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JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

MEETING AGENDA

Thursday, May 15, 2008 - 10:00 a.m.

1. CALL TO ORDER
2. ROLL CALL
3. OPEN PUBLIC MEETINGS ACT
4. PLEDGE OF ALLEGIANCE
5. APPROVAL OF MINUTES – May 1, 2008
6. CHAIRMAN'S REPORT (and Council Member Reports)
7. EXECUTIVE DIRECTOR'S REPORT
8. COMMITTEE REPORTS
9. CONSIDERATION OF RESOLUTION – *Support for Constitutional Amendment to Dedicate Revenue for Open Space and Farmland Preservation* - (voting matter with public comment)
10. CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants* - (voting matter with public comment)
11. REGIONAL MASTER PLAN DISCUSSION
 - a. Carbonate Rock (Karst)
 - b. Prime Ground Water Recharge
 - c. Transportation
 - d. Redevelopment
 - e. Smart Growth
 - f. Landowner Equity
 - g. Sustainable Economic Development
 - h. Air Quality
12. PUBLIC COMMENTS
13. EXECUTIVE SESSION (if deemed necessary)
14. ADJOURN

NEW JERSEY HIGHLANDS WATER PROTECTION
AND PLANNING COUNCIL
MINUTES OF THE MEETING OF MAY 15, 2008

PRESENT

| | | |
|---------------------------|---|-----------------|
| JOHN WEINGART |) | CHAIRMAN |
| |) | |
| TRACY CARLUCCIO |) | COUNCIL MEMBERS |
| WILLIAM COGGER |) | |
| MIMI LETTS |) | |
| JACK SCHRIER |) | |
| TIM DILLINGHAM |) | |
| JANICE KOVACH |) | |
| SCOTT WHITENACK |) | |
| GLEN VETRANO |) | |
| KURT ALSTEDE |) | |
| ERIK PETERSON |) | |
| |) | |
| VIA TELECONFERENCE |) | |
| DEBBIE PASQUARELLI |) | |
| |) | |
| ABSENT |) | |
| ELIZABETH CALABRESE |) | |
| TAHESHA WAY |) | |

CALL TO ORDER

The Chairman of the Council, John Weingart, called the 68th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 10:06 am.

ROLL CALL

The members introduced themselves.

OPEN PUBLIC MEETINGS ACT

Chairman Weingart announced that the meeting was called in accordance with the Open Public meetings Act, N.J.S.A. 10:4-6 and that the Highlands Council had sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF APRIL 10, 2008

Mr. Schrier introduced the motion to approve the minutes. Ms. Carluccio seconded the motion. All other members present voted to approve. The minutes were APPROVED.

CHAIRMAN'S REPORT

Chairman Weingart announced the Transfer of Development Rights Committee meeting will take place immediately after Council meeting. He announced that Senator Smith has introduced a bill to allow voters to consider a constitutional amendment to specifically dedicate water fee revenue for lands preservation. He stated that Ms. Swan will address the proposed water fee further.

EXECUTIVE DIRECTOR'S REPORT

Ms. Swan listed meetings that have taken place including the regularly scheduled County Planners meeting. The following municipal and county outreach took place: April 29th in Warren County there was a program entitled Leadership Warren sponsored by Warren County Chamber of Commerce in which Ms. Haddock-Weiler presented opportunities that are present under the Highlands Act, Dr. Van Abs presented at the NJ Water Environment Association on Waste Water Management planning on April 30, Ms. Swan met with District 24 Legislators to bring them up to date on the plan, and Ms. Haddock-Weiler attended a workshop on the crossroads of the American Revolution.

She also detailed the testimony that was given at the Senate Environment Committee on amending the Constitution regarding a water fee for open space and farmland preservation and specified that there was a copy of the summary of that testimony in the packets today. Ms. Swan pointed out that the Highlands Act includes a specific mandate regarding the strong and significant commitment of the State to fund the acquisition of exceptional natural resource lands. Ms. Swan emphasized the connection with the Council's mission and the need for a water fee so that those users for water from the Highlands regions could share the burden of the protection of that resource. Ms. Swan stated that a packet, provided to Council members, has been put together for all Mayors in the Highlands regarding this issue asking for their support of the water user fee. A letter has also been prepared for all State Senators along with the listing of all municipalities in their area that receive water from the Highlands Region. At this stage the Senate Environment Committee is only considering the constitutional amendment and further work may be necessary on the companion bill.

Ms. Swan also announced upcoming meetings including the County Planners Meeting and an informational meeting in Franklin Borough in Sussex County regarding the Regional Master Plan and its implications.

COMMITTEE REPORTS

There were none to report.

CONSIDERATION OF RESOLUTION – *Support for Constitutional Amendment to Dedicate Revenue for Open Space and Farmland Preservation*

Ms. Swan noted that the public has copies of the Senate concurrent resolution and the related testimony. Mr. Schrier moved the motion and Mr. Dillingham seconded the motion.

Mr. Schrier spoke about the Council's repeated discussions on the use of a water fee. He explained that this would be an amendment to the Constitution, expressed support for the issue of landowner equity and fairness, and was concerned that the companion bill would not be specific to the Highlands Region, but would be broad in its scope.

PUBLIC COMMENTS:

David Shope: He explained there is already a water usage fee enacted by the Water Supply Authority that was used for the preservation of lands pertinent to water...He also explained that the North Jersey Water Supply District also has a similar user fee for land preservation. He cited the lawsuit with Warren County and the supporting testimony for that case regarding costs. He estimated \$35 dollars per million gallons and said he would supply the Council with the figures regarding this. He believes that a smaller number would help to get this amendment passed.

Julia Somers, NJ Highlands Coalition: In the 4th “Whereas”, she pointed out that historic preservation has been left out and is requesting that it be added. Regarding Senate Concurrent Resolution 88, she stated that there are no numbers mentioned, asked the Council to support this bill, and asked that the Council request at least \$150 million each year.

Mr. Schrier reemphasized that this resolution isn’t tied to any specific piece of legislation, but that it is to support the idea to present voters the possibility of water fee. He expressed concern about there not being exact figures available.

Mr Vetrano spoke about the importance of the monies being dedicated to preservation and not being used for other issues.

MS. PASQUARELLI JOINED THE MEETING VIA TELECONFERENCE.

ALL PRESENT VOTED IN FAVOR OF THE RESOLUTION. THE RESOLUTION WAS APPROVED.

ERIK PETERSON JOINED THE MEETING.

CONSIDERATION OF RESOLUTION – *Approval of Certain Planning Assistance Grants*

Ms. Swan explained that there are two separate grant resolutions. The first resolution is a proposed grant for the Township of Clinton for a COAH fair share grant in the amount of \$7,500.

Mr. Dillingham introduced the motion to approve the resolution and Ms. Letts seconded the motion.

PUBLIC COMMENTS:

DAVID SHOPE – Mr. Shope questioned the amount of money that has given to Clinton Town and Clinton Township. Ms. Swan explained this would be the first grant for the Township.

ALL MEMBERS PRESENT VOTED IN FAVOR. RESOLUTION WAS APPROVED.

Ms. Swan then described the second resolution which was for the Township of Chester for an initial assessment grant. Mr. Cogger, as Mayor of the Township, recused himself and left the room.

Mr. Vetrano introduced the motion to approve the resolution. Mr. Whitenack seconded the motion.

Ms. Letts asked about the large costs for Plan Conformance and whether it was possible to increase the grant amount if needed. Ms. Swan explained that this grant is not for Plan Conformance but to consider the implications of the RMP for the specific municipality but the amount could be increased by petitioning the Council. She added that there will be additional funds available for each of the required elements of Plan Conformance.

ALL MEMBERS PRESENT VOTED TO APPROVE THE RESOLUTION. (MR. COGGER ABSTAINED).

REGIONAL MASTER PLAN DISCUSSION

Ms. Swan then began a PowerPoint presentation on the Regional Master Plan.

a. Carbonate Rock (Karst)

Ms. Swan outlined the revisions to the Goals, Policies and Objectives (GPOs) regarding Carbonate Rock (Karst). She explained changes and additions within the text that clarify that karst is not strictly a surface condition, an expanded description of the functional values that carbonate rock provides, and that focus on the importance of prolific carbonate rock aquifers within the Region. She also cited two objectives in the context of areas with karst features, one regarding prohibiting new land uses and facilities which would constitute unacceptable risks and the second prioritizing upgrades or remedial actions for existing high risk land uses and facilities.

Ms. Carluccio spoke about 1k4e and 1k4f, and suggested that superfund sites be added and that the existing solid waste landfills and hazardous waste sites listed under 1k4e be added to 1k4f in regards to remedial action.

b. Prime Ground Water Recharge

Ms. Swan explained that the 2006 and 2007 Draft RMPs did not specifically address the water quality issues relating to prime ground water (GW) recharge. These would now be addressed. Also the staff has proposed that the 125% mitigation requirement continue but be clarified that it applies to the portion of the Prime GW Recharge Area that is developed. It has also been recommended that there be a clear policy for the use of low impact development within Prime GW Recharge Areas and that a scale of permissible disturbance be created which would be most stringent in the Protection Zone. In order to address water quality issues the staff has proposed that potential contaminant sources be prohibited in the same manner as WHPA Tier 2 and that wastewater utility expansions or creations be limited in the Prime GW Recharge Areas within the Protection and Conservation Zones. Ms. Swan then presented a table which gave an overview of the proposed new approach.

Ms. Carluccio asked for clarification on 2d4a regarding clusters encroaching on Prime Ground Water Recharge areas. Dr. Van Abs then explained that there is not an absolute cap on clusters, but they will be encouraged with the least amount of disturbance.

Ms. Carluccio strongly stated her disagreement with clusters being able to encroach on these areas. She explained the negative affects to the ground water that will occur if clusters are not prohibited in Ground Water Recharge areas, in particular ground water pollution and increased nitrates. She suggested a complete prohibition of growth in Ground Water Recharge areas. She stated that this policy change is against what the Council has been charged to do and is also against what has been requested in public comment. Ms. Swan clarified that clusters will be presented for the Council's approval separately.

Ms. Cogger asked if these limitations can be questioned through a waiver. Mr. Borden clarified the three waivers and explained that they are limited and so would not address all cases.

Ms. Pasquarelli questioned whether maximum disturbance means impervious cover and asked for clarification. She stated that this is a major policy shift and questioned its origin. Ms. Swan explained that this was initiated with the Canfield project when inconsistencies became apparent it was also an issue in the March 27 issue paper the Council had been given. She stressed that though the policy was adding flexibility in the Protection Area it was addressing the other zones where no protection had been provided. Dr. Van Abs agreed with Ms. Swan that there currently is no policy that addresses Prime Ground Water Recharge area in certain zones, so this is that is being addressed. He also agreed that this policy could be restated regarding impervious cover for clarification.

Dr Van Abs spoke of the percentages as being policy decisions based on what is typically allowed by local governments which led to the 45% in the Existing Community Zone and then was more protective in the other more sensitive zones.

Ms. Paquarelli questioned why 15% is being allowed in the Protection Zone. Dr. Van Abs explained that the 15% maximum disturbance is addressing only the Prime Ground Water Recharge area being disturbed and not the total site which will be affected by other resource protections.

Mr. Dillingham stated that these changes are going in the wrong direction and that the Prime Ground Water Recharge areas are critical to protect. He suggested that these areas not have any development. He stated his concern that even low impact development will not be enough to allow significant recharge and protection of the resources. He gave an example of the maximum disturbances that are used in the shore areas.

Ms. Carluccio suggested that the disturbance be limited to 0% in the Protection Zone and that waivers can be used for exceptions. She stated that there should be standards within the other zones with lower percentages of disturbance allowed. She explained the importance of limiting and avoiding pollution and disturbance within Prime Recharge Areas. Ms. Carluccio asked that the Council reconsider these percentages using supportive scientific data.

Mr. Whitenack asked if it is possible to set limitations that will lessen the waiver process.

Mr. Schrier stated his support of Ms. Carluccio's statements and request for a white paper on this topic. He said that the Council needs to be more informed on this topic. He agreed that the administrative burden of waivers needs to be eased while still protecting the resources adequately. He does support flexibility.

Chairman Weingart asked Ms. Swan for the staff to create a white paper for the Council so that they can become more informed on this issue. Mr. Dillingham stated that the policies need to be clear enough that they will minimize pollution and disturbance and guide development to the appropriate areas..

Ms. Swan spoke about the nest phase of the property search tool which will allow all to see the layers and thus know where there is potential for development that is consistent with the protections of the RMP. . Mr. Dillingham responded that the tool needs to be supported by clear policies.

c. Transportation

Ms. Swan then discussed the text changes within the Transportation GPOs. Clarification was made regarding the need to evaluate transportation projects that may result in unintended growth or growth inducing effects due to increased motorized vehicle roadways as well as to show when a shared parking study may be appropriate. She stated that text was added regarding the requirement to promote a sound and balanced transportation system consistent with smart growth principles, recognizing the role and agency coordination of the 13 county Metropolitan Planning Transportation Region, and recognizing the shuttle as a form of local transit. There were also policies added to this section regarding the role of regional airport facilities and regarding scenic byways and corridors within the Region.

Mr. Alstede asked that the language state that it shall include projects not just recognize projects. Ms. Swan stated that the projects that are being studied for the region are not yet complete and that the staff will work with consultants in order to be able to pick which projects are the ones that should be focused upon as being most consistent with the RMP and most likely to be funded and implemented. Ms. Swan stated that the Transportation Program will address this issue further.

d. Redevelopment

Ms. Swan continued her presentation with a review of the GPO revisions to the Redevelopment Programs and Policies. She explained that a more detailed description of appropriate redevelopment activities for each LUCM Zone in the Planning area was added and that these activities may be approved through Plan Conformance or Highlands Redevelopment Site Approval. Municipal Plan Conformance requirements were also updated to include identification of development, redevelopment and brownfield opportunities as well as development regulations and zoning amendments to enable project implementation of identified redevelopment initiatives. Lastly, there was clarification on the long-term initiative of preparing enhanced remediation standards for application in the Region to ensure resource protection.

Ms. Carluccio requested that, regarding 6L1, the statement “where appropriate” be added so that municipalities don’t believe that they have to create this infrastructure. She also mentioned 6m1d and asked if there was a mechanism in place with NJDEP regarding this policy or if the Highlands will have their own version. Dr. Van Abs explained that the Council has the ability to recommend to the NJDEP to make amendments. She expressed her support for this policy.

e. Smart Growth

Ms. Swan then outlined the changes regarding the GPOs for Smart Growth and low impact development as well as the expansion of the objectives aimed at achieving smart growth principles. She pointed out that modifications were made in this section to describe low impact development as an element of smart growth which uses the natural features of that land as a guide. There was elaboration on how low impact development strategies will be utilized in the design and development of both stormwater management and resource management plans. Techniques for low impact development were then described including general strategies, site design and development, stormwater management, and resource management.

Mr. Dillingham encouraged the Council to be cognizant of the issues with NJDEP's point system that is in place within their Stormwater policies.

f. Landowner Equity

Ms. Swan explained that this section was changed from Landowner Fairness to Landowner Equity in response to public comments. She stated that language was revised in two policies to reflect that the TDR Program is not limited to the Preservation Area.

Mr. Dillingham stated that given the limitations of the TDR program he believed the focus should be primarily on the Preservation Area. Ms. Swan explained that there are pertinent areas within other zones as well which may be deemed appropriate through Plan Conformance, at the Council's discretion, for TDR sending areas.

Mr. Dillingham questioned 7b9 and stated that it needs clarification particularly regarding the Preservation area. Mr. Borden stated that this will be discussed at the TDR meeting after the Council meeting.

Mr. Alstede asked if there was any movement regarding a general equity statement as he had requested previously. He believes it is important for the Council to state that landowner equity is a priority for the Council. Ms. Swan asked Mr. Alstede to forward his recommendations for the Council's consideration. He also asked for clarification that the allocation of credits will be available prior to release. Ms. Swan answered that the allocation process would be complete by adoption of the plan. Chairman Weingart suggested that any council member who had a suggestion on a Land Owner Equity statement could provide it to Ms. Swan.

Ms. Swan continued her presentation stating that revisions were made to clarify that the allocation of Highlands Development Credits to sending zone parcels are also effected by the choice not to exercise a Highlands exemption. Regarding receiving zones, there was language added to indicate that the establishment of receiving zones must be consistent with the RMP protection policies and must show infrastructure capacity. There was clarification that municipalities outside of the Highlands that choose to establish receiving zones must seek Plan Endorsement from the State Planning Commission. Lastly, Ms. Swan explained that language was revised to indicate that the Planning Area municipalities that do not conform but would like to establish receiving zones must still receive Plan Endorsement from the State Planning Commission as per the State TDR Act.

She then presented the new landowner equity policies that suggest the need for legislation that permits municipalities outside of the Highlands counties to designate Receiving Zones that may accept Highlands Development Credits, and legislation that would require the payment of a fee to the HDC Bank for any increases in density or intensity of development outside the Highlands region that relies on water sources coming from the Highlands Region.

Ms. Letts stated her concerns regarding the ability to enforce this policy. There was discussion about the timing of the implementation of this fee and whether it will be retroactive or effective the date of the legislation. Mr. Dillingham recommended the language "to advance the success of the TDR program" be added. The Council supported that idea.

g. Sustainable Economic Development

Ms. Swan continued her presentation explaining that there was clarification regarding the municipal Plan Conformance requirement to develop an economic plan element (where appropriate) that provides strategies for achieving sustainable and appropriate economic development and that development, redevelopment and brownfield opportunities were identified. She also stated that the approach of establishing a Highlands tourism program was changed to support existing programs

and that the language had been broadened in regards to the development and enhancement of the region's tourism infrastructure. Ms. Swan discussed new economic development policies and objectives that address public-private partnerships, positive fiscal impact to local governments, preservation of the high quality of life in the area, and the development of a fiscal impact analysis regarding implementation.

Mr. Alstede questioned local jobs and job loss as addressed in 8A1 and how this is going to be tracked. Ms. Swan explained that the regional buildout analysis will address implications regarding jobs and job loss, but it will not be specific to each area. Mr. Alstede asked if it is a goal to maintain businesses within the Highlands and whether job opportunities will be a priority. Ms. Swan explained how redevelopment opportunities, underutilized lands, and eco and agri tourism jobs may, in part, address this issue. She stated that there could be a cross reference regarding redevelopment opportunities and waivers for necessary growth within local businesses.

Ms. Letts supported Mr. Alstede's concerns regarding the loss of local businesses due to limitations. Mr. Dillingham stated that the Council should not support the expansion of businesses on undisturbed lands. Mr. Schrier expressed his support of the Council promoting, where appropriate, the expansion of existing local business. There was then a discussion about the appropriate ways to support the local economy which will allow flexibility while still protecting resources.

Chairman Weingart suggested that fliers be created for landowners, business owners, farmers, etc so that people can understand the implications of the plan on their particular situation.

Ms. Carluccio recommended that within Policy 8a6 that "required" be changed to "encouraged". Ms. Swan explained that a comprehensive plan is essential for achieving sustainability and should include an economic plan if any opportunities exist or are desired.. Ms. Carluccio asked for a clear model of the economic plan. Mr. Cogger clarified that most municipalities will have a version of an economic plan in place for the local master plan. There was then discussion on the use and the importance of an economic plan for municipalities to look at their needs and potentials for growth for the future, and how this plan will vary by municipality.

