, photos and photocopies within this report are included to assist the reader in visualizing the property. No responsibility in connection with these exhibits or the referenced work of others is assumed.
4. The information furnished by others including but not limited to surveys, maps, site plans, building plans, leases, and income information as footnoted within this report, is believed to be reliable and is verified whenever possible. However, no warranty is given for its accuracy.
5. It is assumed that there is full compliance with all applicable federal, state, and local environmental regulations and laws unless noncompliance is stated, defined, and considered in the appraisal report.
6. It is assumed that all applicable zoning regulations and use restrictions have been complied with and that the subject property is a legal, conforming use within the zone unless non-conformity has been otherwise stated and considered within the report.
7. It is assumed that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based unless otherwise stated. This assumption specifically includes the requirements of the Industrial Site Recovery Act (ISRA), if applicable, and assumes the ability to convey the property with free title.
8. It is assumed that the utilization of the land and improvements is within the property's lines and that there is no encroachment or trespass relative to adjoining lands.
9. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and buildings must not be used in conjunction with any other appraisal and are invalid if so used.
10. Any value estimates provided in the report apply to the entire property, and any proration or division of the total into fractional interests will invalidate the value estimate, unless such proration or division of interests has been set forth in the reports.
11. Any value estimates provided in this report are as of the date specified based upon the prevailing market conditions and are subject to fluctuations in accordance with such factors.
12. Unless otherwise stated in this report, the existence of hazardous substances, latent or subsurface defects, or environmental conditions, which may or may not be present on or about the property was not observed by the appraiser nor brought to the attention of the appraiser. The appraiser has no knowledge of the existence of such materials/conditions on or in the property. The appraiser, however, is not qualified to detect such substances/conditions. The presence of substances such as, but not limited to, asbestos, urea-formaldehyde foam insulation, radon gas, fuel leaks, lead-based paints or other potentially hazardous materials or conditions such as sink holes, earthquake faults, underground caverns or streams, may affect the value of the property. The value estimate is predicated on the assumption that there is no such material or condition on or in the property or in close proximity to the property that would cause a loss in value. No responsibility is assumed for any such materials or conditions, nor for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

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13. The value estimate is further predicated upon the assumption that there are no endangered species habitat, historical/archeological/cultural sites, burial grounds, or critical natural features within the boundaries of this property.
14. The data used in this report has been secured from sources considered reliable and has been verified to the extent possible by this appraiser; however, correctness is not guaranteed.
15. Possession and use of this report by the Client may be governed by the Freedom of Information Act. Procedurally, the report is prepared as a complete document for the stated use by the stated user. Unintended users and users that do not possess proper appraisal qualifications are advised that the data, methodology, conclusions, and opinions provided by the report may not be applicable or reliable if used outside the stated context. The possession and use of this report and all conclusions to value is strictly governed by the professional relationship between client and appraiser.
16. Failure to satisfy any and all outstanding appraisal fees pursuant to the agreed scope of the assignment shall render all conclusions and certifications null and void.

NJ Highlands Act, Value Impact Summary

**PROFESSIONAL QUALIFICATIONS OF
MICHAEL E. HOLENSTEIN, MAI, CTA, SCGREA**

Business & Education:

- Current** ♦ HOLZHAUER&HOLENSTEIN, LLC ; Principal Member (1998-)
- Prior** ♦ LIN-HOLZ ADVISORY GROUP, LLC ; Principal Member (1997&1998)
Employed by R.L.Holenstein, MAI as an Appraiser and Licensed R.E. Agent (1987-1996)
- 2001** ♦ State of New York Certified General Real Estate Appraiser (SCGREA #46000039750)
- 1999** ♦ Commonwealth of Pennsylvania Certified General Real Estate Appraiser (SCGREA #GA1733R)
- 1995** ♦ Designated as a Member of the Appraisal Institute (MAI), Member #10824.
- 1993** ♦ New Jersey State Certified General Real Estate Appraiser (SCGREA #RG01234)
♦ Certified by the State of New Jersey as a Tax Assessor (CTA)
- 1989** ♦ Graduated Upsala College Cum Laude with BA and BS degrees in Business & Management
- 1987** ♦ Licensed by the State of New Jersey as a Real Estate Salesperson
- 1983-87** ♦ United States Marine Corps, Active Duty Status. Stationed in the Continental U.S. and Asia. Occupational specialties included Air Frames Structural Mechanic (MOS-6143), CDI (Collateral Duty Inspector), and NDI (Non-Destructive Inspector). Promoted meritoriously four times to E5. Awarded Navy Achievement Medal in December, 1986 in recognition for outstanding service while stationed in South Korea, ten Meritorious Masts, three Letters of Commendation, Certificate of Commendation and selected as Outstanding Marine NCO, 1st Marine Aircraft Wing.