Chairman Weingart asked about language being added "consistent with RMP and desired by the municipality" to the statement on sustainable economic development and the need for a plan. He also asked about the language "economic plan element" and the possibility using "development and redevelopment plan" instead. Mr. Dillingham asked if this statement is an encouragement for growth. Ms. Swan stated that this is to guide municipalities to create a plan only if they want to grow and it is appropriate. Mr. Schrier agreed with Chairman Weingart's request for a language change but requested that "desired by the municipality" be set before "consistent with the RMP". Ms. Carluccio again recommended that that "required" be changed to "recommended". The Council agreed on the inclusion of "desired by the municipality" and "consistent with the RMP".

h. Air Quality

Ms. Swan presented changes to the Air Quality GPOs, including the addition of text to clarify that the monitoring and assessment of air quality be consistent and recognize power plants, landfills, and incinerators as sources which are included in the State and Federal Monitoring programs. There was also further clarification that the RMP energy efficient and green building policies support both the State Global Warming Response Act and the Energy Master Plan. Lastly, Ms. Swan explained that

changes were made within the language regarding air toxins to recognize additional key air toxic compounds consistent with State and Federal Programs.

Chairman Weingart announced that the next meeting would take place on May 22, 2008 at 4 pm and then opened the floor for public comments.

PUBLIC COMMENTS:

HELEN HEINRICH, NJ Farm Bureau – Ms. Heinrich discussed the economic plan and the need for towns to focus on supporting local businesses (particularly agricultural businesses and small businesses). She also suggested that all growth require economic planning that covers all of the necessary aspects. She expressed concerns about the lack of coordination between different programs and the costs of development, but did express support of the water fee. She questioned whether the staff has been able to add all of the map layers for an area, as she has found that this results in a totally black area. She recommended allowing some flexibility within recharge areas.

DEBRA POST, Chester – Ms. Post discussed the presentation and the policies of the Transportation section. She explained the benefits of dirt roads and the removal of impervious cover.. She also argued that the waiver process is a large financial burden and isn't a feasible possibility for most individuals. She said there should be grants for individuals to help with the costs of waivers. Ms. Post brought up Mr. Dillingham's point regarding fees being used for infrastructure and not the HDC bank and believes this states that landowners need not be compensated. She discussed the lack of feasibility regarding eco-related jobs and businesses. Lastly, she stated her opinion that the TDR program is being inappropriately inflated outside the Preservation Area. She then outlined the issues within the TDR program and the exemption process. She stated that the just compensation money should be used only for effected landowners and that landowners within the Preservation Area should be the first compensated.

ELLIOT RUGA, NJ Highlands Coalition - Mr. Ruga supported the proposal that the Council will revisit the development allowed within Prime Ground Water Recharge Areas. He read sections from page 323 of the RMP regarding the Prime Ground Water Recharge areas.

JAMES TRIP, General Council of Environmental Defense Fund – Mr. Trip explained that the primary involvement of the Environmental Defense Fund in guiding the Highlands staff has been within the TDR receiving area program. He stated that the 15% is far too high within the Prime Ground Water Recharge areas. He stated that the Council should be limiting clustering to existing clusters within prime recharge areas. He stated that the only waiver of significance is regarding avoiding a takings. He recommended a septage use cap and trade program particularly where a takings may be an issue. He stated that adding any nitrates to a prime recharge area is of high value and should be treated as such. He suggested that regarding redevelopment and smart growth, that there be a reference of this in the TDR receiving area program. He stated explained that landowner's receiving appropriate equity will happen over time, not immediately. Mr. Trip stated that vacant land will be the largest area that will be available for a TDR program immediately. He explained that there is potential to achieve significant value within receiving area lands. He believes it is important that there is receiving area capacity that is immediately available with significant value for the TDR Program to be successful.

BILL KIBLER, South Branch Watershed Association - Mr. Kibler returned to the discussion on allowing municipalities to use the NJDEP statewide nitrate standard for determining septic densities. He explained that the NJDEP nitrate standard doesn't protect or enhance water quality, which the Council is supposed to do. The Council needs to support its own science and uphold their nitrate standard. The NJDEP even recommends that a stricter nitrate standard may be appropriate. Regarding the impervious surface discussion, he stated that there should be 0% development within the Prime Ground Recharge Area. The percentages that were presented today were far too high. Lastly, he noted that the South Branch Watershed Association supports the idea of a water use fee.

ANDY DRYSDALE - Mr. Drysdale explained why New Jersey is not business friendly. He also discussed his lack of support for the plan. He explained the poor use of money within the government. He spoke about statistics mentioned in "Putting Taxpayers First". He asked the Council to overturn the Highlands Act and stop abuses of power in government.

JULIA SOMERS, NJ Highlands Coalition - She discussed a Star Ledger article regarding real estate in New Jersey. She brought up the difference between impervious cover and disturbance. Ms. Somers also expressed that the percentages that were presented are too high. She also requested that the Council ask for public comment before taking any votes or polls during Council meetings. She recommended that the Council look at existing science, particularly with regards to recharge areas. Lastly, she did thank the Council for strengthening and clarification on karst.

DAVID SHOPE, Farm bureau member - He brought up Debbie Post's idea regarding that a small fraction of each building permit be set aside for landowner equity. He requested a peer reviewed medical study on the detriment of water with nitrate over 10 milligrams per liter. He questioned the stronger nitrate standards within the Highlands Region. He also questioned the science behind the set nitrate standards. Mr. Shope requested the science behind the water deficit areas. He then discussed the legal climate of the state and how it makes New Jersey very business unfriendly, particularly the use of junk science within the Courts. He explained that younger generations are not continuing to farm which will then create many acres of previous farmland being available on the market.

WILMA FREY, NJ Conservation Foundation - Ms. Frey agreed with the changes in the Smart Growth section and agreed with Mr. Dillingham's statement not to follow NJDEP's stormwater management. She commented on the Transportation section, mentioning that the transportation goal is only for the Planning Area according to the Act. Regarding landowner equity, they would like to see sending areas in the Planning Area because there are sections that need to be protected. She addressed the water resource section and her shock regarding the percentages that were proposed. The numbers were much higher than what has been recommended by other agencies. She questioned why many rivers and corridors are not within the Preservation Area. She stated that there are prolific aquifers within different areas and that because they are critical they should be looked at separately. Lastly, she said that the percentages should not be changed and should remain the lower standards as stated in the original plan.

SYLIVA KOVACS, Warren County - Ms. Kovacs stated her agreement for a sustainable agricultural environment. Regarding Prime Groundwater Recharge Areas, she agreed that low impact development hasn't been supported enough to show that it will not affect water resources. She stated that it is essential for the Council to look into the enforcement of low impact

development. Then she addressed the percentages within the development in Prime Ground Water Recharge areas and pointed out that the Council needs to not push development. She stated her support for the water fee.

MS. ANDERSON, Lebanon Township – Ms. Anderson supported Mr. Alstede’s comment on creating a statement of priority regarding landowner compensation. She urged emphasis for funding in the Preservation Area. Then she asked that the age of landowners be considered regarding compensation.

JOHN MALAY, Raritan Highlands Compact – Mr. Malay recognized the large amount of work of the council and staff. He discussed the COAHs regulations. He found that there seems to be conflicting information coming out of different meetings with different entities. Mr. Malay stated that COAH and DCA will be requiring businesses to pay onerous fees. He supports the Council’s mission, but is concerned about the relationship between COAH regulations and Highlands plan. Lastly, he discussed the water fee and suggested that the Council focus on the memorandum of understanding with COAH because of the differences and conflicts in policies.

Mr. Dillingham recommended that the staff look into the zones of the aquifers and water resources when preparing the white paper for recharge areas. He asked for a clearer understanding between COAH regulations and the Highlands plan and how these affect municipalities. He also sought additional legal analysis regarding whether COAH regulations override, or trump, the Highlands plan.

Chairman Weingart repeated that the next Council meeting will be May 22, 2008 at 4pm. There was a motion to adjourn and it was seconded. *All Council members approved and the meeting was adjourned.*

**Vote on the Approval of
these Minutes**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Abse nt</u> |
|---------------------------|------------|-----------|----------------|--------------------|
| Councilmember Alstede | ✓ | | | |
| Councilmember Calabrese | | | ✓ | |
| Councilmember Carluccio | ✓ | | | |
| Councilmember Cogger | ✓ | | | |
| Councilmember Dillingham | | | | ✓ |
| Councilmember Kovach | ✓ | | | |
| Councilmember Letts | ✓ | | | |
| Councilmember Pasquarelli | ✓ | | | |
| Councilmember Peterson | | | | ✓ |
| Councilmember Schrier | ✓ | | | |
| Councilmember Vetrano | | | | ✓ |
| Councilmember Way | | | | ✓ |
| Councilmember Whitenack | | | | ✓ |
| Councilmember Weingart | ✓ | | | |

PUBLIC COMMENTS SUBMITTED

Highlands Council members:

As we prepare for another Council meeting, not having seen the documents being prepared for discussion, the public is only aware that the Council will be revisiting eight issues for discussion. All are of concern, but in our office three are of particular concern: Carbonate Rock (Karst), Prime Ground Water Recharge and Redevelopment. In fact, Prime Ground Water Recharge was not even on your earlier list of "Issues for Discussion," so this is a surprise to us. We hope nothing is being proposed to weaken what protections there are for recharge areas.

To help you with preparation for these discussions, I have included below some excerpts from the Highlands Water Protection and Planning Act of 2004 that I hope will be helpful in informing your thoughts:

Sect. 11. a. "The regional master plan shall include, but need not necessarily be limited to:

(1) A resource assessment which:

(a) determines the amount and type of human development and activity which the ecosystem of the Highlands Region can sustain while still maintaining the overall ecological values thereof, with special reference to surface and ground water quality and supply; contiguous forests and woodlands; endangered and threatened animals, plants, and biotic communities; ecological factors relating to the protection and enhancement of agricultural or horticultural production or activity; air quality; and other appropriate considerations affecting the ecological integrity of the Highlands Region;

Sect. 34. b. "...measures to ensure that existing water quality shall be maintained, restored, or enhanced, as required pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.) or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), or any rule or regulation adopted pursuant thereto, in all Highlands open waters and waters of the Highlands, and to provide that any new or expanded point source discharge, except discharges from water supply facilities, shall not degrade existing water quality. In the case of water supply facilities, all reasonable measures shall be taken to eliminate or minimize water quality impacts;

Sect. 34.e. "...a septic system density standard established at a level to prevent the degradation of water quality, or to require the restoration of water quality, and to protect ecological uses from individual, secondary, and cumulative impacts, in consideration of deep aquifer recharge available for dilution;

Sect. 34.k. "...k. a prohibition on development that disturbs upland forested areas, in order to prevent soil erosion and sedimentation, protect water quality, prevent stormwater runoff, and protect threatened and endangered animal and plant species sites and designated habitats; and standards to protect upland forested areas that require all appropriate measures be taken to avoid impacts or disturbance to upland forested areas, and where avoidance is not possible that all appropriate measures have been taken to minimize and mitigate impacts to upland forested areas and to prevent soil erosion and sedimentation, protect water quality, prevent storm water runoff, and protect threatened and endangered animal and plant species sites and designated habitats.

All of these sections include references to water quality and water quantity. There are other sections I could quote, but these should be helpful. They also pointedly remind one why Coalition members are leery of the failed experience in New Jersey with mitigation (as is still proposed in the RMP for water deficit subwatersheds) being used to help new development go forward in places it should not occur.

If you have any questions, please do not hesitate to call me at 973-588-7190 or 973-525-2768 (cell). Many thanks.

Julia Somers, Executive Director, New Jersey Highlands Coalition

ANDREW DRYSDALE
Land Surveyor
32 East Fox Chase Road
Chester, NJ, 07930
Tel. 908-234-1079 Fax 908-234-1326

May 15, 2008

Highlands Council
100 North Road
Chester, NJ 07930

Here we are, over four years past the onerous retroactive date of March 29, 2004. The State of New Jersey has a huge debt and a reputation for being one of the most business unfriendly states in the entire country. People are leaving New Jersey to pursue a better life elsewhere, yet the white collar crime that perpetrated the "Highlands Act" continues to be condoned.

On February 28, 2008 the Highlands council authorized an annual amount not to exceed \$1,500,000 for "Initial Assessment" grants to municipalities within the seven Highlands counties in furtherance of plan conformance. I am not sure what the nasty stick is but this certainly is a rotten carrot.

In a May 1, 2008 article in the Daily Record of Morris County regarding the merger of the Chesters it was stated, "Corzine announced earlier this year his plan to cut state tax relief aid in half for communities with under 10,000 residents and eliminate it altogether for those with populations smaller than 5,000. He also made about \$32 million available to towns wishing to explore mergers." It is obvious in this statement what the nasty stick is and a \$32 million rotten carrot shows us how wasteful government can be. This money could have been used for honest purchases of development rights.

When you first hear of it, it sounds good, "consolidation of services" but when you examine it further, you can see how bad the whole idea is without spending \$32 million to come to that conclusion. First, it is a dilution of your vote. Second, history shows us that though there could be some meager savings at first, very large communities have a much larger cost per capita for government services. See Steve Lonegan's book, "PUTTING TAX PAYERS FIRST", page 77 for statistics.

Bigger is not always better and forced or bribed consolidation are only tools used by socialists to promote their agenda and increase their power over the people.

Please, Highlands Council, help us stop these abuses of power, tell the legislature, the Governor, and the bloated NJDEP to stop this nonsense and that a good first step would be to overturn the ill-conceived Highlands Act.

Sincerely,


Andy Drysdale

cc: Others

Comments submitted at Highlands Council
Meeting on May 15, 2008 by David
Shope, page 1 of 1

Wednesday, Apr. 23 2008

New Jersey Legal System Headed in the Wrong Direction

PR Newswire
Comtex

WASHINGTON, April 23, 2008 /PRNewswire-USNewswire via COMTEX/ -- The U.S. Chamber Institute for Legal Reform (ILR) today announced that New Jersey's legal climate has dropped nine spots to number 35 in Lawsuit Climate 2008: Ranking the States, an annual assessment of state liability systems conducted by Harris Interactive, a leading national market research firm.

"New Jersey's legal system is headed in the wrong direction," said Tom Donohue, president and CEO of the U.S. Chamber of Commerce, "largely as a result of the plaintiff-friendly bias in a handful of trial courts, particularly in lawsuits aimed at pharmaceutical manufacturers."

For example, one court certified a nationwide consumer fraud class action exposing a drug maker to a claim for \$20 billion dollars in damages, in which the trial judge allowed the plaintiffs to proceed on a theory that would not have required any proof that any individual class member would have behaved any differently had it known more about the drug. The New Jersey Supreme Court eventually overturned the judge's decision.

New Jersey has also gained a reputation for allowing "junk science" to be admitted into the courtroom, dropping from a rank 13th to 35th in the handling of technical and scientific evidence.

"The best thing a state can do to attract business is to have a fair legal system," said Donohue. "Attitudes about New Jersey's legal climate will only improve once the courts in these individual jurisdictions stop torturing the laws to reach pre-conceived results."

ILR is launching a national advertising campaign highlighting the results of the study and the need for comprehensive legal reform.

Harris asked 957 senior attorneys to evaluate up to five states in which they were "very" or "somewhat familiar" with that state's litigation environment. Survey respondents assigned each state a letter grade for each of 12 different factors affecting the states' tort liability system, ranging from the overall treatment of tort and contract litigation to judges' competence and impartiality, and Harris computed an overall score for each state based on these evaluations.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than 3 million businesses and organizations of every size, sector, and region.

The full Harris report is available online at www.instituteforlegalreform.com.

SOURCE U.S. Chamber Institute for Legal Reform

<http://www.instituteforlegalreform.com>
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RESOLUTION 2008-13
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
SUPPORT FOR CONSTITUTIONAL AMENDMENT TO DEDICATE REVENUE
FOR OPEN SPACE AND FARMLAND PRESERVATION

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Legislature has adopted the Highlands Act in recognition that the 860,000 acre Highlands Region serves as an “essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population” and that the area includes exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, habitat for fauna and flora, many sites of historic significance and provides abundant recreational opportunities, all of which are an invaluable and irreplaceable asset of the current citizens of New Jersey; and

WHEREAS, the Highlands Act empowers the Highlands Council to identify and designate areas in the Highlands Region within which “development shall not occur in order to protect water resources and environmentally sensitive lands and which shall be permanently preserved through use of a variety of tools, including but not limited to land acquisition and the transfer of development rights” and the Legislature included in the Highlands Act included a specific commitment for additional funding through “a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands”; and

WHEREAS, the Garden State Preservation Trust Fund that funds the Green Acres Program, the Farmland Preservation Program, and other programs presently provides a significant source of funding for acquisition projects in the Highlands Region; and

WHEREAS, the Garden State Preservation Trust Fund will no longer be able to issue any new bond, note or other obligation after June 30, 2009 unless the Trust Fund is reauthorized; and

WHEREAS, almost all individuals and groups who have repeatedly testified before the Highlands Council at its regular meetings and public hearings – regardless of their varying views on other aspects of the Highlands Act –have agreed that there needs to be a dedicated, directed, and stable funding source sufficient to preserve the lands envisioned to be protected by the Highlands Act, and

WHEREAS, in Resolution 2005-18, Resolution 2006-22 and the pending Regional Master Plan, the Highlands Council has repeatedly expressed its support for a dedicated, directed and stable source of land acquisition and stewardship funding; and

WHEREAS, on March 6, 2008, Senate Concurrent Resolution 88 was introduced to the New Jersey Legislature proposing to amend Article VIII, Section II of the Constitution of the State of New Jersey to provide that revenue from water consumption and water user fees be dedicated only for the purpose of providing funding for the acquisition and development of lands for recreation and conservation purposes and for the preservation of farmland for agricultural and horticultural use and production.

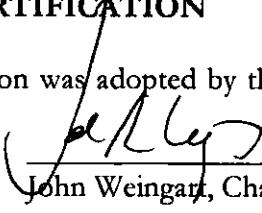
NOW, THEREFORE, BE IT RESOLVED

RESOLUTION 2008-13
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
SUPPORT FOR CONSTITUTIONAL AMENDMENT TO DEDICATE REVENUE
FOR OPEN SPACE AND FARMLAND PRESERVATION

The Highlands Council hereby supports the passage of Senate Concurrent Resolution 88 SCR 88 which proposes to amend Article VIII, Section II of the Constitution of the State of New Jersey and encourages support for this constitutional amendment from all parties interested in the protection and preservation of the Highlands Region and the resulting sustainability of clean and plentiful drinking water for over half the population of the State of New Jersey.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2008.



John Weingart, Chairman

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---------------------------|-------------------|------------------|-----------------------|----------------------|
| Councilmember Alstede | ✓ | | | |
| Councilmember Calabrese | | | | ✓ |
| Councilmember Carluccio | ✓ | | | |
| Councilmember Cogger | ✓ | | | |
| Councilmember Dillingham | ✓ | | | |
| Councilmember Kovach | ✓ | | | |
| Councilmember Letts | ✓ | | | |
| Councilmember Pasquarelli | ✓ | | | |
| Councilmember Peterson | | | | ✓ |
| Councilmember Schrier | ✓ | | | |
| Councilmember Vetrano | ✓ | | | |
| Councilmember Way | | | | ✓ |
| Councilmember Whitenack | ✓ | | | |
| Councilmember Weingart | ✓ | | | |

RESOLUTION 2008-14
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

WHEREAS, on August 4, 2005, the Highlands Council by Resolution 2005-27 authorized the initiation of a grant application process for certain grant categories, including Fair Share Planning grants; and

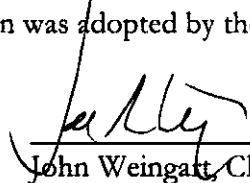
WHEREAS, municipalities have submitted grant applications to Highlands Council for COAH Fair Sharing Planning grants;

WHEREAS, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council; and

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designees, is hereby authorized to enter into a grant agreement with the Township of Clinton for a Fair Share Planning COAH Third Round Grant in an amount not to exceed \$7,500.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2008.



John Weingart, Chairman

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|--------------------------|-------------------|------------------|-----------------------|----------------------|
| Councilmember Alstede | ✓ | _____ | _____ | _____ |
| Councilmember Calabrese | _____ | _____ | _____ | ✓ |
| Councilmember Carluccio | ✓ | _____ | _____ | _____ |
| Councilmember Cogger | ✓ | _____ | _____ | _____ |
| Councilmember Dillingham | ✓ | _____ | _____ | _____ |
| Councilmember Kovach | ✓ | _____ | _____ | _____ |
| Councilmember Letts | ✓ | _____ | _____ | _____ |

RESOLUTION 2008-14
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---------------------------|------------|-----------|----------------|---------------|
| Councilmember Pasquarelli | ✓ | | | |
| Councilmember Peterson | ✓ | | | |
| Councilmember Schrier | ✓ | | | |
| Councilmember Vetrano | ✓ | | | |
| Councilmember Way | | | | ✓ |
| Councilmember Whitenack | ✓ | | | |
| Councilmember Weingart | ✓ | | | |

RESOLUTION 2008-15
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

WHEREAS, on February 28, 2008 the Highlands Council by Resolution 2008-4 authorized the initiation of a grant application process for Initial Assessment grants to municipalities within the seven Highlands counties in furtherance of Plan Conformance, in an annual amount not to exceed \$1,500,000; and

WHEREAS, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council; and

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designees, is hereby authorized to enter into a grant agreement with the Township of Chester for an Initial Assessment Grant in an amount not to exceed \$15,000.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2008.



John Weingart, Chairman

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---------------------------|-------------------|------------------|-----------------------|----------------------|
| Councilmember Alstede | ✓ | | | |
| Councilmember Calabrese | | | | ✓ |
| Councilmember Carluccio | ✓ | | | |
| Councilmember Cogger | | | ✓ | |
| Councilmember Dillingham | ✓ | | | |
| Councilmember Kovach | ✓ | | | |
| Councilmember Letts | ✓ | | | |
| Councilmember Pasquarelli | ✓ | | | |
| Councilmember Peterson | ✓ | | | |

RESOLUTION 2008-15

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|-------------------------|------------|-----------|----------------|---------------|
| Councilmember Schrier | ✓ | | | |
| Councilmember Vetrano | ✓ | | | |
| Councilmember Way | | | | ✓ |
| Councilmember Whitenack | ✓ | | | |
| Councilmember Weingart | ✓ | | | |

**SENATE CONCURRENT
RESOLUTION No. 88**

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 6, 2008

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS

Amends Constitution to dedicate water consumption and diversion user fee revenue for open space and farmland preservation.

CURRENT VERSION OF TEXT

As introduced.



SCR88 B. SMITH

2

1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, of the Constitution of the State of New Jersey.

3

4 **BE IT RESOLVED** *by the Senate of the State of New Jersey (the*
5 *General Assembly concurring):*

6

7 1. The following proposed amendment to the Constitution of
8 the State of New Jersey is agreed to:

9

10 **PROPOSED AMENDMENT**

11

12 Amend Article VIII, Section II, by addition of a new paragraph 8
13 to read as follows:

14 8. a. There shall be credited in each State fiscal year to a
15 special account in the General Fund the revenue annually derived
16 from the water consumption and water diversion user fees imposed
17 pursuant to the “Water Supply Open Space and Farmland Trust
18 Fund Act,” P.L. , c. (C.) (pending before the Legislature as
19 Senate Bill No. of 2008 or Assembly Bill No. of 2008).

20 The amount annually credited pursuant to this paragraph shall be
21 dedicated and shall be appropriated from time to time by the
22 Legislature only for the purpose of providing funding, including
23 loans or grants, for the acquisition and development of lands for
24 recreation and conservation purposes and for the preservation of
25 farmland for agricultural or horticultural use and production.

26 b. It shall not be competent for the Legislature, under any
27 pretense whatever, to borrow, appropriate, or use the amount
28 credited to the special account pursuant to this paragraph, or any
29 portion thereof, (1) for any purpose or in any manner other than as
30 enumerated in this paragraph, or (2) for the payment of the principal
31 or interest on any general obligation bond, refunding bond, or any
32 other bond, note, or other obligation including, but not limited to, a
33 bond, note, or other obligation authorized pursuant to paragraph 7
34 or subparagraph (e) of paragraph 6 of Article VIII, Section II, of the
35 State Constitution.

36 c. All moneys derived from repayments of any loan issued
37 from the amount dedicated pursuant to this paragraph shall be
38 dedicated, and shall be appropriated from time to time by the
39 Legislature, only for the purposes authorized pursuant to this
40 paragraph.

41

42 2. When this proposed amendment to the Constitution is finally
43 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
44 shall be submitted to the people at the next general election
45 occurring more than three months after the final agreement and
46 shall be published at least once in at least one newspaper of each
47 county designated by the President of the Senate, the Speaker of the

SCR88 B. SMITH

3

1 General Assembly and the Secretary of State, not less than three
2 months prior to the general election.

3

4 3. This proposed amendment to the Constitution shall be
5 submitted to the people at that election in the following manner and
6 form:

7 There shall be printed on each official ballot to be used at the
8 general election, the following:

9 a. In every municipality in which voting machines are not used,
10 a legend which shall immediately precede the question as follows:

11 If you favor the proposition printed below make a cross (X), plus
12 (+), or check (✓) in the square opposite the word "Yes." If you are
13 opposed thereto make a cross (X), plus (+) or check (✓) in the
14 square opposite the word "No."

15 b. In every municipality the following question:

SCR88 B. SMITH

4

1

| | | |
|--|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | YES | <p>DEDICATION OF WATER CONSUMPTION AND WATER DIVERSION USER FEE REVENUE FOR OPEN SPACE AND FARMLAND PRESERVATION</p> <p>Shall the amendment to Article VIII, Section II, of the Constitution of the State of New Jersey, agreed to by the Legislature, to provide that the revenue annually derived from the water consumption and water diversion user fees imposed under the “Water Supply Open Space and Farmland Trust Fund Act,” P.L. , c. (C.) (pending before the Legislature as Senate Bill No. of 2008 or Assembly Bill No. of 2008) be dedicated, and appropriated by the Legislature, only for the purpose of providing funding, including loans or grants, for the acquisition and development of lands for recreation and conservation purposes and for the preservation of farmland for agricultural or horticultural use and production, be approved?</p> |
| | NO | <p>INTERPRETIVE STATEMENT</p> <p>Approval of this proposed constitutional amendment would dedicate the annual revenue from the Water Consumption User Fee and the Water Diversion User Fee to provide a stable source of funding for the Green Acres program and for farmland preservation. The Green Acres program preserves open space, including parks, fish and wildlife habitat, flood prone or affected areas, and land that protects water supplies. It also funds park improvements and facilities. This constitutional amendment would replenish the now depleted dedicated funding for land preservation approved by the voters in 1998 so that new land preservation efforts may be undertaken in the State.</p> |

2

SCR88 B. SMITH

5

STATEMENT

1 STATEMENT

2

3 This concurrent resolution proposes an amendment to the State

4 Constitution requiring the State to dedicate revenues derived from

5 the water consumption and water diversion user fees imposed under

6 the “Water Supply Open Space and Farmland Trust Fund Act,”

7 P.L. , c. (C.) (pending before the Legislature as Senate Bill

8 No. of 2008 or Assembly Bill No. of 2008). This companion

9 legislation imposes a water consumption fee on the owner or

10 operator of every public community water system equal to forty

11 cents per thousand gallons of water delivered to a consumer and a

12 water diversion fee on every person required by law to obtain a

13 diversion permit or a water use registration equal to forty cents per

14 thousand gallons of water diverted for a consumptive use. The

15 amount due from any person subject to one of these fees would not

16 exceed \$50,000 per year.

17 The revenue derived from the user fees would be used only for

18 the purpose of providing funding, including loans or grants, for the

19 acquisition and development of lands for recreation and

20 conservation purposes (Green Acres) and for the preservation of

21 farmland for agricultural or horticultural use and production.

SENATE, No. 1454

STATE OF NEW JERSEY

213th LEGISLATURE

INTRODUCED MARCH 6, 2008

Sponsored by:
Senator BOB SMITH
District 17 (Middlesex and Somerset)

SYNOPSIS

Imposes water consumption and diversion user fees to fund open space and farmland preservation projects.

CURRENT VERSION OF TEXT

As introduced.



S1454 B. SMITH

2

1 **AN ACT** concerning water supply protection and open space and
2 farmland preservation, amending and supplementing P.L.1999,
3 c.152, and supplementing Title 13 of the Revised Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. (New section) This act shall be known and may be cited as
9 the "Water Supply Open Space and Farmland Trust Fund Act."

10

11 2. (New section) The Legislature finds and declares that
12 enhancing the quality of life of the citizens of New Jersey is a
13 paramount policy of the State; that the acquisition and preservation
14 of open space and farmland in New Jersey protects its water
15 resources, protects and enhances the character and beauty of the
16 State, and provides its citizens with greater opportunities for
17 recreation, relaxation, and education; that the lands and resources
18 now dedicated to these purposes will not be adequate to meet the
19 needs of an expanding population in years to come; that the open
20 space and farmland that is available and appropriate for these
21 purposes will gradually disappear as the costs of preserving them
22 correspondingly increase; and that it is necessary and desirable to
23 provide funding for the development of parks and other open space
24 for recreation and conservation purposes.

25 The Legislature further finds and declares that agriculture plays
26 an integral role in the prosperity and well-being of the State as well
27 as providing a fresh and abundant supply of food for its citizens;
28 that much of the farmland in the State faces an imminent threat of
29 permanent conversion to non-farm uses; and that the retention and
30 development of an economically viable agricultural industry is of
31 high public priority.

32 The Legislature further finds and declares that there is growing
33 public recognition that the protection and preservation of New
34 Jersey's water resources, including the quality and quantity of the
35 State's limited water supply, is essential to the quality of life and the
36 economic health of the citizens of the State; that the quality of life,
37 economic prosperity, and environmental quality in New Jersey are
38 served by the protection and timely preservation of open space and
39 farmland and better management of the lands, resources, and
40 recreational facilities that are already under public ownership or
41 protection; that the acquisition of flood-prone areas is in the best
42 interests of the State to prevent the loss of life and property; and
43 that the preservation of the existing diversity of animal and plant
44 species is essential to sustaining both the environment and the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

S1454 B. SMITH

3

1 economy of the Garden State, and the conservation of adequate
2 habitat for endangered, threatened, and other rare species is
3 necessary to preserve this biodiversity.

4 The Legislature further finds and declares that the citizens of the
5 State have indicated their very strong support for water quality
6 protection, and open space, and farmland preservation efforts not
7 only in the past approval of State Green Acres bond acts and
8 numerous county and municipal dedicated funding sources for those
9 purposes, but with the approval of an amendment to the New Jersey
10 Constitution that provided for a stable and dedicated source of
11 funding for those purposes for the past decade.

12 The Legislature therefore determines that it is in the public
13 interest to establish a new stable source of funding, based on
14 surcharges on water consumption and water diversion, for the
15 State's open space and farmland programs.

16

17 3. (New section) As used in sections 1 through 8 of this act:

18 "Acquisition" means the obtaining of a fee simple or lesser
19 interest in land, including but not limited to a development
20 easement, a conservation restriction or easement, or any other
21 restriction or easement permanently restricting development, by
22 purchase, installment purchase agreement, gift, donation, eminent
23 domain by the State or a local government unit, or device.

24 "Consumptive use" means any use of water diverted from surface
25 or ground waters other than a nonconsumptive use as defined in this
26 act.

27 "Department" means the Department of Environmental
28 Protection.

29 "Development" or "develop" means, except as used in the
30 definitions of "acquisition" and "development easement" in this
31 section, any improvement made to a land or water area designed to
32 expand and enhance its utilization for recreation and conservation
33 purposes, and shall include the construction, renovation, or repair of
34 any such improvement, but shall not mean shore protection or beach
35 nourishment or replenishment activities.

36 "Development easement" means an interest in land, less than fee
37 simple title thereto, which interest represents the right to develop
38 that land for all nonagricultural purposes and which interest may be
39 transferred under laws authorizing the transfer of development
40 potential.

41 "Diversion" or "divert" means the taking or impoundment of
42 water from a river, stream, lake, pond, aquifer, well, other
43 underground source, or other water body, whether or not the water
44 is returned thereto, consumed, made to flow into another stream or
45 basin, or discharged elsewhere.

46 "Farmland" means land identified as having prime or unique
47 soils as classified by the Natural Resources Conservation Service in
48 the United States Department of Agriculture, having soils of

S1454 B. SMITH

4

1 Statewide importance according to criteria adopted by the State Soil
2 Conservation Committee, established pursuant to R.S.4:24-3, or
3 having soils of local importance as identified by local soil
4 conservation districts, and which land qualifies for differential
5 property taxation pursuant to the "Farmland Assessment Act of
6 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on
7 the farm that is necessary to accommodate farm practices as
8 determined by the State Agriculture Development Committee.

9 "Farmland preservation" means the permanent preservation of
10 farmland to support agricultural or horticultural production as the
11 first priority use of that land.

12 "Fund" means the Water Supply Open Space and Farmland Trust
13 Fund Account established pursuant to section 4 of this act.

14 "Garden State Farmland Preservation Trust Fund" means the
15 fund created pursuant to section 20 of P.L.1999, c.152 (C.13:8C-
16 20).

17 "Garden State Green Acres Preservation Trust Fund" means the
18 fund created pursuant to section 19 of P.L.1999, c.152 (C.13:8C-
19 19).

20 "Local government unit" means a county, municipality, or other
21 political subdivision of the State, or any agency, authority, or other
22 entity thereof; except, with respect to the acquisition and
23 development of lands for recreation and conservation purposes,
24 "local government unit" means a county, municipality, or other
25 political subdivision of the State, or any agency, authority, or other
26 entity thereof the primary purpose of which is to administer,
27 protect, acquire, develop, or maintain lands for recreation and
28 conservation purposes.

29 "Nonconsumptive use" means the use of water diverted from
30 surface or ground waters in such a manner that it is returned to the
31 surface or ground water at or near the point from which it was taken
32 without substantial diminution in quantity or substantial impairment
33 of quality.

34 "Person" means any individual, corporation, company,
35 partnership, firm, association, owner or operator of a public water
36 system, political subdivision of the State and any state, or interstate
37 agency or Federal agency.

38 "Public community water system" means a public water system
39 which serves at least 15 service connections used by year-round
40 residents or regularly serves at least 25 year-round residents.

41 "Public water system" means a system for the provision to the
42 public of water for human consumption through pipes or other
43 constructed conveyances, if such system has at least 15 service
44 connections or regularly serves an average of at least 25 individuals
45 daily at least 60 days out of the year. Such term includes: (1) any
46 collection, treatment, storage and distribution facilities under
47 control of the operator of such system and used primarily in
48 connection with such system; and (2) any collection or

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1 pre-treatment storage facilities not under such control which are
2 used primarily in connection with such system.

3 "Recreation and conservation purposes" means the use of lands
4 for beaches, biological or ecological study, boating, camping,
5 fishing, forests, greenways, hunting, natural areas, parks,
6 playgrounds, protecting historic properties, water reserves,
7 watershed protection, wildlife preserves, active sports, or a similar
8 use for either public outdoor recreation or conservation of natural
9 resources, or both.

10 "Small water company" means any company, purveyor or entity,
11 other than a governmental agency, that provides water for human
12 consumption and which regularly serves less than 1,000 customer
13 connections, including nonprofit, noncommunity water systems
14 owned or operated by a nonprofit group or organization.

15 "Unaccounted-for water" means water withdrawn by a local
16 government unit or water purveyor from a source and not accounted
17 for as being delivered to customers in measured amounts.

18 "Water purveyor" means any investor-owned water company or
19 small water company that owns or operates a public water system.
20

21 4. (New section) a. There is established in the General Fund a
22 special account, to be known as the "Water Supply Open Space and
23 Farmland Trust Fund Account." The State Treasurer shall credit to
24 this account the amount from the State revenue annually collected
25 from the fees imposed pursuant to sections 5 and 6 of this act and
26 dedicated pursuant to Article VIII, Section II, paragraph 8 of the
27 State Constitution (pending before the Legislature as Senate
28 Concurrent Resolution No.88 of 2008 or Assembly Concurrent
29 Resolution No. of 2008).

30 b. In each State fiscal year, the amount credited to the Water
31 Supply Open Space and Farmland Trust Fund Account shall be
32 appropriated only for the purposes set forth in Article VIII, Section
33 II, paragraph 8 of the State Constitution (pending before the
34 Legislature as Senate Concurrent Resolution No.88 of 2008 or
35 Assembly Concurrent Resolution No. of 2008) and this act.

36 c. In each State fiscal year, the State Treasurer shall transfer for
37 deposit into the Garden State Green Acres Preservation Trust Fund,
38 65% of the amount that is available from the Water Supply Open
39 Space and Farmland Trust Fund Account plus any interest or other
40 income earned on that amount prior to transfer pursuant to this
41 subsection and appropriation pursuant to subsection b. of this
42 section.

43 d. In each State fiscal year, the State Treasurer shall transfer for
44 deposit into the Garden State Farmland Preservation Trust Fund
45 35% of the amount as are available from the Water Supply Open
46 Space and Farmland Trust Fund Account plus any interest or other
47 income earned on that amount prior to transfer pursuant to this

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1 subsection and appropriation pursuant to subsection b. of this
2 section.

3 e. (1) Of the amount deposited each State fiscal year into the
4 Garden State Green Acres Preservation Trust Fund pursuant to
5 subsection c. of this section: 50% thereof shall be allocated for the
6 purposes of paying the cost of acquisition and development of lands
7 by the State for recreation and conservation purposes; 40% thereof
8 shall be allocated for the purposes of providing grants and loans to
9 assist local government units to pay the cost of acquisition and
10 development of lands for recreation and conservation purposes; and
11 10% thereof shall be allocated for the purposes of providing grants
12 to assist qualifying tax exempt nonprofit organizations to pay the
13 cost of acquisition and development of lands for recreation and
14 conservation purposes, all as provided pursuant to P.L.1999, c.152
15 (C.13:8C-1 et seq.).