Seminars/Conferences:

- ♦ NJAC, Tax Bd. Commissioners & Administrators; Annual Education Seminar/Conference, (1995 -)
- ♦ Metro NJ Chapter, Appraisal Institute, Annual Princeton Conference, (1987 -)
- ♦ Dynamics of Office Building Valuation - Appraisal Institute
- ♦ Condemnation Appraisal Practices Seminar - Appraisal Institute
- ♦ ACOE Wetlands Delineator Courses - Rutgers Extension
- ♦ Attacking/Defending Appraisals in Litigation - Appraisal Institute
- ♦ Appraiser as an Expert Witness - Appraisal Institute

- ♦ Handling Eminent Domain & Regulatory Taking Cases
- ♦ Land Use Law Conference
- ♦ Advanced Expert Witness Deposition Tactics NJ
- ♦ Appraisal Consulting: A Solutions Approach for Professionals
- ♦ NJ Real Estate Title law, Problems & Solutions
- ♦ Keys to Effective Witness Examination, NJ
- ♦ Appraisal Standards for Federal Land Acquisitions ("Yellow Book")
- ♦ Eminent Domain & Regulatory Takings, Update 2005

NJ Highlands Act, Value Impact Summary

Michael E. Holenstein has practiced Real Estate Appraisal and performed Consulting Services as his sole occupation beginning in 1987. Since completing his primary appraisal education, his essential focus has been the valuation of partial interests, real property rights, condemnation appraisal, subdivision analysis, tax appeals, general fee appraisal, and a variety of consulting services including acquisition and development, feasibility, financing, estate management and partnership interests. His work has satisfied a variety of functions including matrimonial, probate, tax appeal, condemnation, pollution contamination and other legal proceedings, financing requirements and general asset valuation. A partial list of appraisal assignments include:

Residences	Tax Appeals
Farms and Acreage	Partial Takings
Commercial Properties	Entire Takings
Industrial Properties	Feasibility Studies
Institutional Properties	Subdivision Analysis
Multi-Family Properties	Easement Valuation
Highest and Best Use	Easement Impact Valuation
Contamination Impact	Rights-of-Way
Islands	Review Appraisals

Expert Testimony:

- ◆ State of NJ Tax, Superior, & Administrative Law Courts; Morris, Sussex, and Warren County Tax Boards; Various Condemning Authority Commissioner Boards; Various Municipal Planning & Zoning Boards

Professional Affiliations&Community Service:

- ◆ Member – Foundation Board, Newton Memorial Hospital (2005 -)
- ◆ Member - Board of Directors, Metro-NJ Chapter, Appraisal Institute (1997-99)
- ◆ Member - Newton Rotary Club (1987-99)
- ◆ Member - Executive Board of Directors, Morris/Sussex Boy Scout Council (1992 - 1995, 1997)
- ◆ Member - Executive Board of Directors, Greater Newton Chamber of Commerce (1992 - 1997: President 1996 - 1997)
- ◆ Committeeman - Newton Economic Development Committee (1993 - 1996)
- ◆ Associate Member – Garden State & Bergen Multiple Listing Services (1987 -)

References:

Federal Acquisitions:

- ◆ Pamela McLay, National Park Service, 215-597-7700
- ◆ William McLaughlin, NPS, 215-597-4940
- ◆ Susan P. Russo, ARA, USDI, 413-253-8529
- ◆ Mary Ellen Bryant, Appraisal Services Directorate, 413-253-8529

Litigation Support Services:

- ◆ Lawrence B. Litwin, Esq., 973-538-4220 (Condemnation/General)
- ◆ Martin F. Murphy, Esq., Johnson, Murphy, Hubner..., 973-835-0100 (Condemnation, General)
- ◆ George P. Ljutich, Esq. (DAG), NJDOT, 609-292-5936 (Adversary in Condemnation)
- ◆ Thomas Olsen, Anthony DellaPelle, Esq, Mckirdy & Riskin, PC, 973-539-8900 (Condemnation)
- ◆ Jeffery D.Gordon, Esq., Archer & Greiner, PC, 609-580-3713 (Tax, General, Stigma Damages)