16 (2) Notwithstanding the provisions of this subsection to the
17 contrary, any repayments of the principal and interest on loans
18 issued to local government units for the acquisition or development
19 of lands for recreation and conservation purposes, shall be allocated
20 only for the issuance of additional loans to local government units
21 for the acquisition or development of lands for recreation and
22 conservation purposes.

23

24 5. (New section) a. There is imposed upon the owner or
25 operator of every public community water system a water
26 consumption user fee of \$0.40 per thousand gallons of water
27 delivered to a consumer, not including water delivered for resale.

28 b. (1) Every person subject to the water consumption user fee
29 shall, on the effective date of this section, and quarterly thereafter,
30 render a return under oath to the Director of the Division of
31 Taxation in the Department of the Treasury, on such forms as may
32 be prescribed by the director, indicating the number of gallons of
33 water delivered to a consumer, and at that time shall pay the full
34 amount due. The amount due from any person subject to the water
35 consumption user fee shall not exceed \$50,000 per annum. The
36 director may prescribe a consolidated form for reporting the amount
37 due under the water consumption user fee imposed by this section
38 and the tax imposed under section 11 of P.L.1983, c.443
39 (C.58:12A-21).

40 (2) Every person subject to the water consumption user fee shall,
41 within 30 days after the date of enactment of this act, register with
42 the director on forms prescribed by the director.

43 c. If a return required by this section is not filed, or if a return
44 when filed is incorrect or insufficient in the opinion of the director,
45 the amount due shall be determined by the director from such
46 information as may be available. Notice of the determination shall
47 be given to the person subject to the water consumption user fee.
48 The determination shall finally and irrevocably fix the amount due,

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1 unless the person on whom it is imposed, within 90 days after the
2 giving of the notice of the determination, shall file a protest in
3 writing as provided in R.S.54:49-18 and request a hearing, or unless
4 the director on the director's own motion shall redetermine the
5 same. After the hearing the director shall give notice of the
6 determination to the person on whom the water consumption user
7 fee is imposed.

8 d. Any person subject to the water consumption user fee who
9 fails to file a return when due or to pay any surcharge when it
10 becomes due, as herein provided, shall be subject to such penalties
11 and interest as provided in the "State Uniform Tax Procedure Law,"
12 R.S.54:48-1 et seq. If the director determines that the failure to
13 comply with any provision of this section was excusable under the
14 circumstances, the director may remit that part or all of the penalty
15 as shall be appropriate under the circumstances.

16 e. The director shall deposit all revenues collected pursuant to
17 this section in the Water Supply Open Space and Farmland Trust
18 Fund Account created pursuant to section 4 of this act.

19 f. In addition to the other powers granted to the director in this
20 section, the director is authorized:

21 (1) To delegate to any officer or employee of the division those
22 powers and duties as the director deems necessary to carry out
23 efficiently the provisions of this section, and the person to whom
24 the power has been delegated shall possess and may exercise all of
25 these powers and perform all of the duties delegated by the director;
26 and

27 (2) To prescribe and distribute all necessary forms for the
28 implementation of this section.

29 g. Any person subject to the water consumption user fee who is
30 subject to the jurisdiction or rate regulation of the Board of Public
31 Utilities as a public utility shall collect the water consumption user
32 fee imposed by this section by imposing an automatic surcharge on
33 any tariff established pursuant to law for water rates and charges.
34 The Board of Public Utilities shall issue an appropriate order
35 adjusting the tariffs established pursuant to law to reflect these
36 payments. In issuing any order required by this subsection, the
37 Board of Public Utilities shall be exempt from the provisions of
38 R.S.48:2-21.

39 h. Any person subject to the water consumption user fee may
40 collect the water consumption user fee imposed by this section by
41 including the amount of user fee due as a separate line item on
42 every customer bill or other statement presented to consumers. The
43 person subject to the water consumption user fee may use up to 1%
44 of all user fee revenues collected to defray the costs of
45 administration and collection of the water consumption user fee.
46 The director shall credit the proper amount to the person subject to
47 the water consumption user fee upon receipt of written

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1 documentation of the actual costs expended for the collection of the
2 water consumption user fee.

3 i. The water consumption user fee imposed by this section shall
4 be governed in all respects by the provisions of the "State Uniform
5 Tax Procedure Law," R.S.54:48-1 et seq., except only to the extent
6 that a specific provision of this section may be in conflict therewith.

7 j. The water consumption user fee imposed by this section shall
8 be collected in the same manner as the tax imposed under section 11
9 of P.L.1983, c.443 (C.58:12A-21).

10 k. The water consumption user fee imposed by this section shall
11 not be imposed on:

12 (1) water delivered to a consumer for the purpose of storage for
13 future water supplies;

14 (2) water delivered to a consumer for the purpose of transferring
15 water between public water systems;

16 (3) water delivered to a consumer for emergency purposes,
17 including fire fighting, flood prevention, response to a discharge of
18 hazardous substances, or for other emergency purposes as may be
19 determined by the department;

20 (4) water delivered to a consumer, including water delivered for
21 resale, or a bulk sale of water delivered to a consumer in another
22 public water system; or

23 (5) unaccounted-for water of 15% or less. In the case of
24 unaccounted-for water greater than 15%, the local government unit
25 or water purveyor may petition the department for an increase in the
26 percentage of unaccounted-for water eligible for an exemption
27 pursuant to this subsection. The allowable increase in the
28 percentage of unaccounted-for water shall be determined by the
29 department based on a finding of fact that the leakage reported to
30 the department is not the result of a critically needed water supply
31 infrastructure project.

32 l. The water consumption user fee imposed by this section shall
33 not be imposed on water delivered to a consumer for purposes of
34 reducing air emissions or water pollutants necessary for compliance
35 with local, State or federal regulations or for water derived from
36 reuse of effluent from a primary wastewater treatment system,
37 which effluent would otherwise have been discharged into the
38 waters of the State.

39 (1) Any person claiming a complete or partial exemption from
40 the water consumption user fee pursuant to this subsection shall
41 annually file with the director a written certification indicating the
42 percentage and number of gallons of water delivered to a consumer
43 for which the exemption is claimed. The director, in consultation
44 with the department, may conduct an audit of the certification. Any
45 person who files a false certification shall be subject to such
46 penalties and interest as provided in the "State Uniform Tax
47 Procedure Law," R.S.54:48-1 et seq.

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1 (2) The director shall authorize a refund to any person claiming a
2 complete or partial exemption from the water consumption user fee
3 who has met the requirements of this subsection. The refund shall
4 be in the amount of the percentage of the water annually delivered
5 to a consumer for which the exemption is claimed multiplied by the
6 person's total annual water consumption user fee liability.

7
8 6. (New section) a. There is imposed upon every person
9 required to obtain a diversion permit issued by the department
10 pursuant to the provisions of sections 6 and 7 of P.L.1981, c.262
11 (C.58:1A-6 and 58:1A-7), including any person who is required to
12 apply for and obtain a water use registration pursuant to rules and
13 regulations adopted by the department to administer and enforce the
14 provisions of P.L.1981, c.262 (C.58:1A-1 et seq.) or P.L.1993,
15 c.202 (C.58:1A-7.3 et al.), a water diversion user fee. The water
16 diversion user fee shall be levied at the rate of \$0.40 per thousand
17 gallons of water diverted for a consumptive use.

18 b. (1) Every person subject to the water diversion user fee shall,
19 on the effective date of this section, and quarterly thereafter, render
20 a return under oath to the Director of the Division of Taxation in the
21 Department of the Treasury, on such forms as may be prescribed by
22 the director, indicating the number of gallons of water diverted, and
23 at that time shall pay the full amount due. The amount due from
24 any person subject to the water diversion user fee shall not exceed
25 \$50,000 per annum.

26 (2) Every person subject to the water diversion user fee shall,
27 within 30 days after the date of enactment of this act, register with
28 the director on forms prescribed by the director.

29 c. (1) If a return required by this section is not filed, or if a
30 return when filed is incorrect or insufficient in the opinion of the
31 director, the amount due shall be determined by the director from
32 such information as may be available. Notice of the determination
33 shall be given to the person subject to the water diversion user fee.
34 The determination shall finally and irrevocably fix the amount due,
35 unless the person on whom it is imposed, within 90 days after the
36 giving of the notice of the determination, shall file a protest in
37 writing as provided in R.S.54:49-18 and request a hearing, or unless
38 the director on the director's own motion shall redetermine the
39 same. After the hearing the director shall give notice of the
40 determination to the person on whom the water diversion user fee is
41 imposed.

42 (2) Any person subject to the water diversion user fee who fails
43 to file a return when due or to pay any fee when it becomes due, as
44 herein provided, shall be subject to such penalties and interest as
45 provided in the "State Uniform Tax Procedure Law," R.S.54:48-1 et
46 seq. If the director determines that the failure to comply with any
47 provision of this section was excusable under the circumstances, the

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1 director may remit that part or all of the penalty as shall be
2 appropriate under the circumstances.

3 d. (1) Any person subject to the water diversion user fee who is
4 subject to the jurisdiction or rate regulation of the Board of Public
5 Utilities as a public utility shall collect the water diversion user fee
6 imposed by this section by imposing an automatic fee on any tariff
7 established pursuant to law for water rates and charges. The Board
8 of Public Utilities shall issue an appropriate order adjusting the
9 tariffs established pursuant to law to reflect these payments. In
10 issuing any order required by this subsection, the Board of Public
11 Utilities shall be exempt from the provisions of R.S.48:2-21.

12 (2) Any person subject to the water diversion user fee may
13 collect the water diversion user fee imposed by this section by
14 including the amount of user fee due as a separate line item on
15 every customer bill or other statement presented to consumers. The
16 person subject to the water diversion user fee may use up to 1% of
17 all revenues collected to defray the costs of administration and
18 collection of the water diversion user fee. The director shall credit
19 the proper amount to the person subject to the water diversion user
20 fee upon receipt of written documentation of the actual costs
21 expended for the collection of the water diversion user fee.

22 e. The director shall deposit all user fee revenues collected
23 pursuant to this section in the Water Supply Open Space and
24 Farmland Trust Fund Account created pursuant to section 4 of this
25 act.

26 f. In addition to the other powers granted to the director in this
27 section, the director is authorized:

28 (1) To delegate to any officer or employee of the division those
29 powers and duties as the director deems necessary to carry out
30 efficiently the provisions of this section, and the person to whom
31 the power has been delegated shall possess and may exercise all of
32 these powers and perform all of the duties delegated by the director;
33 and

34 (2) To prescribe and distribute all necessary forms for the
35 implementation of this section.

36 g. The water diversion user fee imposed by this section shall be
37 governed in all respects by the provisions of the "State Uniform Tax
38 Procedure Law," R.S.54:48-1 et seq., except only to the extent that
39 a specific provision of this section may be in conflict therewith.

40 h. The water diversion user fee imposed by this section shall not
41 be imposed on:

42 (1) water diverted for agricultural or horticultural purposes under
43 a water usage certification required pursuant to the provisions of
44 section 6 of P.L.1981, c.262 (C.58:1A-6) or as provided in section 2
45 of P.L.1981, c.277 (C.58:1A-7.2);

46 (2) water diverted for a nonconsumptive use. In the case of
47 those permittees or persons with diversion privileges to divert water
48 for both a consumptive use and a nonconsumptive use, the

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1 calculation of the amount of water diverted for nonconsumptive use
2 shall be determined by the department based on water use as
3 reported to the department pursuant to P.L.1981, c.262 (C.58:1A-1
4 et seq.) or P.L.1993, c.202 (C.58:1A-7.3 et al.), or if not reported,
5 based on standard industry water use profiles;

6 (3) surface water diverted by permittees or persons required to
7 apply for and obtain a water use registration in such a manner that it
8 is returned to another surface water body;

9 (4) water diverted for the remediation of areas with contaminated
10 ground water supplies, or for other remedial actions as provided by
11 law;

12 (5) water diverted for emergency purposes, including fire
13 fighting, flood prevention, response to a discharge of hazardous
14 substances, or for other emergency purposes as may be determined
15 by the department;

16 (6) diversions of salt water except whenever the department
17 determines that the diversion and resultant usage may affect
18 utilization of fresh water;

19 (7) water diverted for a paper manufacturing process utilizing
20 post-consumer waste material in the manufacture of a recycled
21 product which constitutes at least 75% of total annual sales dollar
22 volume of the products manufactured in this State by that
23 manufacturer as determined by the director;

24 (8) water subject to the water consumption user fee imposed by
25 section 5 of this act;

26 (9) diversions of saline water except whenever the department
27 determines that the diversion and resultant usage may affect
28 utilization of fresh water;

29 (10) water diverted for purposes of reducing air emissions or
30 water pollutants necessary for compliance with local, State or
31 federal regulations;

32 (11) water diverted for the purpose of transferring water between
33 public water systems; or

34 (12) water diverted for resale, or a bulk sale of water diverted to
35 another public water system.

36 For the purposes of this subsection, "post-consumer waste
37 material" means a material or product that would otherwise become
38 solid waste, having completed its intended end use and product life
39 cycle, except that "post-consumer waste material" shall not include
40 secondary waste material or materials and by-products generated
41 from, and commonly used within, an original manufacturing and
42 fabrication process; "recycled product" means any product or
43 commodity which is manufactured or produced in whole or in part
44 from post-consumer waste material and which meets the recycled
45 content standard of the United States Environmental Protection
46 Agency as published in the Comprehensive Procurement Guidelines
47 for Products Containing Recovered Material; "secondary waste
48 material" means waste material generated after the completion of a

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1 manufacturing process; "solid waste" means the same as that term is
2 defined in section 3 of P.L.1970, c.39 (C.13:1E-3); and "saline
3 water" means water containing a chloride concentration in excess of
4 250 mg/L; and "salt water" means water containing a chloride
5 concentration in excess of 10,000 mg/L.

6 i. Any person subject to the water diversion user fee shall be
7 eligible for water conservation credits against the water diversion
8 user fee. Water conservation credits shall be granted to any
9 permittee or person required to apply for and obtain a water use
10 registration who can demonstrate a net reduction in annual water
11 use over any 10-year period commencing January 1, 2008. The
12 water conservation credits shall be equal to 50% of the difference
13 between the maximum year withdrawal during this period and the
14 current year, where the reduction can be documented as attributable
15 to water conservation. The department shall approve the diversion
16 permit or water use registration modification to reflect the water
17 conservation credits granted.

18
19 7. (New section) Notwithstanding the provisions of any other
20 law, or rule or regulation adopted pursuant thereto, to the contrary,
21 the moneys credited to the Water Supply Open Space and Farmland
22 Trust Fund Account created pursuant to section 4 of P.L. , c.
23 (C.) (pending before the Legislature as this bill) and appropriated
24 to the Garden State Green Acres Preservation Trust Fund and the
25 Garden State Farmland Preservation Trust Fund shall not be used
26 for payments related to bonds, notes or other obligations.

27
28 8. (New section) a. The department shall adopt, pursuant to the
29 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
30 seq.), rules and regulations as are necessary to effectuate the
31 purposes of this act.

32 b. The Director of the Division of Taxation, in consultation with
33 the department and pursuant to the "Administrative Procedure Act,"
34 shall adopt rules and regulations as are necessary to effectuate the
35 provisions of sections 5 and 6 of this act.

36
37 9. Section 3 of P.L.1999, c.152 (C.13:8C-3) is amended to read
38 as follows:

39 3. As used in sections 1 through 42 of this act:

40 "Acquisition" or "acquire" means the obtaining of a fee simple or
41 lesser interest in land, including but not limited to a development
42 easement, a conservation restriction or easement, or any other
43 restriction or easement permanently restricting development, by
44 purchase, installment purchase agreement, gift, donation, eminent
45 domain by the State or a local government unit, or devise; except
46 that any acquisition of lands by the State for recreation and
47 conservation purposes by eminent domain shall be only as
48 authorized pursuant to section 28 of this act;

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1 "Bonds" means bonds issued by the trust pursuant to this act;

2 "Commissioner" means the Commissioner of Environmental
3 Protection;

4 "Committee" means the State Agriculture Development
5 Committee established pursuant to section 4 of P.L.1983, c.31
6 (C.4:1C-4);

7 "Constitutionally dedicated moneys" means any moneys made
8 available pursuant to Article VIII, Section II, paragraph 7 of the
9 State Constitution or through the issuance of bonds, notes or other
10 obligations by the trust, as prescribed by Article VIII, Section II,
11 paragraph 7 of the State Constitution and this act, **[or]** any moneys
12 from other sources deposited in the trust funds established pursuant
13 to sections 19, 20, and 21 of this act, and appropriated by law, for
14 any of the purposes set forth in Article VIII, Section II, paragraph 7
15 of the State Constitution or this act , or any moneys made available
16 pursuant to Article VIII, Section II, paragraph 8 of the State
17 Constitution (pending before the Legislature as Senate Concurrent
18 Resolution No.88 of 2008 or Assembly Concurrent Resolution No.
19 of 2008) and appropriated by law and deposited in the trust funds
20 pursuant to section 4 of P.L. , c. (C.) (pending before the
21 Legislature as this bill), for the purposes set forth in Article VIII,
22 Section II, paragraph 8 of the State Constitution (pending before the
23 Legislature as Senate Concurrent Resolution No.88 of 2008 or
24 Assembly Concurrent Resolution No. of 2008) ;

25 "Convey" or "conveyance" means to sell, donate, exchange,
26 transfer, or lease for a term of 25 years or more;

27 "Cost" means the expenses incurred in connection with: all
28 things deemed necessary or useful and convenient for the
29 acquisition or development of lands for recreation and conservation
30 purposes, the acquisition of development easements or fee simple
31 titles to farmland, or the preservation of historic properties, as the
32 case may be; the execution of any agreements or franchises deemed
33 by the Department of Environmental Protection, State Agriculture
34 Development Committee, or New Jersey Historic Trust, as the case
35 may be, to be necessary or useful and convenient in connection with
36 any project funded in whole or in part using constitutionally
37 dedicated moneys; the procurement or provision of appraisal,
38 archaeological, architectural, conservation, design, engineering,
39 financial, geological, historic research, hydrological, inspection,
40 legal, planning, relocation, surveying, or other professional advice,
41 estimates, reports, services, or studies; the purchase of title
42 insurance; the undertaking of feasibility studies; the establishment
43 of a reserve fund or funds for working capital, operating,
44 maintenance, or replacement expenses and for the payment or
45 security of principal or interest on bonds, as the Director of the
46 Division of Budget and Accounting in the Department of the
47 Treasury may determine; and reimbursement to any fund of the
48 State of moneys that may have been transferred or advanced

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1 therefrom to any fund established by this act, or any moneys that
2 may have been expended therefrom for, or in connection with, this
3 act;

4 "Department" means the Department of Environmental
5 Protection;

6 "Development" or "develop" means, except as used in the
7 definitions of "acquisition" and "development easement" in this
8 section, any improvement made to a land or water area designed to
9 expand and enhance its utilization for recreation and conservation
10 purposes, and shall include the construction, renovation, or repair of
11 any such improvement, but shall not mean shore protection or beach
12 nourishment or replenishment activities;

13 "Development easement" means an interest in land, less than fee
14 simple title thereto, which interest represents the right to develop
15 that land for all nonagricultural purposes and which interest may be
16 transferred under laws authorizing the transfer of development
17 potential;

18 "Farmland" means land identified as having prime or unique
19 soils as classified by the Natural Resources Conservation Service in
20 the United States Department of Agriculture, having soils of
21 Statewide importance according to criteria adopted by the State Soil
22 Conservation Committee, established pursuant to R.S.4:24-3, or
23 having soils of local importance as identified by local soil
24 conservation districts, and which land qualifies for differential
25 property taxation pursuant to the "Farmland Assessment Act of
26 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), and any other land on
27 the farm that is necessary to accommodate farm practices as
28 determined by the State Agriculture Development Committee;

29 "Farmland preservation," "farmland preservation purposes" or
30 "preservation of farmland" means the permanent preservation of
31 farmland to support agricultural or horticultural production as the
32 first priority use of that land;

33 "Garden State Farmland Preservation Trust Fund" means the
34 Garden State Farmland Preservation Trust Fund established
35 pursuant to section 20 of this act;

36 "Garden State Green Acres Preservation Trust Fund" means the
37 Garden State Green Acres Preservation Trust Fund established
38 pursuant to section 19 of this act;

39 "Garden State Historic Preservation Trust Fund" means the
40 Garden State Historic Preservation Trust Fund established pursuant
41 to section 21 of this act;

42 "Green Acres bond act" means: P.L.1961, c.46; P.L.1971, c.165;
43 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;
44 P.L.1989, c.183; P.L.1992, c.88; P.L.1995, c.204; and any State
45 general obligation bond act that may be approved after the date of
46 enactment of this act for the purpose of providing funding for the
47 acquisition or development of lands for recreation and conservation
48 purposes;

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15

1 "Historic preservation," "historic preservation purposes," or
2 "preservation of historic properties" means any work relating to the
3 conservation, improvement, interpretation, preservation, protection,
4 rehabilitation, renovation, repair, restoration, or stabilization of any
5 historic property, and shall include any work related to providing
6 access thereto for disabled or handicapped persons;

7 "Historic property" means any area, building, facility, object,
8 property, site, or structure approved for inclusion, or which meets
9 the criteria for inclusion, in the New Jersey Register of Historic
10 Places pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.);

11 "Indoor recreation" means active recreation that otherwise is or
12 may be pursued outdoors but, for reasons of extending the season or
13 avoiding inclement weather, is or may be pursued indoors within a
14 fully or partially enclosed building or other structure, and includes
15 basketball, ice skating, racquet sports, roller skating, swimming,
16 and similar recreational activities and sports as determined by the
17 Department of Environmental Protection;

18 "Land" or "lands" means real property, including improvements
19 thereof or thereon, rights-of-way, water, lakes, riparian and other
20 rights, easements, privileges and all other rights or interests of any
21 kind or description in, relating to, or connected with real property;

22 "Local government unit" means a county, municipality, or other
23 political subdivision of the State, or any agency, authority, or other
24 entity thereof; except, with respect to the acquisition and
25 development of lands for recreation and conservation purposes,
26 "local government unit" means a county, municipality, or other
27 political subdivision of the State, or any agency, authority, or other
28 entity thereof the primary purpose of which is to administer,
29 protect, acquire, develop, or maintain lands for recreation and
30 conservation purposes;

31 "New Jersey Historic Trust" means the entity established
32 pursuant to section 4 of P.L.1967, c.124 (C.13:1B-15.111);

33 "Notes" means the notes issued by the trust pursuant to this act;

34 "Permitted investments" means any of the following securities;

35 (1) Bonds, debentures, notes or other evidences of indebtedness
36 issued by any agency or instrumentality of the United States to the
37 extent such obligations are guaranteed by the United States or by
38 another such agency the obligations (including guarantees) of which
39 are guaranteed by the United States;

40 (2) Bonds, debentures, notes or other evidences of indebtedness
41 issued by any corporation chartered by the United States, including,
42 but not limited to, Governmental National Mortgage Association,
43 Federal Land Banks, Federal Home Loan Mortgage Corporation,
44 Federal National Mortgage Association, Federal Home Loan Banks,
45 Federal Intermediate Credit Banks, Banks for Cooperatives,
46 Tennessee Valley Authority, United States Postal Service, Farmers
47 Home Administration, Resolution Funding Corporation, Export-

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1 Import Bank, Federal Financing Bank and Student Loan Marketing
2 Association;

3 (3) Bonds, debentures, notes or commercial paper rated in the
4 highest two rating categories without regard to rating subcategories
5 (derogation) by all nationally recognized investment rating agencies
6 or by a nationally recognized investment rating agency if rated by
7 only one nationally recognized investment rating agency;

8 (4) Repurchase agreements or investment agreements issued by
9 (i) a commercial bank or trust company or a national banking
10 association, each having a capital stock and surplus of more than
11 \$100,000,000, or (ii) an insurance company with the highest rating
12 provided by a nationally recognized insurance company rating
13 agency, or (iii) a broker/dealer, or (iv) a corporation; provided that
14 the credit of such commercial bank or trust company or national
15 banking association or insurance company or broker/dealer or
16 corporation, as the case may be, is rated (or, in the case of a
17 broker/dealer or corporation, whose obligations thereunder are
18 guaranteed by a commercial bank or trust company or a national
19 banking association or insurance company with the highest rating
20 provided by a nationally recognized insurance company rating
21 agency or corporation whose credit is rated) not lower than the
22 "AA" category without regard to rating subcategories (derogation)
23 of any two nationally recognized investment rating agencies then
24 rating the State; provided that any such agreement shall provide for
25 the investment of funds and shall be collateralized by obligations
26 described in paragraph 1 or paragraph 2 or paragraph 3 above at a
27 level of at least one hundred and two (102) percent in principal
28 amount of those obligations;

29 "Pinelands area" means the pinelands area as defined pursuant to
30 section 3 of P.L.1979, c.111 (C.13:18A-3);

31 "Pinelands regional growth area" means a regional growth area
32 established pursuant to the pinelands comprehensive management
33 plan adopted pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.);

34 "Project" means all things deemed necessary or useful and
35 convenient in connection with the acquisition or development of
36 lands for recreation and conservation purposes, the acquisition of
37 development easements or fee simple titles to farmland, or the
38 preservation of historic properties, as the case may be;

39 "Qualifying open space referendum county" means any county
40 that has: (1) approved and implemented, and is collecting and
41 expending the revenue from, an annual levy authorized pursuant to
42 P.L.1997, c.24 (C.40:12-15.1 et seq.) for an amount or at a rate
43 equivalent to at least one half of one cent per \$100 of assessed
44 value of real property, or for an amount or at a rate established by
45 the county and in effect as of April 1, 1999, whichever is greater; or
46 (2) adopted an alternative means of funding for the same or similar
47 purposes as an annual levy, which the Department of Environmental
48 Protection, in consultation with the committee and the New Jersey

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1 Historic Trust, approves to be stable and reasonably equivalent in
2 effect to an annual levy;

3 "Qualifying open space referendum municipality" means any
4 municipality that has: (1) approved and implemented, and is
5 collecting and expending the revenue from, an annual levy
6 authorized pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for an
7 amount or at a rate equivalent to at least one half of one cent per
8 \$100 of assessed value of real property, or for an amount or at a rate
9 established by the municipality and in effect as of April 1, 1999,
10 whichever is greater; or (2) adopted an alternative means of funding
11 for the same or similar purposes as an annual levy, which the
12 Department of Environmental Protection, in consultation with the
13 committee and the New Jersey Historic Trust, approves to be stable
14 and reasonably equivalent in effect to an annual levy;

15 "Qualifying tax exempt nonprofit organization" means a
16 nonprofit organization that is exempt from federal taxation pursuant
17 to section 501 (c)(3) of the federal Internal Revenue Code, 26
18 U.S.C. s.501 (c)(3), and which qualifies for a grant pursuant to
19 section 27, 39, or 41 of this act;

20 "Recreation and conservation purposes" means the use of lands
21 for beaches, biological or ecological study, boating, camping,
22 fishing, forests, greenways, hunting, natural areas, parks,
23 playgrounds, protecting historic properties, water reserves,
24 watershed protection, wildlife preserves, active sports, or a similar
25 use for either public outdoor recreation or conservation of natural
26 resources, or both; and

27 "Trust" means the Garden State Preservation Trust established
28 pursuant to section 4 of this act.
29 (cf: P.L. 2005, c.281, s.1)

30

31 10. This act shall take effect upon the date of approval of the
32 voters of a constitutional amendment as proposed pursuant to
33 Senate Concurrent Resolution No.88 of 2008 or Assembly
34 Concurrent Resolution No. of 2008, except that sections 5 and 6
35 of this act shall take effect on the first day of the third full fiscal
36 quarter following the date on which the remainder of this act takes
37 effect.

38

39

40 **STATEMENT**

41

42 This bill would establish a Water Supply Open Space and
43 Farmland Trust Fund Account in the Department of the Treasury.
44 Moneys in the fund would be derived from: (1) a water
45 consumption user fee imposed on the owner or operator of every
46 public community water system equal to forty cents per thousand
47 gallons of water delivered to a consumer; and (2) a water diversion
48 user fee imposed on every person required by law to obtain a

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1 diversion permit or a water use registration equal to forty cents per
2 thousand gallons of water diverted for a consumptive use. The
3 amount due from any person subject to one of these fees would not
4 exceed \$50,000 per year. The fees imposed and collected would be
5 constitutionally dedicated for open space and farmland preservation
6 purposes.

7 The moneys in the fund would be used to provide funding,
8 including loans or grants, for the acquisition and development of
9 lands for recreation and conservation purposes and for the
10 preservation of farmland for agricultural or horticultural use and
11 production in the manner set forth and pursuant to the provisions of
12 the "Garden State Preservation Trust Act," P.L.1999, c.152
13 (C.13:8C-1 et seq.). All available moneys in the fund must be
14 appropriated annually solely for the following purposes:

15 (1) 65% of the estimated annual balance of the fund would be
16 annually appropriated to the Garden State Green Acres Preservation
17 Trust Fund established pursuant to section 19 of P.L.1999, c.152
18 (C.13:8C-19) for use by the Department of Environmental
19 Protection (DEP) to: (a) pay the cost of acquisition and
20 development of lands by the State for recreation and conservation
21 purposes; (b) provide grants and loans to assist local government
22 units to pay the cost of acquisition and development of lands for
23 recreation and conservation purposes; and (c) provide grants to
24 assist qualifying tax exempt nonprofit organizations to pay the cost
25 of acquisition and development of lands for recreation and
26 conservation purposes;

27 (2) 35% of the estimated annual balance of the fund would be
28 annually appropriated to the Garden State Farmland Preservation
29 Trust Fund established pursuant to section 20 of P.L.1999, c.152
30 (C.13:8C-20) for use by the State Agriculture Development
31 Committee for farmland preservation purposes.

32 It is estimated that a surcharge equal to forty cents per thousand
33 gallons of water would raise approximately \$150,000,000 in annual
34 revenue. Since the average residential water usage in New Jersey is
35 80,000 gallons of water annually, a forty cents per thousand gallons
36 rate would cost the average household \$32 per year.



JON S. CORZINE
Governor

State of New Jersey
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www.highlands.state.nj.us



JOHN R. WEINGART
Chairman

EILEEN SWAN
Executive Director

Summary of Testimony
Eileen Swan, Executive Director
Highlands Water Protection and Planning Council
before the Senate Environment Committee
May 8, 2008

Chairman Smith and Members of the Senate Environment Committee, thank you for the opportunity to address the Committee regarding the proposed constitutional amendment to dedicate revenue from a water consumption user fee to the protection of the State's natural resources and important farmland. I am Eileen Swan, the Executive Director of New Jersey's Highlands Water Protection and Planning Council and I am here on behalf of the Council to express the Council's strong support this initiative.

As a source of drinking water for over half of the State of New Jersey, the protection and conservation of the Highlands Region is an issue of Statewide importance. In releasing its Regional Master Plan last November, the Highlands Council supported the need for a dedicated and stable source of funding for the purpose of land acquisition and conservation with funds specifically dedicated for the Highlands Region to protect the State's drinking water supplies, to preserve ecosystem integrity, and to promote the agricultural industry of the Highlands.

Land preservation is an essential tool as we work to maintaining land's ability to collect and purify water. And yet implementation of the Regional Master Plan is set to begin just as the original funding for the Garden State Preservation Trust Fund is running out. It is vitally important that a steady source of funds be made available for land acquisition and conservation easements in the Highlands Region, both so that State can achieve its preservation objectives and so the landowners of this region have viable options for use and disposition of their property. The Highlands Act included a specific mandate for additional funding through "a strong and significant commitment by the State to fund the acquisition of exceptional natural resource value lands." The Legislature's commitment to provide additional funding for the Highlands Region in 2004 has been a central theme in the public, municipal and county comments on the Regional Master Plan. Essentially, the public is generally more willing to accept the stringent environmental standards imposed by the Highlands Act as long as this "strong and significant commitment by the State" is met.

Another common thread, as proposed in the Regional Master Plan and supported throughout much of the Highlands Region, is that the enactment of a stable source of funding through a water consumption fee is an equitable mechanism to provide the necessary funds for land preservation. The use of a water consumption fee would specifically address four fundamental goals of the

Highlands Act: 1) to protect and enhance the significant values of the Highlands Region's resources including both natural and agricultural lands; 2) to protect, restore, and enhance the quality and quantity of surface and ground waters; 3) to preserve to the maximum extent possible environmentally sensitive lands; and 4) to promote conservation of water resources. Through the establishment of a water consumption fee, the State would be emphasizing the necessary interrelationship between those residents outside of Highlands that rely upon the actions of Highlands Region's residents to protect the Region's water quality and quantity. Similarly, a water user fee would create a necessary financial incentive to conserve water resources to protect the Region's water supply.

Mr. Chairman, your proposed initiative is modest and yet it can do so much to protect water resources, agricultural lands, and source water lands. Providing additional funding for the Highlands Region is needed now. Source water lands need to be protected before they are lost. Timely funding needs to be provided to landowners. Lastly, funding is necessary to ensure that the Regional Master Plan that will soon be adopted will be successful. The Council strongly supports this Committee's action on this crucial issue and stands ready to assist in any way we can.

**DRAFT - FOR CONSIDERATION AT THE MAY 15, 2008
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**RESOLUTION 2008-
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS**

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts, execute any and all instruments to carry out any power, duty or responsibility under the Highlands Act; and

WHEREAS, Section 18 of the Highlands Act authorizes the Highlands Council to make available grants and other financial and technical assistance to municipalities and counties in furtherance of the Regional Master Plan; and

WHEREAS, on August 4, 2005, the Highlands Council by Resolution 2005-27 authorized the initiation of a grant application process for certain grant categories, including Fair Share Planning grants; and

WHEREAS, municipalities have submitted grant applications to Highlands Council for COAH Fair Sharing Planning grants;

WHEREAS, the Highlands Council staff has reviewed the following grant application and recommends approval by the Highlands Council; and

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that the Executive Director, or her designees, is hereby authorized to enter into a grant agreement with the Township of Clinton for a Fair Sharing Planning COAH Third Round Grant in an amount not to exceed \$7,500.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 15th day of May, 2008.

John Weingart, Chairman

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|--------------------------|-------------------|------------------|-----------------------|----------------------|
| Councilmember Alstede | _____ | _____ | _____ | _____ |
| Councilmember Calabrese | _____ | _____ | _____ | _____ |
| Councilmember Carluccio | _____ | _____ | _____ | _____ |
| Councilmember Cogger | _____ | _____ | _____ | _____ |
| Councilmember Dillingham | _____ | _____ | _____ | _____ |
| Councilmember Kovach | _____ | _____ | _____ | _____ |

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**RESOLUTION 2008-
NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
APPROVAL OF CERTAIN PLANNING ASSISTANCE GRANTS**

**Vote on the Approval of
this Resolution**

| | <u>Yes</u> | <u>No</u> | <u>Abstain</u> | <u>Absent</u> |
|---------------------------|-------------------|------------------|-----------------------|----------------------|
| Councilmember Letts | _____ | _____ | _____ | _____ |
| Councilmember Pasquarelli | _____ | _____ | _____ | _____ |
| Councilmember Peterson | _____ | _____ | _____ | _____ |
| Councilmember Schrier | _____ | _____ | _____ | _____ |
| Councilmember Vetrano | _____ | _____ | _____ | _____ |
| Councilmember Way | _____ | _____ | _____ | _____ |
| Councilmember Whitenack | _____ | _____ | _____ | _____ |
| Councilmember Weingart | _____ | _____ | _____ | _____ |

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Subpart f. Carbonate Rock (Karst) Topography

The term karst describes a distinctive topography that indicates dissolution of underlying carbonate rocks (such as limestone and dolomite) by surface water or ground water over time. This dissolution process causes surface depressions and the development of such features as sinkholes, sinking streams, enlarged bedrock fractures, caves, and underground streams. Sinking streams range in size from intermittent streams to perennial rivers. They may sink through a segment of the stream bed or through a discrete opening such as a fracture or cave entrance, and then reappear further downstream. Sinkholes function as funnels, directing surface water runoff into karst aquifers with little or no attenuation of any transported contaminants. Stormwater basins, septic system leaching fields, sewers, agricultural runoff, lawn runoff, underground pipelines, and soil disturbance may also contribute contaminants directly to ground water through karst features. Soils in sinkhole bottoms may be thin or non-existent. In addition to ground water concerns, communities in karst areas must contend with safety concerns as sinkholes can have damaging effects to large manmade objects.

Beyond the potential deleterious affects of karst areas with respect to ground water and public safety, karst features provide natural, scenic, and recreational resource values. In situations where carbonate rock is overlain by permeable materials, such as glacial sands and gravels, high yielding aquifers may be present. These prolific aquifers have significance as water supplies and are extremely vulnerable to contamination. Karst areas often offer unique topographic features and opportunities for outdoor recreation. They typically occupy valley bottoms, producing dramatic contrasts in relief and valuable scenic vistas, especially when viewed from the higher elevations of ridges. Carbonate rock areas also offer unique habitats that contribute to the Region's biodiversity such as the calcareous wetland fens of the upper Wallkill River valley and the limestone forests of the Johnsonburg Swamp Preserve in Frelinghuysen.