NJ Highlands Act, Value Impact Summary

ADDENDA

NJ Highlands Act, Value Impact Summary

Appreciation Study

Appreciation Study - Highlands Preservation Districts - Hunterdon, Morris & Warren Counties												
Yearly Directors Ratio changes from 2000 through 2006 for following Municipalities												
Year	Bloomsbury Boro		Lebanon Twp		Boonton Twp		Jefferson Twp		Mt Olive Twp		Oxford Twp	
2000	103.23	—	100.23	—	92.22	—	91.03	—	99.34	—	95.48	—
2001	96.91	6.5%	94.64	5.9%	85.46	7.9%	87.13	4.5%	95.66	3.8%	96.26	-0.8%
2002	89.88	7.8%	91.2	3.8%	78.71	8.6%	81.39	7.1%	90.72	5.4%	90.28	6.6%
2003	83.98	7.0%	83.64	9.0%	74.86	5.1%	74.98	8.5%	87.64	3.5%	82.22	9.8%
2004	74.89	12.1%	75.02	11.5%	67.95	10.2%	66.26	13.2%	80.47	8.9%	72.1	14.0%
2005	66.44	12.7%	69.67	7.7%	61.82	9.9%	58.82	12.6%	70.6	14.0%	64.49	11.8%
2006	59.13	12.4%	59.4	17.3%	55.72	10.9%	52.4	12.3%	59.7	18.3%	57.5	12.2%
Cumulative Appreciation for respective Municipalities from 2000 to 2006 is:												
74.6%		68.7%		65.5%		73.7%		66.4%		66.1%		
Avg Cum Appr, 2000 to 2006 =			0.69		Appreciated Value =			\$220,504 x 1.69 =		\$		373,018

Median Home Price Analysis
Next page

NJ Highlands Act, Value Impact Summary

County & Municipality Demographics Data

County	2000 population	total households	persons/ housesold	Median SF Home Value	Municipality	2000 population	total households	persons/ housesold	Median SF Home Value
Bergen	884,118	330,817	2.64	\$ 250,300	Mahwah Tp	24,062	9,340	2.43	\$ 334,100
					Oakland Bo	12,466	4,255	2.88	\$ 245,300
Hunterdon	121,989	43,678	2.69	\$ 245,000	Alexandria Tp	4,698	1,535	2.95	\$ 274,100
					Bethlehem Tp	3,820	1,266	3.02	\$ 278,400
					Bloomsbury Bo	886	322	2.74	\$ 172,800
					Califon Bo	1,055	401	2.63	\$ 220,900
					Clinton	2,632	1,068	2.46	\$ 222,100
					Clinton Tp	12,957	4,129	2.82	\$ 283,900
					Glen Gardner Bo	1,902	805	2.33	\$ 170,700
					Hampton Bo	1,546	559	2.58	\$ 165,200
					Holland Tp	5,124	1,881	2.72	\$ 199,000
					Lebanon Tp	5,816	1,963	2.79	\$ 233,400
					Tewksbury Tp	5,541	1,986	2.79	\$ 461,200
					Union Tp	6,160	1,666	2.61	\$ 285,200
Morris	470,212	169,711	2.72	\$ 257,400	Boonton Tp	4,287	1,476	2.78	\$ 322,600
					Chester Tp	7,282	2,323	3.05	\$ 407,900
					Jefferson Tp	19,717	7,131	2.76	\$ 180,400
					Kinnelon Bo	9,365	3,062	3.06	\$ 354,000
					Montville Tp	20,839	7,380	2.80	\$ 346,600
					Mt Arlington Bo	4,663	1,918	2.42	\$ 183,700
					Mt Olive Tp	24,193	9,068	2.66	\$ 197,800
					Pequannock Tp	13,888	5,026	2.76	\$ 246,100
					Randolph Tp	24,847	8,679	2.86	\$ 329,800
					Riverdale Bo	2,498	919	2.68	\$ 210,200
					Rockaway Tp	22,930	8,108	2.82	\$ 206,200
					Roxbury Tp	23,883	8,364	2.84	\$ 207,400
					Washington Tp	17,592	5,755	3.02	\$ 279,300
Passaic	489,049	163,856	2.92	\$ 190,600	Bloomington Bo	7,610	2,847	2.63	\$ 177,000
					Ringwood Bo	12,396	4,108	3.00	\$ 193,400
					Wanaque Bo	10,266	3,444	2.86	\$ 172,100
					West Milford Tp	26,410	9,190	2.84	\$ 171,200
Somerset	311,600	108,984	2.69	\$ 235,000	Bedminster Tp	8,302	4,235	1.96	\$ 228,000
Sussex	144,166	50,831	2.80	\$ 157,700	Byram Tp	8,254	2,833	2.91	\$ 175,300
					Green Tp	3,220	1,046	3.07	\$ 182,500
					Hardyston Tp	6,171	2,319	2.66	\$ 152,300
					Hopatcong Bo	15,888	5,656	2.81	\$ 141,300
					Sparta Tp	18,080	6,225	2.90	\$ 222,700
					Vernon Tp	24,686	8,368	2.95	\$ 150,800
Warren	109,219	38,660	2.61	\$ 155,500	Allamuchy Tp	3,877	1,692	2.28	\$ 192,500
					Franklin Tp	2,768	972	2.84	\$ 176,200
					Greenwich Tp	4,365	1,421	3.07	\$ 233,300
					Harmony Tp	2,729	1,010	2.68	\$ 156,000
					Independence Tp	5,603	2,146	2.61	\$ 169,500
					Liberty Tp	2,765	980	2.79	\$ 169,600
					Lopatcong Tp	5,765	2,143	2.55	\$ 156,600
					Mansfield Tp	6,653	2,334	2.76	\$ 177,200
					Oxford Tp	2,307	886	2.60	\$ 125,200
					Pohatcong Tp	3,416	1,341	2.54	\$ 135,100
					Washington Tp	6,248	2,099	2.95	\$ 185,400
					White Tp	4,245	1,668	2.47	\$ 163,700

Municipalities with land area in Preservation District = 50

Median Home price (average) = \$ 220,504

NJ Highlands Act, Value Impact Summary

Value Definitions

MARKET VALUE (unrestricted) is defined as:

"...the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is consummation of a sale as of a specified date and passing of title from seller to buyer under conditions whereby:

- (1) Buyer and seller are typically motivated
- (2) Both parties are well informed or well advised, and each acting in what he considers his own best interest
- (3) A reasonable time is allowed for exposure in the open market
- (4) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto
- (5) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

Source: Federal Register, vol. 55, no. 163, August 1990, pages 34228 and 34229 & USPAP, 2004 edition.

MARKET VALUE (restricted) is defined as:

Market value of a property (as defined above) but subject to the deed restrictions placed on the title of a property as set fourth in N.J.A.C.2:76-6.15. The deed restriction passes with the land in perpetuity regardless of the owner. This term may be synonymous with agricultural market value although in areas under heavy development pressure or in more exclusive gentrified areas an increment of value may be inherent for residential and/or recreational uses with agricultural use being secondary.

Source: The Dictionary of Real Estate Appraisal, 4rd Edition

DEVELOPMENT EASEMENT is defined as:

The Market Value of a property less the Market Value Restricted of that property is equivalent to the value of the Development Easement.

Source: The New Jersey Farmland Preservation Program Handbook

NJ Highlands Act, Value Impact Summary

Act Rules re-adoption with comments & responses (excerpts)

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ENVIRONMENTAL PROTECTION

LAND USE MANAGEMENT

LAND USE REGULATION

Highlands Water Protection and Planning Act Rules

Readoption with amendments: N.J.A.C. 7:38

Proposed: December 19, 2005 37 N.J.R. 4767(a)

Adopted: , 2006 by Lisa P. Jackson,
Commissioner, Department of Environmental
Protection

Filed: , 2006 as R. d. with substantive
and technical change not requiring additional public
notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 13:20-1 et seq.; 13:1D-1 et seq.; 13:1B-15.128 et seq.; 13:9B-1 et
seq.; 23:2A-1 et seq.; 58:1A-1 et seq.; 58:10A-1 et seq.; 58:11-23 et seq.; 58:11A-1 et
seq.; 58:12A-1 et seq.; and 58:16A-50 et seq.

DEP Docket Number: 39-05-11/578

Effective Date:

Expiration Date:

The Department of Environmental Protection is readopting with amendments the
Highlands Water Protection and Planning Act rules, N.J.A.C. 7:38. The proposal was
published on December 19, 2005. The comment period closed on February 17, 2006.

NJ Highlands Act, Value Impact Summary

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Summary of Hearing Officer's Recommendation and Agency Response:

The Department held a public hearing on the proposal on January 25, 2006, at 4:00 P.M., at the Highlands Council offices in Chester, New Jersey. Susan Lockwood and Mark Mauriello were the hearing officers. Thirty-three people attended and 28 gave testimony. The hearing officers recommended that the proposal be adopted as proposed with the changes described below in the summary of responses to comments. The Department accepts the recommendation.