The Highlands Region has several large areas with carbonate rock formations, usually located in river valleys such as the Musconetcong, South Branch of the Raritan and Lamington. Karst features exist in some – but not all – of these areas.

| GOAL 1K | PROTECTION OF GROUND WATER QUALITY AND PUBLIC SAFETY REGARDING KARST FEATURES IN THE HIGHLANDS |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy 1K1 | To map areas of the Highlands Region that are underlain by carbonate rocks to define a Carbonate Rock Area. |
| Policy 1K2 | To identify and delineate through local development review and Highlands Project Review land areas that drain surface water into the Carbonate Rock Area, as changes in the quantity, quality and rate of discharge of surface water runoff from upslope lands can impair ground water resources in the Carbonate Rock Area. |
| Policy 1K3 | To establish and maintain inventories of karst features and subwatersheds that drain directly to Carbonate Rock Areas in the Highlands Region. |
| Policy 1K4 | To ensure through Plan Conformance that municipalities in, or within subwatersheds draining directly to, the Carbonate Rock Area protect public health and safety and the quality of ground waters from inappropriate land uses and pollutant discharges. |
| Objective 1K4a | Identification of critical requirements for development review ordinances to be adopted by municipalities, and for county development review procedures regarding roads and stormwater systems at a minimum, with technical guidance. |

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| Objective 1K4b | Applications for site plan or subdivision approval will include a multi-phased geotechnical site investigation (e.g., test borings, test pits, etc.) to locate any potential karst features and potential hazards to public health and safety, structures and ground water quality. |
| Objective 1K4c | Local development reviews and Highlands Project Reviews and requirements shall ensure that all potential hazards to public health and safety, structures and ground water quality, including but not limited to concentrated surface water or ground water flows that dissolve carbonate rock, are fully addressed and mitigated in the construction plans and subsequent approval process, with the maximum emphasis on nonstructural measures, including, but not limited to, avoidance of modifications to the karst features. |
| Objective 1K4d | Public works projects, including but not limited to water supply, sewerage, stormwater and transportation facilities, shall be constructed and maintained such that the potential for damage from karst features and the contamination of ground water are avoided. |
| Objective 1K4e | <p>Highlands Project Reviews and requirements and local development reviews (where applicable) shall prohibit new land uses and facilities that constitute unacceptable risks of discharge due to karst topography where karst features have been identified, including but not limited to:</p> <ul style="list-style-type: none">• Underground storage tanks• Solid waste landfills• Hazardous waste storage and disposal• Hazardous materials storage and handling |
| Objective 1K4f | <p>High priority is given, and state agency coordination will be undertaken, with respect to management and remedial action regarding high risk land uses and facilities where karst features have been identified including, but not limited to:</p> <ul style="list-style-type: none">• Known contaminated sites• Failing septic systems• Existing underground storage tanks |

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Subpart b. Protection of Water Resources Quantity

The Highlands Regional Master Plan focuses on a variety of measures to protect the replenishment of water resources in the Highlands Region through ground water recharge and other means, to ensure the maintenance of aquatic ecosystems and human water uses. Science agenda items include improvements to the methods for estimating Net Water Availability, safe yields and passing flow requirements, better watershed delineations, and improved tracking of water and wastewater flows across watershed boundaries. The protection of Prime Ground Water Recharge Areas is emphasized, as these areas provide the most productive recharge of waters that are critical for stream flow and water supply wells. Protection is provided for both the quantity and quality of recharge.

| GOAL 2C | REFINEMENT OF WATER AVAILABILITY METHODS AND ESTIMATES. |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy 2C1 | To improve estimates of Net Water Availability over time, including testing, development and adoption of ecologically-based assessment techniques to evaluate the high and low flow needs of streams necessary to maintain the health of aquatic ecosystems, and the relationship between ground water recharge, ecological flow needs, consumptive water uses and estimates of water availability for both ground and surface water resources. |
| Policy 2C2 | To evaluate potable water supply reservoir safe yield and passing flow requirements and examine the effects of upstream consumptive and depletive water uses on safe yields and of passing flows on Highlands Open Waters and recommend regulatory changes to NJDEP as appropriate. |
| Policy 2C3 | To develop a more refined Hydrologic Unit Map using Light Detection and Ranging (LiDAR) technology and high resolution digital elevation modeling to support more detailed geographic estimates of water availability. |
| Policy 2C4 | To develop more refined estimates of the effects on Net Water Availability regarding the exportation and importation of water and wastewater. |
| GOAL 2D | MAINTENANCE OF HYDROLOGIC INTEGRITY THROUGH THE PROTECTION OF GROUND WATER RECHARGE. |
| Policy 2D1 | To map and maintain an inventory of ground water recharge potential for the Highlands Region. |
| Policy 2D2 | To delineate Prime Ground Water Recharge Areas as those lands within a HUC14 subwatershed that have the highest recharge volumes as of the most recent land use/land cover data available, relative to other land areas, and in the aggregate provide 40 percent of total ground water recharge during drought conditions. |
| Policy 2D3 | To protect, enhance and restore the quantity and quality of Prime Ground Water Recharge Areas. |
| Objective 2D3a (Formerly 2D3a, 2D6a, 2D8b, 2D9) | Establish low impact development and other best management practices, technical guidelines and procedures to protect, restore and enhance Prime Ground Water Recharge Areas, to maximize the protection of natural ground water recharge and to minimize the need for engineered recharge methods for the purpose of |

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| | complying with N.J.A.C. 7:8 (Stormwater Management Rules). |
| Objective 2D3b (Formerly 2D11) | Establish model municipal development regulations and master plan elements for the protection of Prime Ground Water Recharge Areas, through mechanisms that both complement and supplement the provisions of N.J.A.C. 7:8 (Stormwater Management Rules |
| Objective 2D3c | Implement master plans and development review ordinances through Plan Conformance that protect Prime Ground Water Recharge Areas and minimize the potential for disturbance by development. |
| Objective 2D3d (Formerly 2D8a, 2D10) | Establish minimum site design guidelines and permissible uses within a Prime Ground Water Recharge Area, including identification of land use categories or other activities posing sufficient risk of contamination that are not allowed within Prime Ground Water Recharge Areas. |
| Objective 2D3e (Formerly 2D8c) | Identify and implement opportunities for the restoration or enhancement of recharge in Prime Ground Water Recharge Areas and other lands through the retrofit or rehabilitation of stormwater recharge facilities, land management improvements, reforestation, etc. |
| Objective 2D3f (Formerly 2D8d) | Implement programs for Prime Ground Water Recharge Areas which encourage redevelopment of previously developed areas and allow for other compatible uses that improve recharge area productivity or water quality. |
| Objective 2D3g (Formerly 2H2c) | Require through Plan Conformance and local health ordinances, that existing land uses that have a significant potential to result in major discharges of pollutants to ground water or to the land surface (including but not limited to non-sanitary wastewater effluent and any major sources of potential discharges such as spills and leaks), such that they may degrade ground water quality within a Prime Ground Water Recharge Area, shall incorporate ongoing management of toxic chemical sources and prohibition of unregulated discharges, so that the potential for ground water contamination is minimized and the opportunity for discharge discovery and control is maximized. |
| Policy 2D4 (Formerly 2D3b, 2D4, 2D5, 2D6, 2D7, 2D8) | To apply standards through Plan Conformance, local development review and Highlands Project Review to protect, restore and enhance the functionality and the water resource value of Prime Ground Water Recharge Areas by restricting development and uses of land within a Prime Ground Water Recharge Area that reduce natural ground water recharge volumes or may directly or indirectly contribute to or result in water quality degradation. |
| Objective 2D4a | Any development activity approved to occur in a Prime Ground Water Recharge Area shall provide an equivalent of 125% of pre-construction recharge volumes for the disturbed Prime Ground Water Recharge Area of the site within the following areas, in order of priority: (1) the same development site where feasible; (2) the same HUC14 subwatershed, or (3) an interrelated HUC14 subwatershed as approved by the Highlands Council where no feasible option exists in the same HUC14 subwatershed. |
| Objective 2D4b (Formerly 2D3a) | Require through Plan Conformance, local development review and Highlands Project Review the implementation of low impact development best management practices meeting the requirements of Objective 2D3a . |
| Objective 2D4c | Prohibit through Plan Conformance, local development review and Highlands |

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| (Formerly 2D5a, 2D5b, 2D6a, 2D6b) | Project Review the expansion or creation of public water supply systems or public wastewater collection and treatment systems or community-based on-site wastewater facilities into a Prime Ground Water Recharge Area within the Protection or Conservation Zone within the Planning Area except as provided for in Policy 2J4 with Objectives 2J4a through 2J4d, and Policy 2K3 with Objectives 2K3a through 2K3e , and within the Preservation Area except as provided for in Policy 2I1 and Objectives 2I1a and 2I1b . (see attachment for these objectives from the Water Utilities GPOs) |
| Objective 2D4d (Formerly 2D5a) | Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion of impervious surfaces to greater than 15 percent of the Prime Ground Water Recharge Area for any property within the Protection Zone for any development other than under Objective 2D4c |
| Objective 2D4e (Formerly 2D6a) | Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion of impervious surfaces to greater than 30 percent of the Prime Ground Water Recharge Area for any property within the Conservation Zone for any development other than under Objective 2D4c . |
| Objective 2D4f (Formerly 2D7) | Prohibit through Plan Conformance, local development review and Highlands Project Review the expansion of impervious surfaces to greater than 45 percent of the Prime Ground Water Recharge Area in a property within the Existing Community Zone. |
| Objective 2D4g (Formerly 2H2b) | Prohibit through Plan Conformance, local development review and Highlands Project Review new land uses that have a significant potential to result in the discharge of persistent organic chemicals sources (including but not limited to existing discharges of industrial or other non-sanitary wastewater effluent) to ground water or to the land surface within a Prime Ground Water Recharge Area, such that they may degrade or contribute to the degradation of ground water quality. |
| Objective 2D4i (Formerly 2D8e) | Require conformance with applicable components of regional stormwater management plans, where applicable, as a mandatory requirement for any site plan application. |
| Objective 2D4j (Formerly 2D7a) | Achieve a net improvement in ground water recharge volume and maintenance of water quality through compliance with and implementation of any related provisions of an adopted regional stormwater plan. |
| Objective 2D4k (Formerly 2D7b) | Achieve a net improvement in ground water volume and maintenance of water quality through redevelopment, enhanced infiltration, pretreatment or other means where feasible. |

| | |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| GOAL 2E | IMPROVEMENT OF GROUND WATER RECHARGE THROUGH REGIONAL MANAGEMENT EFFORTS. |
| Policy 2E1 | To develop regional stormwater plans to promote regional protection, restoration and enhancement of ground water recharge volume and quality where specific watersheds are at risk in the absence of regional analysis and enhanced standards (see N.J.A.C. 7:8, Stormwater Management Rules). |
| Policy 2E2 | To coordinate programs, funding and activities among public and private entities to encourage regional ground water recharge protection, restoration and enhancement |

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activities consistent with the Plan.

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References for Objective 2D4c

Policy 2I1 and Objectives 2I1a and 2I1b

Policy 2J4 with Objectives 2J4a through 2J4d

Policy 2K3 with Objectives 2K3a through 2K3e

Policy 2I1 To prohibit the expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area unless approved through a Highlands Applicability Determination or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

Objective 2I1a Designated sewer service areas in the Preservation Area shall be restricted to the Existing Area Served as of August 10, 2004, except to serve development that is approved through a Highlands Applicability Determination or a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38.

Objective 2I1b The expansion or creation of public water supply systems, public wastewater collection and treatment systems and community on-site treatment facilities in the Preservation Area as approved through a Highlands Preservation Area Approval with waiver pursuant to N.J.A.C. 7:38 shall maximize the protection of sensitive environmental resources including avoidance of Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas, and Critical Habitat Areas.

Policy 2J4 To minimize, through Plan Conformance, local development review and Highlands Project Review, the creation or extension of public water supply systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area, and to allow for the creation or extension of public water supply systems where appropriate within the Existing Community Zone.

Objective 2J4a Prohibit new, expanded or extended public water systems within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2 and 4, the project must maximize the protection of sensitive environmental resources such as Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat Areas. For approvals regarding part 3, the project must avoid disturbance of Open Water buffer areas, Riparian Areas, Steep Slopes and Critical Habitat Areas, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and Prime Ground Water Recharge Areas. The extension or creation of systems shall follow the requirements in Objective 2J4b (parts 2 and 3). The applicable purposes are:

1. to address a documented existing or imminent threat to public health and safety from contaminated domestic and other on-site water supplies that is of sufficient scale to justify a public water supply and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. to serve a designated Highlands Redevelopment Area;
3. to serve a cluster development that meets all requirements of Objective 2J4b; or
4. to avoid the taking of property without just compensation .

Objective 2J4b Clustered development served by public water supply within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas pursuant to Policy 3A6;
2. Extension of an existing public water system will occur only where the cluster development is within

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- or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a new public water system will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity;
 4. The clustered development preserves in perpetuity for environmental protection or agriculture purposes the following portion of the project area:
 - a. If served by septic systems, at least 80 percent;
 - b. If served by a public or community on-site wastewater system, at least 80percent, and to the maximum extent feasible the developed portion of the project area(i.e. not including wetlands, open water buffers, recreational lands) is no more than 10 percent
 5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan requires continued agricultural viability of the agricultural land and the implementation of best management practices, including development and implementation of a USDA Natural Resource Conservation Service Farm Conservation Plan focused on protection of water resources.

Objective 2J4c Allow the expansion or creation of public water systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to Objective 2J4a within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. TDR Receiving Zones, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than expansion of public water service areas within this Zone.

Objective 2J4d All development within the Highlands Region, in areas that are not served by public water systems, shall be at a density that can be supported by on-site wells. Where cluster development in the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be served by on-site wells, and the undeveloped land is preserved for agricultural purposes in perpetuity, the cluster design in combination with the Agriculture Retention/Farmland Preservation Plan required by Objective 2J4b shall provide for best management practices that protect the on-site wells from contamination resulting from agricultural practices and shall include provisions to minimize or reduce net pollutant loadings from the total project area including the preserved agricultural lands.

Policy 2K3 To provide adequate, appropriate, efficient and cost-effective wastewater management to all development in the Highlands Region, through Plan Conformance, local development review and Highlands Project Review.

Objective 2K3a Areawide Water Quality Management Plan, including Wastewater Management Plan and project-specific amendments, shall be consistent with requirements of this Plan.

Objective 2K3b Existing wastewater collection and treatments systems which are non-compliant with state water quality standards for wastewater treatment and effluent discharge shall be prohibited from collecting and treating additional wastewater until the treatment systems are fully compliant with State permit requirements.

Objective 2K3c Prohibit new, expanded or extended public wastewater collection and treatment systems and community on-site treatment facilities within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area unless they are shown to be necessary for and are approved by the Highlands Council for one or more of the purposes listed below. For approvals regarding parts 1, 2 and 4, the project must maximize the protection of sensitive environmental resources such as Open Water buffer areas, Riparian Areas, the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, Steep Slopes, Prime Ground Water Recharge Areas and Critical Habitat Areas. For approvals regarding part 3, the project must avoid disturbance of Open Water buffer areas, Riparian Areas, Steep Slopes and Critical Habitat Areas, and must minimize disturbance of the forested portion of the Forest Resource Area, agricultural lands of Agricultural Resource Areas, and

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Prime Ground Water Recharge Areas. The choice of extension or creation of systems shall follow the requirements in Objective 2K3d (2 and 3). The applicable purposes are:

1. to address a documented existing or imminent threat to public health and safety from a pattern of failing septic systems (where the failing systems cannot reasonably be addressed through rehabilitation or replacement) or highly concentrated septic systems, where the threat is of sufficient scale to justify a public wastewater collection and treatment system or community on-site treatment facility and where no alternative is feasible that would sufficiently assure long-term protection of public health and safety. To address other issues of public health and safety. Such needs shall have highest priority for allocation of existing system capacity;
2. to serve a designated Highlands Redevelopment Area;
3. to serve a cluster development that meets all requirements of Objective 2K3d; or
4. to avoid the taking of property without just compensation.

Objective 2K3d Clustered development served by a public wastewater collection and treatment system or community on-site treatment facility within the Protection Zone, the Conservation Zone and the Environmentally-Constrained Sub-zones of the Planning Area shall be approved only if the following conditions are met:

1. The development impacts are otherwise consistent with the requirements of the RMP, including provisions for mandatory clustering in Agricultural Resource Areas;
2. Extension of an existing public wastewater collection and treatment system will occur only where the cluster development is within or immediately adjacent to an Existing Area Served with available capacity;
3. Creation of a community on-site treatment facility will occur only where such development is not within or immediately adjacent to an Existing Area Served with available capacity, where the proposed system is designed, permitted and constructed at a capacity limited to the needs of the clustered development, and where the system does not create the potential for future expansion into areas that are not the subject of cluster developments immediately adjacent to the initial cluster served;
4. The cluster development preserves at least 80 percent of the project area in perpetuity for environmental protection or agriculture purposes, and to the maximum extent feasible the developed portion of the project area (i.e. not including wetlands, open water buffers, recreational lands) is no more than 10 percent
5. Where the preserved land in the cluster project area is preserved for agricultural purposes, the cluster development ordinance and an Agriculture Retention/Farmland Preservation Plan requires continued agricultural viability of the agricultural land and the implementation of best management practices, including development and implementation of a USDA Natural Resource Conservation Service Farm Conservation Plan focused on protection of water resources.

Objective 2K3e Allow the expansion or creation of wastewater collection systems within the Existing Community Zone of the Planning Area, other than the Environmentally-Constrained Sub-zone, to serve lands which are appropriate for designated TDR Receiving Zones, infill or redevelopment, to meet needs and protection requirements equivalent to Objective 2K3c within the Existing Community Zone, or to serve new areas for development that meet all other requirements of the RMP. The highest priority for allocation of excess or additional wastewater treatment capacity is to areas where there are clusters of failed septic systems that are located within or adjacent to Existing Areas Served. TDR Receiving Areas, where designated, affordable housing projects (where the affordable units exceed 10% of the total units), infill and redevelopment shall have higher priority for capacity than other developments requiring expansion of sewer service areas.

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Part 5. Transportation

The Highlands Regional transportation system is a complex network of roads, highways, railways and bridges which support various modes of travel, including private automobile, buses, truck, passenger and freight rail, airport, bicycle and walking. There are four major commuter rail lines with 24 stations on these lines which are located within the Highlands Region as well as seven regional airport facilities. The Region is served by four interstate highways, eight state roads and many county and local roads. In general, most of the highways and roads within the Highlands Region operate at or above design capacity. There is limited intra-regional bus service except for extensive commuter service which is provided by NJ Transit and by private operators, particularly in Morris County and along the Route 78 and 80 corridors. The seven regional airport facilities within the Region vary in size and aircraft capacity.

The Highlands Act (Section 11) emphasizes the preservation and enhancement of the transportation system and the promotion of a balanced, efficient transportation system that is consistent with resource protection needs and smart growth strategies. The Act requires that the transportation component preserve the mobility of the transportation network, maintain the transportation infrastructure of the Region and recognize projects that promote a sound and balanced transportation system consistent with smart growth principles. The RMP policies support the requirements of the Act and recognize the need to evaluate transportation projects that may result in unintended growth due to increased motorized vehicle roadways.