The hearing record is available for inspection in accordance with applicable law by contacting:

Office of Legal Affairs
Attn: DEP Docket No. 39-05-11/578
Department of Environmental Protection
P.O. Box 402
Trenton, New Jersey, 08625-0402.

Summary of Public Comments and Agency Responses

The Department accepted comments on the proposal through February 17, 2006. One-hundred fifteen people provided individual written and/or oral comments. Four-hundred sixty-five people submitted form letters. The following individuals provided individual comments:

1. Anderson, Joanne
2. Anderson, John W.
3. Anderson, Wayne
4. Baker, Michael J.
5. Bartel, Constance
6. Best, Robert, E.
7. Best, Ruth M.
8. Bowman, Cynthia M.
9. Broadhurst, Ellen
10. Broadhurst, Hope
11. Broadhurst, Jeff

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12. Broadhurst, Tom
13. Buck, Susan
14. Canright, Mark
15. Christensen, Nancy
16. Collins, Jr., Thomas F. Vogel, Chait, Collins, and Schneider
17. Constantine, Diane M.; Sprint Spectrum and Nextel Corporation
18. Costa, Rosalind Pio
19. Davenport, Robert
20. Dilodovico, Anthony; Schoor Depalma
21. Donaldson, Lewis A.
22. Drysdale, Andrew
23. Drysdale, Lois
24. Dunn, Thomas W. Beattie Padovano representing Borough of Ringwood Planning Board
25. Farber, Joy; Association of New Jersey Environmental Commissions
26. Feller, Caroline E.
27. Filippone, Ella F.; Passaic River Coalition
28. Finke, Jean M.
29. Finke, Michael
30. Finke, Robert
31. Finke, Robert A.
32. Frey, Gertrude
33. Frey, Robert
34. Frey, Robert J.
35. Frey, Wilma; New Jersey Conservation Foundation
36. Gagne, Ed
37. Gagne, Penny
38. Gerish, Jay
39. Goger, Nicole
40. Gracie, Heather; Gracie & Harrigan Consulting Foresters, Inc.

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41. Harrigan, Christina; Gracie & Harrigan Consulting Foresters, Inc.
42. Kalleser, Steven; Gracie & Harrigan Consulting Foresters, Inc.
43. Kelsey, James; Planning Board, Independence Township
44. Kern, Jerry and Sandi
45. Kessler, James C.
46. Kessler, James E.
47. Klumpp, Hank
48. Kraham, Susan J.; NJ Audubon Society
49. Kruger, Anne L.; Passaic River Coalition
50. Kushner, Ross. Pequannock River Coalition
51. LaHue, Michael P.
52. LaHue, Robin; The Freedom Group, L.P.
53. Leavens, III, William B.
54. Lee, Art
55. Longo, Richard A.
56. Mackey, Devlen
57. Mackey, Holly
58. Mackey, Robert
59. Maidens, Melinda B.; Jeffer, Hopkinson and Vogel
60. McGroarty, Chuck; Planning consultant for Mount Olive Township
61. McGuinness, Michael G.; National Association of Industrial and Office Properties
62. Michalenko, Thomas
63. Minervini, William P.
64. Morawski, Stephen H.; Tennessee Gas Pipeline Company
65. Motyka, Richard J.
66. Myers, Aimee Ashley; Morris County Board of Agriculture
67. Newhouse, Dave
68. Newton, Damien
69. Nieuwenhuis, Richard; President, NJ Farm Bureau
70. O'Hearn, William; Highlands Coalition

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71. O'Neil, Elaine T.
72. Orcutt, Jon, Nancy Christensen, Damien Newton; Tri-State Transportation Campaign
73. Peifer, David
74. Post, Deborah A.
75. Purcell, Monique; NJ Department of Agriculture
76. Quinn, Deborah
77. Quinn, William
78. Race, Jean
79. Race, Sam
80. Richardi, Allen
81. Rinehart, John Y.
82. Rohrbacher, Peter J.
83. Sachau, Barb
84. Scrivo, Thomas P.; McElroy, Deutsch, Mulvaney & Carpenter, LLP
85. Shaw, Steven H.; Special Counsel to Warren County for the Board of Chosen Freeholders, Hunterdon and Warren Counties
86. Shepherd, David J.
87. Shope, David
88. Sigler, Carl
89. Simone, Erin E.; 91st State Agricultural Convention
90. Skowronsky, Kenneth
91. Skowronsky, Linda K.
92. Somers, Julia; Executive Director, Great Swamp Watershed Association
93. Sternman, Walter S.
94. Strassle, Edward
95. Stryeski, Nancy Baxter
96. Stumpp, Ilona
97. Sussek, Claire
98. Sussek, Greg
99. Tavella, Doug; Appalachian Forestry Service.

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this rulemaking are both for activities that are environmentally beneficial. Habitat enhancement activities result in more and better habitat for fish, wildlife and plant species. Stream bank stabilization helps to improve the health of a stream by eliminating sources of erosion and sedimentation that would otherwise have negative impacts on water quality both at the point of erosion and downstream. Further, while it may be true that all portions of all waters in the Highlands are not entirely accessible, recreation, including fishing, is a significant activity in the Highlands which will be positively affected by the types of activities covered by these two general permits. Consequently, the Department concludes that its general permits provide positive social impacts.

665. COMMENT: It is premature to state that there is a positive social impact from implementation of the rules. In addition, the positive or negative social affects must be characterized as "macro" (New Jersey proper) or "micro" relating to the communities within the preservation district. (85, 87)

RESPONSE: The Department is required to evaluate the social impact of every rule it proposes. Therefore, it cannot wait until the rule is in place to determine the social impact. The Department believes, however, that the social impact of the Highlands rules is positive in both the "macro" and "micro" sense, as described by the commenter. The Highlands rules further the goal of the Highlands Act to protect an essential source of drinking water and other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, and many sites of historic significance. These benefits accrue to those who live in the preservation area as well as to others in New Jersey. Therefore, the rules have an overall positive social benefit.

666. COMMENT: There is no evidence presented that conclusively demonstrates that the rules provide a macro social impact that is not redundant in the context of prior-existing rules and regulations. Further, the degree to which an impact will be realized is wholly dependant upon presupposed eventualities that have not occurred since adoption of the

NJ Highlands Act, Value Impact Summary

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Act and may, or may not, occur outside the preservation district. Implementation of TDR's is an excellent example. (85, 87)

RESPONSE: The Highlands Act consolidates aspects of several existing programs, strengthens their protections, and adds some unique protection provisions as well. The result is a law that requires one thorough and comprehensive review of a proposed major Highlands development. Therefore, the Department does not agree that the social benefits of the Highlands Act are redundant with prior existing rules. The timing of the Department's regulations and the Regional Master Plan (RMP), as dictated by the Act, made it impossible for the Department to await completion of the RMP and transfer of development rights program before proposing its regulations. Therefore, the Department must view the Act in its entirety and presuppose that all provisions of the Act will be implemented as directed by the New Jersey Legislature.

However, as stated in response to previous comments, the Highlands Act contains more than TDR provisions to reduce its impacts on property owners, including an extensive list of exempt activities, the exclusion of agricultural and horticultural uses from the definition of "major Highlands development" thus keeping these activities unregulated by the Department, the requirement that agencies seeking to acquire land for open space and farmland preservation obtain pre- and post Highlands appraisals and negotiate using the higher value, and the provision of a waiver for the taking of property without just compensation if a Highlands approval has been denied and the owner can recognize no alternative use for the property.

667. COMMENT: The rules presuppose under social doctrine that the rights of the general populace exceed the rights of the individual. The purported social benefits realized by segments of the general populace, in particular the users of water resources generating from within the Highlands, are garnered at the expense of the private property owners who either live within, or own land within, the Highlands Region proper. (85, 87)

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RESPONSE: The Department is required to evaluate the economic impact of every rule it proposes. Therefore, it cannot wait until the rule is in place to determine the economic impact. The Department believes, however, that the economic impact of the Highlands rules is positive in both the "macro" and "micro" sense, as described by the commenter. The Highlands rules further the goal of the Highlands Act to protect an essential source of drinking water and other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, and many sites of historic significance, without the costs associated with water purification, wastewater treatment, flood control projects and other costly undertakings that would be required to accomplish such goals after land is developed. These benefits accrue to those who live in the preservation area as well as to others in New Jersey. Therefore, the rules have an overall positive economic benefit.