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| GOAL 5A | PROVISION OF SAFE AND EFFICIENT MOBILITY WITHIN THE HIGHLANDS, AND BETWEEN THE HIGHLANDS AND DESTINATIONS OUTSIDE OF THE REGION. |
| Policy 5A1 | To ensure that the Highlands transportation system provides safe and efficient intra-regional and inter-regional mobility and that critical safety road improvements use design and engineering controls to minimize induced demand and maximize resource protection. |
| Policy 5A2 | To ensure that the Highlands transportation system affords the Highlands private economic sector, including agriculture, cost-effective transportation for raw materials, products and employees. |
| Objective 5A2a | Encourage the movement of goods from the roadway network to the freight rail network wherever possible. |
| Objective 5A2b | Evaluate opportunities to increase freight service through the reactivation of abandoned freight lines. |
| Objective 5A2c | Ensure sustainability of regional airport facilities and appropriately include the role of general aviation in meeting regional transportation planning needs. |
| Policy 5A3 | To improve public safety through implementation of traffic calming measures in areas with high pedestrian activity. |
| Policy 5A4 | To provide for safe and efficient pedestrian connections including features such as sidewalks, proper lighting, signage, shelters and green street initiatives consistent with NJDOT's Pedestrian Safety Initiative. |

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| Policy 5A5 | To promote safe routes for children to travel to and from school in support of the NJDOT's Safe Routes to School Program. |
| GOAL 5B | MAINTENANCE OF A SAFE AND EFFECTIVE LEVEL OF SERVICE ON THE EXISTING HIGHLANDS ROAD SYSTEM WITHOUT THE USE OF CAPACITY IMPROVEMENTS THAT COULD TRIGGER ADDITIONAL DEVELOPMENT IN AREAS THAT ARE NOT APPROPRIATE FOR "GROWTH INDUCING" LAND USES. |
| Policy 5B1 | To promote more efficient use of existing road capacity by appropriate means, including but not limited to increased bus, van, shuttles car pool ridership and non-motorized travelers. |
| Policy 5B2 | To require through Plan Conformance and Highlands Project Review an evaluation of potential growth inducing effects such as substantial new land use, new residents, or new employment that could occur as a result of road improvements for increased motorized vehicle traffic capacity. |
| Policy 5B3 | To prohibit through Plan Conformance and Highlands Project Review road improvements in the Highlands Region in areas for which a Growth Inducing Study demonstrates that proposed improvements do not support the RMP resource protection and smart growth policies and are likely to be growth-inducing for lands with limited or no capacity to support human development without a significant adverse impact on the Highlands ecosystem. |
| GOAL 5C | TRANSPORTATION IMPROVEMENTS WITHIN THE HIGHLANDS REGION THAT ARE CONSISTENT WITH THE HIGHLANDS REGIONAL MASTER PLAN. |
| Policy 5C1 | To ensure, to the extent practicable, that proposed transportation improvements which are not consistent with the RMP be modified to be consistent or be re-evaluated in the context of state and regional planning goals. |
| Policy 5C2 | To coordinate with NJ DOT, NJ Transit, North Jersey Transportation Planning Authority (NJTPA), counties and municipalities with regard to transportation planning and strategies within both the Highlands Region and the larger 13-county metropolitan planning region. |
| Objective 5C2a | Highlands Region transportation site development activities will reflect RMP resource protection, development and redevelopment goals. |
| Policy 5C3 | To limit road improvements through local development review and Highlands Project Review where roads are constrained by topography, forested lands or the community character of land uses fronting on the road. |
| Policy 5C4 | To support economic development by ensuring that transportation planning and improvements support regional development, redevelopment, and tourism opportunities. |
| Objective 5C4a | Increase tourism opportunities through innovative multi-modal transportation |

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| | measures and accessible transit schedules. |
| Objective 5C4b | Support regional tourism economy through enhanced street furnishings, directional signage and Highlands Region tourism information. |
| Objective 5C4c | Support regional tourism through the recognition and protection of scenic resource view sheds along scenic byways and road corridors. |
| Policy 5C5 | To recognize and support the unique needs of the agricultural industry to move farm vehicles and goods along transportation corridors, and establish safe travel routes for farmers and agri-tourism in order to ensure the safety and viability of farming as an occupation in the Highlands Region. |
| Policy 5C6 | To require conforming municipalities to adopt a Circulation Plan Element that coordinates with the land use plan, ensures mobility and accessibility and demonstrates consistency with the RMP. |
| Policy 5C7 | To require conforming counties to adopt a transportation plan that supports local and regional land use planning that promotes connectivity, shared service opportunities, long-term transportation network needs, ensures mobility and accessibility and demonstrates consistency with the RMP. |
| Policy 5C8 | To evaluate the existing and proposed Residential Site Improvement Standards (RSIS) in the context of the RMP and develop recommendations for amendments to minimize environmental impacts and maximize utility efficiency from new residential developments in a context-specific manner. |
| GOAL 5D | A MULTI-MODAL TRANSPORTATION SYSTEM WHICH FACILITATES THE MOVEMENT OF PEOPLE AND GOODS WITHIN AND THROUGH THE HIGHLANDS REGION WITHOUT ADVERSELY AFFECTING ECOSYSTEM INTEGRITY AND COMMUNITY CHARACTER. |
| Policy 5D1 | To promote the use of mass transit and other alternative modes of transportation within the Highlands Region. |
| Objective 5D1a | Increase the performance of the public and private bus carrier systems within the Highlands Region. |
| Objective 5D1b | Increase overall transit ridership and the use of multi-modal transportation systems, especially for peak hour travel. |
| Objective 5D1c | Increase employer initiated transit opportunities in the Highlands Region such as shuttle bus service, van, shuttle and car pool service, and innovative car sharing rental options. |
| Policy 5D2 | To promote transit improvements within the Highlands Region which primarily support intra-regional mobility. |
| Policy 5D3 | To promote priority for transportation improvements which primarily improve intra-regional mobility. |
| Policy 5D4 | To promote transit improvements which will increase capacity for inter-regional mobility. |

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| Policy 5D5 | To encourage and promote recreation and tourism through appropriate transportation measures, accessible transit schedules, and enhanced street furnishings and information and directional signage. |
| GOAL 5E | MINIMIZATION OF TRAVEL DEMAND AND VEHICLE MILES OF TRAVEL |
| Policy 5E1 | To promote land use patterns that support a balance of jobs to housing as a means of reducing average trip lengths. |
| Objective 5E1a | Development and redevelopment which provides housing and jobs in close proximity. |
| Objective 5E1b | Development and redevelopment in close proximity to rail stations and along bus routes. |
| Policy 5E2 | To promote municipal and county master plans and development regulations which facilitate the development of mixed land uses in locations that result in reduced average trip lengths, increase community and regional connectivity and support existing development patterns. |
| Policy 5E3 | To promote land use patterns which facilitate use of alternative modes of transportation including walking and the use of bicycles. |
| Policy 5E4 | To promote shared parking programs in support of mixed use development and redevelopment. |
| Objective 5E4a | Circulation plan elements that include, where appropriate, a municipal and county evaluation of shared parking opportunities to support transit, commuter, commercial and mixed-use neighborhoods through a comprehensive parking study. |

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Subpart e. Redevelopment

Redevelopment is a planning tool that converts underutilized areas, brownfields, and grayfields into new land uses through structure replacement, infill and adaptive reuse approaches. Redevelopment will help to meet the Region's growth needs by optimizing the efficient use of previously settled areas with existing communities and available infrastructure, thus conserving natural resources. Brownfields and grayfields are two types of sites which commonly possess characteristics worthy of investigating for purposes of redevelopment. The definition of a brownfield is, "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge of a contaminant." Grayfields are sites usually containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but without evidence or expectation of contamination. As a concept, these sites are termed "Highlands Redevelopment Areas."

In the Preservation Area, Highlands Redevelopment Areas are limited to redevelopment sites and brownfield sites as designated by the Highlands Council, which are then eligible for waivers from the NJDEP. In the Planning Area, Highlands Redevelopment Areas include redevelopment sites and brownfield sites using the Preservation Area definition, but may in addition include grayfields and underutilized areas, depending on the LUCM Zone of the area. Infill is permissible in any of the Highlands Redevelopment Areas as long as the area meets the designation requirements. Highlands Redevelopment Areas may be designated for the entire property, a portion of the property, or for collections of contiguous parcels in part or in whole.

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| GOAL 6J | ACCOMMODATION OF REGIONAL GROWTH AND DEVELOPMENT NEEDS THROUGH THE REUSE AND REDEVELOPMENT OF PREVIOUSLY DEVELOPED AREAS, INCLUDING BROWNFIELDS, GRAYFIELDS, AND UNDERUTILIZED SITES. |
| Policy 6J1 | To encourage Preservation Area redevelopment of sites with 70% or greater impervious surfaces or a brownfield in areas designated by the Highlands Council as Highlands Redevelopment Areas in accordance with N.J.A.C 7:38-6.6 and 6.7. |
| Policy 6J2 | To encourage redevelopment in the Existing Community Zone in the Planning Area of brownfields, grayfields, and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Site Approval Process. |
| Policy 6J3 | To encourage redevelopment in the Conservation and Protection Zones in the Planning Area of brownfields and grayfields that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Site Approval Process. |
| GOAL 6K | CONCENTRATE RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DEVELOPMENT, REDEVELOPMENT, AND ECONOMIC GROWTH IN EXISTING DEVELOPED AREAS IN LOCATIONS WITH LIMITED ENVIRONMENTAL CONSTRAINTS, ACCESS TO EXISTING UTILITY, AND |

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| TRANSPORTATION INFRASTRUCTURE. | |
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| Policy 6K1 | To promote redevelopment of brownfields, grayfields and other previously developed areas in a manner consistent with the goals and requirements of the Plan. |
| Objective 6K1a | Establish interagency teams as necessary to support and expedite redevelopment and development activities that conform to the Plan. |
| Objective 6K1b | Encourage and support the use of planning and financing tools that are available through state agencies and programs for appropriate redevelopment. |
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| GOAL 6L CONFORMING MUNICIPALITIES AND COUNTIES CONSIDER DEVELOPMENT, REDEVELOPMENT AND BROWNFIELDS OPPORTUNITIES IN THEIR MASTER PLANS. | |
| Policy 6L1 | To require that conforming municipalities identify development, redevelopment, and brownfield opportunities in the local land use plan element of their master plans. |
| Objective 6L1a | Municipal review, modification and application of the Redevelopment and Infill Analysis Tool for identification of redevelopment opportunities. |
| Policy 6L2 | To require that conforming municipalities amend development regulations and zoning to enable project implementation of local redevelopment initiatives that are identified under Policy 6L1 and locally endorsed through Plan Conformance. |
| Objective 6L2a | Municipal review of local redevelopment projects are in conformance with RMP smart growth and low impact development policies and objectives. |
| GOAL 6M PROTECTION AND ENHANCEMENT OF HIGHLANDS RESOURCES THROUGH THE REMEDIATION OF CONTAMINATED SITES IN REGION. | |
| Policy 6M1 | Encourage and support the restoration and redevelopment or open space use of contaminated areas. |
| Objective 6M1a | Coordinate with NJDEP on Highlands Brownfield designations and in support of a mechanism that facilitates remedial activities within the Highlands Region. |
| Objective 6M1b | Evaluate mechanisms for remedial activities that apply resource protection, enhancement, and restoration approaches that allow for a minimal redevelopment footprint, encourage “brownfields to greenfields” approaches, and include green energy and building concepts. |
| Objective 6M1c | Any restoration of contaminated sites shall be conducted in accordance with the criteria required by the NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E). |
| Objective 6M1d | As needed to ensure resource protection, prepare enhanced remediation standards for |

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application in the Highlands Region through NJDEP's Technical Requirements for Site Remediation (N.J.A.C. 7:26E),

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Redevelopment

Issue Overview

The Regional Master Plan strives to accommodate regional growth and development needs primarily through the reuse and redevelopment of previously developed areas, including brownfields, grayfields, and underutilized sites. These areas generally have access to existing utility and transportation infrastructure and often are located in or near existing communities. As they have already been developed, these sites will have comparably fewer environmental constraints than undeveloped areas and the reuse of developed lands conserves natural resources and maximizes infrastructure investments. However, not all such sites are in locations conducive to redevelopment, especially where redevelopment could harm surrounding environmentally sensitive resources.

Redevelopment is a strategy to achieve sustainable development in the Highlands. Redevelopment projects may face more hurdles than the development of greenfields (undeveloped land). Complicating factors may include project financing, ownership and title issues, the regulatory process, legal requirements, remediation, and the demolition/adaptive reuse and rebuilding of land improvements. For this reason, the Highlands Council strives to maximize opportunities for redevelopment in appropriate locations by serving as an advocate for redevelopment in the Highlands Region and by providing technical resources and tools, planning assistance, and agency coordination to municipalities, counties, land owners, and non-profit organizations who are interested in pursuing redevelopment.

Program Summary

The *Redevelopment Program* helps interested parties, municipalities, counties, state, and federal agencies understand where redevelopment opportunities are targeted by the RMP, and how to achieve redevelopment within each RMP zone and in the Planning and Preservation Areas. Redevelopment is the preferred method for accommodating growth and economic development in the Highlands Region. The program also outlines incentives and technical assistance that will be provided by the Highlands Council. Redevelopment is a tool that will help achieve residential, retail, service, office, and industrial needs and achieve general economic sustainability in the Region.

Redevelopment in the Highlands is a process used to rebuild, restore, or enhance a previously developed area that is appropriate for economic investment and community development in accordance with smart growth policies of the RMP. Redevelopment activities may include the removal and replacement, adaptive reuse or infill of structures within areas which are surrounded by development or substantially developed, or conversion of similar sites to open space uses where appropriate. Redevelopment activities may take place in previously developed areas, brownfields, and grayfields.

Grayfield sites usually contain industrial or commercial facilities, exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but without evidence or expectation of contamination. Grayfield sites may also include a residential component. These areas are often declining and

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**RMP Policies and
Objectives Addressed**

underutilized strip shopping areas. In the Preservation Area, previously developed areas must have 70% or greater impervious surfaces to be considered for approval by the Highlands Council as Redevelopment Sites.

Brownfield sites are defined as any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been a discharge of contaminant. In many cases, brownfield restoration and redevelopment ends with new development. In some cases, it may be more appropriate to consider a “brownfield to greenfield” conversion, which is a project that results in the restoration of contaminated sites into open space and conservation projects, rather than residential or commercial structures. It is also important that remediation standards and practices ensure that Highlands resources are protected.

In New Jersey, the phrase “area in need of redevelopment” refers to a process established through the Local Redevelopment and Housing Law (“LRHL”), N.J.S.A. 40A:12A-1 et seq.. This law establishes the process by which municipalities commence redevelopment as a public purpose. While the Highlands Act and the RMP refer to “redevelopment” activities, the term in this context is not intended to, nor should it be interpreted to indicate the redevelopment process pursuant to the LRHL. Depending upon the nature of the project, municipalities may decide to utilize the process established by LRHL or may find that it is not necessary.

Policy 6K1. To promote redevelopment of brownfields, grayfields and other previously developed areas in a manner consistent with the goals, and requirements of the Plan.

Objective 6K1a. Establish interagency teams as necessary to support and expedite redevelopment and development activities that conform to the Plan.

Objective 6K1b. Encourage and support the use of planning and financing tools that are available through state agencies and programs for appropriate redevelopment.

Policy 6L1. To require that conforming municipalities identify development, redevelopment, and brownfield opportunities in the local land use plan element of their master plans.

Objective 6L1a. Municipal review of the Redevelopment and Infill Analysis Tool.

Policy 6L2. To require that conforming municipalities amend development regulations and zoning to enable project implementation of identified local redevelopment initiatives.

Policy 6M1. Encourage and support the restoration and redevelopment or open space use of contaminated areas.

Objective 6M1a. Coordinate with NJDEP on Highlands Brownfield designations and in support of a mechanism that facilitates remedial activities within the Highlands Region.

Objective 6M1b. Evaluate mechanisms for remedial activities that apply

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**Preservation Area
Redevelopment**

resource protection, enhancement, and restoration approaches that allow for a minimal redevelopment footprint, encourage “brownfields to greenfields” approaches, and include green energy and building concepts.

Objective 6M1c. Any restoration of contaminated sites shall be conducted in accordance with the criteria required by the NJDEP’s technical requirements for site remediation (N.J.A.C. 7:26E).

Objective 6M1d. As needed to ensure resource protection, prepare enhanced remediation standards for application in the Highlands Region through NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E),

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In the Preservation Area, land development is required to be in accordance with the enhanced environmental standards of the Highlands Rules (N.J.A.C 7:38) adopted by NJDEP. NJDEP grants waivers from the Highlands rules on a case-by-case basis for several scenarios, including redevelopment in previously developed areas and brownfields (see N.J.A.C 7:38-6.6 and 6.7). In order to qualify for a waiver from the Highlands Rules, a proposed redevelopment site must be designated as appropriate for development by the Highlands Council. Only those projects that satisfy both Highlands Council’s redevelopment criteria and NJDEP’s waiver criteria may be approved.

Redevelopment Site Approval - In order to initiate redevelopment activities on previously developed lands with 70% impervious surfaces in the Preservation Area, the general process is as follows:

1. The Highlands Council must approve the designation of a redevelopment site, which must have at least 70% impervious coverage and be appropriate for redevelopment. This approval process is called the Highlands Redevelopment Site Approval Process and can be initiated by any county, municipality, property owner, or designated agent. The Highlands Redevelopment Site Approval Process results in an approval, an approval with conditions, or the denial of an application requesting designation of a Highlands Redevelopment Area. In cases where the Highlands Council determines that a proposed Highlands Redevelopment Area is appropriate for redevelopment, the final determination may include specific conditions to restrict any activities on the site.
2. The NJDEP must review the proposed redevelopment project and issue a Highlands Preservation Area Approval (“HPAA”) with waiver if all necessary requirements are satisfied. A HPAA is a permit to conduct regulated activities in the Perseveration Area and includes a review of the project to determine that it is compliant with all provisions of the Highlands Act.

Brownfields Redevelopment Site Approval - Redevelopment of a brownfield site requires a three step process:

1. A site must be designated by the NJDEP as a Highlands brownfield. In accordance with N.J.A.C. 7:38-6.6, there are three tracks under which a site may be designated as a Highlands Brownfield, provided that the contamination onsite is not the result of a current or previous agricultural use:

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- Track One addresses sanitary landfill sites;
 - Track Two addresses former or current commercial or industrial sites for which:
 - i. Prior to the issuance of a No Further Action (NFA) letter, a remedial action report was completed confirming the presence of contamination onsite, and documenting the current or previous use as a commercial or industrial site;
 - ii. The NJDEP has issued an NFA letter for the entire site for which the brownfield designation is sought as of July 1, 1993, or later; and
 - iii. No discharge of a contaminant has occurred on the site since the date of the NFA letter.
 - Track Three addresses former or current commercial or industrial sites with suspected or confirmed onsite contamination that have not yet received a No Further Action letter.
 - In order to receive a brownfields designation from the NJDEP, a Highlands Resource Area Determination (“HRAD”) must be completed. An HRAD identifies and/or verifies the location of any Highlands resource area features. The HRAD is not a permit, but rather a process intended to confirm the presence, absence, or location of a Highlands resource area on a site as well as its boundary. On-site remediation may begin, where appropriate, and it must be conducted in accordance with the NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E).
2. The Highlands Council must identify a brownfield location as appropriate for redevelopment, through the Highlands Redevelopment Site Approval Process.
 3. Finally, the NJDEP reviews the proposed redevelopment project and grants a Highlands Preservation Area Approval (“HPAA”) with waiver if all necessary requirements are satisfied.