718. COMMENT: The "preliminary" affects of the Act and Act rules is ambiguous. Mechanisms intended by the Act to afford parity to affected property owners are not yet in place. These include TDR's. The effective implementation of TDR's is expected to take years with the market's acceptance of same being too speculative for credible consideration at this time. (85, 87)

RESPONSE: It is the Department's understanding that transfer of development rights (TDRs) programs will be implemented shortly after the Highlands Council adopts the Regional Master Plan, which the Department understands is expected to take place by December of 2006. The market will depend upon how the credits are assigned and the availability of receiving districts and that information is currently being discussed by the Highlands Council and with the public.

719. COMMENT: The net result of transferring development potential and associated economic impact value from the preservation district to areas outside the core is an effective transfer of property worth from owners within the preservation district to other private property owners. The order of magnitude for transferred value from one group of

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private individuals to another is demonstrated by the following model. The rules cite several different development and buildout scenarios as probable occurrences within the preservation area. These include that the potential dwelling units within the preservation area (at buildout) total 215,421 units (say 215,000). The independent analysis of Holzhauer & Holenstein, LLC (Real estate advisory services) supports that the 2006 median home value within the Highlands Region is reasonably \$373,000. The impact that the rules have on property owners within the preservation area is estimated as follows:

$$215,000 \text{ units @ } \$373,000/\text{unit} = \$80,195,000,000.$$

This calculation demonstrates an \$80 Billion loss in ratable base for Highlands preservation area municipalities. Further, the above depiction does not account for other forms of development, for example, commercial and industrial. It also does not make a distinction among dwelling units as may be developed with other than single family residential homes. The "average economic multiplier" for the U.S. is cited within the rules as being 2X. Therefore, the cost to local economies resulting from the failure to construct and sell 215,000 dwelling units is estimated as follows:

$$\$80.195\text{Billion} * \text{Factor (2X)} = \$160 \text{ Billion Dollars}$$

Given the methodology cited within the rules, the loss in sales and realty transfer tax, together with the lost jobs, and jobs spending multipliers results in the conclusion that the rules will have an astronomical impact on the economy and the ratable bases of the preservation area communities.

However, this statement is not necessarily true based on the same criticisms of the rules' cost-benefit analysis. The problem must be evaluated on a micro and macro basis. Therefore, it may be stated that Statewide, and over a period of time, the loss of ratable base, and the gross affects on the economy are likely to be negligible. The rules do not prevent development, the same are just redistributed. The absorption of the theorized dwelling units will be delayed due to the increased regulation and the time necessary to facilitate increased density potentials within "appropriate" areas for development but the gross demand for housing will eventually be met. What can be stated with certainty is that whatever economic benefit is received by areas outside the preservation area will

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come at the expense of the property owners and the local economies within the preservation area. (85, 87)

RESPONSE: For the reasons set forth at length in the economic impact analysis, the Department believes that the long-term statewide impact of the rules being readopted will be significantly positive rather than negligible or neutral. In terms of the asserted short-term redistributive impacts, the Department notes the following: (1) The commenters assume that the value of \$373,000 per home can be extrapolated to new housing. However, as the supply of housing increases, the price of new housing may decline as a result of supply and demand effects and because as new housing is built, the areas in which the construction takes place will, by definition, become more congested and therefore less attractive to subsequent homebuyers. (2) To the extent that development occurs outside the preservation area, the communities in the preservation area will not have to bear the costs of development, for example, the cost of new roads, water and sewer lines, schools, fire and police protection, etc. To the extent such costs are avoided, communities in the preservation area may experience no net fiscal impact. (3) Some portion of the new housing would likely be affordable housing, which would likely have a lower average price than the existing median cited by the commenters. (4) Any change in sales tax or realty transfer tax revenues is already reflected in the multiplier, and such changes would not constitute additional benefits or costs to communities in the preservation area. (5) The Department's rules contain several exemptions to permit single-family dwellings so the estimated loss of 215,000 units is an obvious overestimate. To date, the Department has confirmed 351 exemptions. (6) The Department's regulations may result in some level of reduction in value for landowners in the Highlands but does not deny all use. Consequently, municipalities will not assess these lots as having zero value. (7) A transfer of development program is yet to be developed and its potential positive impacts on property owners cannot be assessed.

For these reasons, the Department believes that any short-term redistributive impacts are likely to be significantly lower than the commenters project.

① My name is Hank Klumpp - I own 150 Acres in Tewksbury that are in the Preservation Area.

The Tewksbury Township Committee voted to continue the process of opting in to the Highlands Master Plan. At that meeting, I once again asked the question I've been asking for over 8 years now -

"Where is the scientific study that put my farmland into the Preservation Area?" and I reminded them that no money has ever been in place to compensate landowners for the loss of land values. I expressed how prior to the passing of the

(2)

Highlands Act, in 2004, I was offered as much as 12 million dollars for my farmland and now I'm being told that I will be given \$700,000 from the Highlands Council for my land. Township Environmental Commission member Chris Teasdale has the nerve to say this is not true. I am in total disbelief and disgusted over environmentalists who babble on about matters they know nothing about. Teasdale doesn't know anything about me or my business. Things he and other environmentalists say and print in papers are so

③ often wrong but that does not stop them from trying to justify the taking of my property values.

Landowners who have lost 80% of their land value deserve just compensation. Soon it will be 9 years and nothing is in place that even begins to justify or justly compensate.

Assemblyman John McKeon had an article in the Star Ledger on February 29th where he said the Highlands is our greatest treasure for the protection of cheap water, CHEAP —

④ that is the word that is so
upsetting to me. The cheap
water is not costing McKeon
anything - or environmentalists
anything - or people at the bottom
of the hill anything - but it is
costing me and my family
everything. My property values
and my equity are gone.

Thank You!

Hank Klumpp
24 Longview Road
Lebanon, N.J. - 08833

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
PARTIAL MINUTES OF THE MEETING OF MARCH 15, 2012

PRESENT

JIM RILEE)	CHAIRMAN
KURT ALSTEDE)	COUNCIL MEMBERS
TRACY CARLUCCIO)	
TIMOTHY P. DOUGHERTY)	
MICHAEL R. DRESSLER)	
MICHAEL FRANCIS)	
BRUCE JAMES)	
JAMES MENGUCCI)	
CARL RICHKO)	
MICHAEL SEBETICH)	
MICHAEL TFANK)	
JAMES VISIOLI)	
RICHARD VOHDEN)	
ROBERT G. WALTON)	

ABSENT

ROBERT HOLTAWAY)

CALL TO ORDER

Chairman Rilee called the 112th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:05 pm.

ROLL CALL

Roll call was taken. Council Members Holtaway and Dougherty were absent. All other Council Members were present.

OPEN PUBLIC MEETINGS ACT

Mr. Borden announced that the meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6. The Highlands Council sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted notice on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF FEBRUARY 16, 2012

Mr. Richko introduced a motion to approve the minutes and Mr. Mengucci seconded it.

All members present voted to approve. The minutes were APPROVED 12-0 with an abstention by Mr. James.

Mr. Dougherty was present at 4:13pm.

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
PARTIAL MINUTES OF THE MEETING OF MARCH 15, 2012

Resolution - Approval of Sustainable Agriculture Grant to Sussex County

Chairman Rilee introduced the Resolution to approve a \$15,000 Sustainable Agriculture Grant to Sussex County for their commercial kitchen project. Mr. Vohden advised Chairman Rilee that he was recusing himself from this matter as he serves as a Sussex County Freeholder. Mr. James made a motion to approve the Resolution and Ms. Carluccio seconded it.

After public comment and Council discussion, the resolution was APPROVED 12-0 with abstentions from Mr. Vohden and Mr. Walton.

Resolution - Position of the Executive Director of the Highlands Council

Chairman Rilee introduced the Resolution to commend Executive Director Swan for her service and to remove her from her position. Mr. Alstede made a motion to approve the Resolution and Mr. Vohden seconded it.

After extensive public comment and Council discussion, the resolution was APPROVED 9-5. In favor of removing Ms. Swan included Council Members Alstede, Dougherty, Francis, James, Mengucci, Tfank, Vohden, Walton and Chairman Rilee. Opposed to the removal of Ms. Swan included Council Members Carluccio, Dressler, Richko, Sebetich and Visioli.

Mr. Vohden made a motion to adjourn the meeting and Mr. Mengucci seconded. The meeting was adjourned at 7:13pm.

CERTIFICATION

I hereby certify that the foregoing is a true copy of a portion of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 4/20/12

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

**Vote on the Approval of
This Resolution**

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede						✓
Councilmember Carluccio			✓			
Councilmember Dougherty						✓
Councilmember Dressler			✓			
Councilmember Francis		✓	✓			
Councilmember Holtaway					✓	
Councilmember James	✓		✓			
Councilmember Mengucci			✓			
Councilmember Richko						✓
Councilmember Sebetich			✓			
Councilmember Tfank			✓			
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chairman Rilee			✓			