For further program details, refer to the Highlands Redevelopment Site Approval Process and N.J.A.C. 7:38. (see figures *Potentially Contaminated Sites Highlands Tier 1* and *Potentially Contaminated Sites Highlands Tier 2*)

**Planning Area
Redevelopment**

In the Planning Area, redevelopment opportunities exist in accordance with the RMP overlay zone where the proposed project is located. In the Existing Community Zone, opportunities include all previously developed lands, brownfields, and grayfields in locations with water, wastewater, and transportation capacity and are appropriate for increased land use intensity or conversion to greenfields. Redevelopment is encouraged where appropriate in the Existing Community Zone. Infringement on environmentally sensitive areas will be limited through application of RMP policies.

In the Existing Community Zone, conforming municipalities initiating redevelopment activities in accordance with the RMP and their conforming plans and ordinances do not require any specific approval from the Highlands Council; however, activities may be subject to call-up project review if they do not adhere to the RMP policies. Where a conforming municipality proposes a redevelopment that is not in conformance with the RMP, the municipality must

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**Redevelopment and
Infill Analysis Tool**

petition the Highlands Council through the Redevelopment Site Approval Process.

In the Conservation and Protection Zones, redevelopment of brownfields, grayfields is permitted in locations with water, wastewater, and transportation capacity and are appropriate for increased land use intensity or conversion to greenfields. In the Conservation and Protection Zone, Highlands Council approval of a site(s) is required, and approval may be granted as part of the Conformance process or in accordance with the Highlands Redevelopment Site Approval Process.

The Redevelopment and Infill Analysis Tool identifies parcels that are developed, vacant (adjacent to developed), economically underutilized, oversized residential lots, and sites with existing local conditions such as designated redevelopment areas, urban enterprise zones, foreign trade zones and Centers designated in accordance with the State Development and Redevelopment Plan. Parcels are evaluated in relation to regional transportation and transit opportunities. The Redevelopment and Infill Analysis Tool scores identified parcels based on relative redevelopment and infill potential (see figure *Redevelopment and Infill Analysis Tool*) and is meant to serve as a tool to assist in long-term planning evaluations. Using local input through Plan Conformance, it will become a comprehensive source of information on parcels in the Highlands with potential for redevelopment.

Conforming municipalities are required to identify development, redevelopment, and brownfields opportunities in the local land use plan element of their master plans. Municipalities may have identified opportunities through redevelopment plans. In support of this requirement, municipalities shall review and evaluate the findings from the Redevelopment and Infill Analysis Tool, and suggest additions and deletions as necessary. The information developed by the Council represents a rough estimate of development potential, and will be greatly enhanced with local input. Not all of the identified parcels will necessarily be appropriate for redevelopment; local and regional policy constraints, environmental constraints, land character, market conditions, and water and utility capacity constraints all will affect a site's ability for redevelopment.

**Site Development
Standards -
Redevelopment**

The Highlands Council will provide site development standards for all projects, including redevelopment projects. Site standards will guide and control development and redevelopment in the Region and are intended to provide protection of natural resources, environmentally sensitive areas, open space and agricultural lands, and to enhance and reflect community character. This will be achieved in part by providing flexibility for municipal site requirements that are incompatible with smart growth principles. Examples of flexibility may include the reduction of minimum setbacks, the modification of uniform road frontage requirements, and the increase in maximum permitted height.

The Highlands Council will develop site design standards that apply to redevelopment initiatives and contain provisions to create an incentive to redevelop and to use Highlands Development Credits (HDCs) in the process. These standards will be contained in the Smart Growth Manual and Community

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**General Assistance for
Eligible Projects –
Agency Coordination**

Development Design Guidebook (as described in *Highlands Smart Growth Manual Program* and *Community Development Design Guidebook Program*), and Low Impact Development Standards for Site & Subdivisions will be provided.

The Highlands Council will seek to streamline the redevelopment process by convening interagency teams as needed to support and expedite redevelopment and development activities that are consistent with RMP policies. Interagency teams will assist municipalities, counties, and interested parties in redevelopment initiatives that restore and enhance natural features and enhance the built environment. Teams may be comprised of relevant state agencies who will informally review projects with a problem-solving approach.

Agency coordination will also be required to evaluate the need for enhanced standards for remediation activities. The evaluation of site design and development for contaminated properties will require interagency coordination and will continue to be refined in support of RMP policies.

**General Assistance for
Eligible Projects –
Technical Assistance**

The Council will also provide technical assistance in the overall redevelopment process. Technical assistance and support is available for the following activities:

- Technical assistance with the Highlands Redevelopment Site Approval Process;
- Technical assistance with economic improvement issues through the *Sustainable Economic Development Program*, which covers available programs which enhance economic health and vitality of the Highlands Region;
- Information for those looking to acquire funding through existing resources. Currently, state and federal agency programs offer a variety of grant, loan, and technical assistance programs for the planning and implementation of development and redevelopment projects. While available programs and technical assistance may change over time, examples of programs and technical assistance that may be useful for a project in the Highlands Region include;
 - New Jersey Office of Smart Growth's smart future planning grant program, which offers planning grants to municipalities, counties and non-profit agencies;
 - New Jersey Economic Development Authority's real estate development programs and bond financing;
 - NJ Economic Development Authority and the NJDEP administer the Hazardous Discharge Site Remediation loan and grant programs, which awards funds for the investigation and remediation work on contaminated sites;
 - New Jersey Environmental Infrastructure Trust's low-cost financing for projects (including brownfield remediation) that protect and improve water resources; and
 - Natural Resource Damages Liability Protection for Developers provides liability protection for non-responsible developers against natural resource damage claims.

General Assistance for

The following describes several incentive based program elements that will help to support redevelopment projects; including those that incorporate transit

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**Eligible Projects –
Highlands Planning
Grants and Incentives**

oriented development and Transfer of Development Rights Programs.

- Priority project review by the Highlands Council for redevelopment projects that incorporate HDCs and affordable housing.
- Flexible design standards for projects that incorporate HDCs, at least 10 percent affordable housing, mixed use, and redevelopment.
- Discretionary planning grant program:
 - Highlands Council discretionary planning grants are intended to support important elements of the RMP through planning studies on targeted issues. The grant program serves as a mechanism to implement the goals and policies of the RMP. Sample projects that may be eligible include:
 - o Planning for brownfield and grayfield redevelopment;
 - o Town center/transit village development;
 - o Transit oriented development;
 - o Transfer of development rights;
 - o Enhancement of environmental resources through redevelopment;
 - o Community design; and
 - o Local and regional economic development strategies.

The *Plan Conformance Program* contains information on Highlands Council funding opportunities relating to the implementation of the RMP.

**General Assistance for
Eligible Projects –
Education and
Outreach**

The Highlands Council will support education and technical training programs for municipal officials and interested organizations for innovative/alternative development and redevelopment initiatives. These programs will support stakeholder understanding of balancing resource protection/restoration with redevelopment initiatives that contribute to making communities of place with a mix of uses. (See *Local Participation Program* for further details.)

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Subpart f. Smart Growth

Smart growth is an approach to resource planning and management where growth and development are concentrated and organized around “centers” with compact, walk-able, bicycle-friendly land use patterns, typically including mixed-use development with a range of housing choices. It generally reflects value for long-range, regional considerations of sustainability over short-term economic benefits. Smart growth promotes land use patterns with a sense of community and place, multi-modal and alternative modes of transportation, a balance of employment and housing, and an equitable distribution of the costs and benefits of development. It also includes the preservation and enhancement of natural and cultural resources. Finally, as an efficient and less automobile dependent pattern and form of growth, it reduces energy use, which in turn improves air quality and reduces carbon dioxide emissions linked to global warming.

Low impact development (LID) is an element of smart growth that achieves improved protection of environmental resources. It is an environmentally sensitive approach to land use planning that uses a variety of landscape and design techniques to manage development activities to mitigate potential adverse impacts on the natural environment. LID encompasses a broad array of development and management techniques and can be implemented in resource management practices, stormwater management methods, and low impact “green” construction activities. LID for resource management is applied as best management practices (BMP) and is geared toward protection and conservation of the resources. LID for stormwater management is aimed at capturing rainfall onsite, filtering it through vegetation and allowing it to recharge groundwater. LID treats stormwater as a resource. LID for site design includes stormwater management techniques as well as other measures designed to reduce site disturbance, limit impervious coverage and utilize the natural features of a site to guide site development. Similar LID techniques may be applied for each of these purposes with the overall goal of minimizing adverse impacts of the activity.

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| GOAL 6N | USE OF SMART GROWTH PRINCIPLES, INCLUDING LOW IMPACT DEVELOPMENT, TO GUIDE DEVELOPMENT AND REDEVELOPMENT IN THE HIGHLANDS REGION. |
| Policy 6N1 | To establish smart growth programs and low impact development (LID) principles for use within the Highlands Region to guide and control development and redevelopment throughout the Highlands Region. |
| Objective 6N1a | Conservation development standards which protect natural resources, environmentally sensitive areas, open space and agricultural lands, and enhance community character. |
| Objective 6N1b | Flexible local development review and Highlands Project Review programs, including reduction of minimum setbacks, modification of uniform road frontage requirements, increase in maximum permitted height or allowing non-contiguous clustering of development entitlements where necessary to mitigate or eliminate adverse impacts on Highlands natural resources. |
| Objective 6N1c | Development standards which recognize that portions of a parcel proposed for development which are not developable may be considered for the purpose of satisfying on-site passive open space requirements. |
| Objective 6N1d | Minimum requirements for water conservation measures in site layout and structures, including but not limited to water efficient landscaping (including use of native and drought-tolerant plant species), rain collection systems, use of gray water, and water- |

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| | efficient landscape irrigation. |
| Objective 6N1e | Minimum requirements for use of micro-climate conditions to maximize solar gain for winter heating and minimize solar gain during high temperature summer conditions. |
| Objective 6N1f | Minimum requirements for re-use and recycling of building materials when development involves demolition. |
| Objective 6N1g | Minimum requirements that all development include energy efficient features in site layouts and all structures. |
| Objective 6N1h | Design roadway improvements to have minimum impacts on Highlands resources by assessing alternative designs regarding drainage, impervious cover, native vegetation, and other “green street” considerations. |
| Policy 6N2 | To require municipalities and counties to adopt stormwater management low impact development standards to preserve or mimic the natural hydrologic features and characteristics of the land. |
| Objective 6N2a | Implementation of on-site stormwater management features that maintain, restore and enhance the pre-existing natural drainage patterns of the site. |
| Objective 6N2b | Limitations on the amount of impervious cover allowed on a site as a means to protect and increase stormwater infiltration and reduce stormwater runoff. |
| Objective 6N2c | Minimum requirements for site-specific hydrologic studies during local development review and Highlands Project Review which identify the velocity, volume and pattern of water flow into, through, and off of the parcel proposed for development. |
| Objective 6N2d | Minimum requirements that stormwater management systems employ a “design with nature” approach. |
| Objective 6N2e | Minimum requirements for use of grass channels, dry swales, wet swales, infiltration basins, bio-swales and water gardens, green roofs, and other low impact approaches to attenuate and control stormwater and provide multiple environmental benefits. |
| Policy 6N3 | To require through Plan Conformance that municipalities and counties adopt low impact development practices to minimize land disturbance during construction activities. |
| Objective 6N3a | Local development review programs which require a site specific analysis of environmental features and constraints of the property proposed for development as a basis for determining compliance with sustainable design requirements. |
| Objective 6N3b | Limitation of site disturbance, clearing and grading to the minimum necessary to make reasonable use of the designated building envelope for the development parcel. |
| Objective 6N3c | Reduce impacts of construction activities by controlling soil erosion, sedimentation traveling to water bodies, and airborne dust. |
| Policy 6N4 | To require through Plan Conformance that municipalities and counties adopt low impact development best management practices where disturbance of Highlands resources is proposed, including but not limited to steep slopes, forest resources, critical habitats, open water and riparian areas, and Prime Ground Water Recharge Areas. |
| Objective 6N4a | Identification of Highlands resources as an early step in site planning in order to |

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| | avoid disturbance, in conformance with the regional master plan. |
| Objective 6N4b | Avoid or minimize the net loss of Highlands resources through site design so that the allowable development to the maximum extent practical is located on portions of the project site that lack Highlands resources. |
| Objective 6N4c | Maintain the quality and value of Highlands resources through site design so that any allowable disturbance of Highlands resources has the minimum impact possible, including but not limited to, minimization of disturbances to natural vegetation and topography, of the exposure of stormwater runoff to pollutant-generating land uses, and modification of the hydrologic response to precipitation from natural patterns. |
| Policy 6N5 | To require through Plan Conformance that municipalities and counties incorporate programs for community and neighborhood design that support a variety of housing options, mixed uses, redevelopment, adaptive re-use of historic sites and structures, and infill development in their master plans and development regulations. |
| Objective 6N5a | Minimum requirements for the use of low impact development and sustainable design practices to support affordable maintenance of housing, particularly affordable housing. |
| Objective 6N5b | Local development regulations and guidelines that advocate mixed use development and redevelopment where appropriate. |
| Objective 6N5c | Local development regulations and guidelines that incorporate form-based zoning, where appropriate, to support compact, walkable communities. |
| Objective 6N5d | Increased opportunities for pedestrian and bicycle networks, including sidewalks, bike lanes, trails and supportive facilities such as bike racks. |
| Objective 6N5e | Local development regulations and guidelines that advocate shared parking, driveways and other infrastructure in order to limit paved surfaces. |
| Policy 6N6 | To require through Plan Conformance that municipalities and counties include community outreach, collaboration, and meaningful involvement from the local population in the development of planning and design regulations and programs. |

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Part 7. Landowner Equity

The Highlands Act recognizes that implementation of the Regional Master Plan, which directs and guides future development, inevitably has an impact on reasonable landowner expectations regarding future land use potential. The Act provides several mechanisms that seek to mitigate such impacts, including a transfer of development rights (TDR) program, land acquisition, exemptions, and waivers.

The Act requires the Highlands Council to establish a regional Highlands TDR program. This is intended as an equitable means of guiding human development away from sensitive lands in the Highlands Region to areas both within the Region as well as outside the boundaries of the Highlands Region but within other parts of the seven Highlands counties which are suitable for more intense human development. The Act contemplates that transferable development rights will be allocated to the owners of land which should not be developed at all or be developed at very low densities and impacts, and that voluntary TDR Receiving Zones for Highlands Development Credits will be identified. The Highlands TDR Program is required to be consistent with the State Transfer of Development Rights Act, except as otherwise expressly provided for in the Highlands Act TDR provisions. (Section 13.a)

The Highlands Regional Master Plan also recognizes the need to set priorities for acquisition or purchase of conservation easements in those lands within the Region that have the most significant resource values. To this end, the Plan includes numerous policies to address open space acquisition and farmland preservation.

Additionally, the Highlands Act includes seventeen (17) exemptions. If a project or activity falls within one of these seventeen exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the NJDEP, the Regional Master Plan, and any municipal master plan or development regulations that are revised to conform to the Regional Master Plan.

Tens of thousands of acres throughout the Region could potentially be developed under the exemptions based upon an analysis conduct by the Highlands Council. While the exemptions are one of the primary means for landowners to utilize their properties where development potential is limited by the Highlands Act, the exercise of these exemptions may result in further fragmentation of the Region's ecosystems due to the construction of additional impervious surface. Given this circumstance, the Regional Master Plan addresses the need to develop voluntary programs that attempt to mitigate these impacts, including programs to encourage non-contiguous clustering, intra-local government transfers of development rights and economic incentives.

Lastly, the Act provides NJDEP with the authority to grant waivers from its Highlands rules on a case by case basis under certain circumstances. Under this authority, NJDEP may issue waivers (1) where a project or activity is necessary in order to protect public health and safety; (2) for redevelopment in previously developed areas as identified by the Highlands Council, provided that the areas are either a brownfield site designated by NJDEP or a site at which at least 70% of the area thereof is covered with impervious surface; or (3) necessary to avoid a taking of property without just compensation.

GOAL 7A

PROTECTION OF LANDS THAT HAVE LIMITED OR NO CAPACITY TO SUPPORT HUMAN DEVELOPMENT WITHOUT COMPROMISING THE ECOLOGICAL INTEGRITY OF THE HIGHLANDS REGION, THROUGH MECHANISMS INCLUDING BUT NOT LIMITED TO A REGION-WIDE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM.

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| Policy 7A1 | Transferable development rights shall be used by willing municipalities to guide growth and development away from ecologically sensitive lands and towards lands which have the capacity to support additional human development without compromising the ecological integrity of the Highlands Region. These rights shall also be used to guide growth towards lands outside of the Highlands Region, but within the seven Highlands counties, to willing municipalities. |
| Objective 7A1a | Creation of a region-wide Highlands TDR program as soon as practicable. |
| Objective 7A1b | Identification and implementation of any and all program elements which would promote the transfer and use of development rights. |
| Policy 7A2 | To maximize the preservation of Preservation Area properties outside of the Existing Community Zone or a Highlands Redevelopment Area, with emphasis on properties with the highest Conservation Priority scores and Agricultural Priority scores, through acquisition or donation of fee simple and easement ownership. |
| GOAL 7B | PROVISION FOR COMPENSATION THROUGH A REGION-WIDE PROGRAM OF TRANSFERABLE DEVELOPMENT RIGHTS TO LANDOWNERS WHOSE PROPERTIES HAVE LIMITED OR NO CAPACITY TO SUPPORT ADDITIONAL DEVELOPMENT BASED UPON ANALYSES CONDUCTED BY THE HIGHLANDS COUNCIL AND WHO ARE DISPROPORTIONATELY BURDENED BY THE PROVISIONS OF THE HIGHLANDS ACT. |
| Policy 7B1 | The Highlands TDR program shall seek to mitigate impacts of the Highlands Act and the Highlands RMP on reasonable landowner development expectations which have been disproportionately affected. |
| Policy 7B2 | The Highlands TDR program shall establish a transferable development right to be known as a “Highlands Development Credit.” |
| Policy 7B3 | All lands within the Preservation Area, except for those in the Existing Community Zone and approved Highlands Redevelopment Areas, shall be eligible to serve as Sending Zones under the Highlands TDR Program. |
| Policy 7B4 | Upon municipal conformance, all lands within the Planning Area, except for those in the Existing Community Zone and approved Highlands Redevelopment Areas, shall be eligible to serve as Sending Zones under the Highlands TDR Program. |
| Policy 7B5 | The Highlands TDR program shall provide for the allocation of Highlands Development Credits to eligible Sending Zone parcels where reasonable future development expectations have been disproportionately limited by the provisions of the Highlands Act or implementation of the programs established by the RMP. |
| Policy 7B6 | Lands in the Existing Community Zone and approved Highlands Redevelopment Areas shall not be eligible for an allocation of Highlands Development Credits. |
| Policy 7B7 | Establish a Highlands TDR program which is sufficiently certain and predictable to allow Sending Zone landowners to sell Highlands Development Credits or borrow against the value of such credits. |
| Objective 7B7a | Establishment of eligibility criteria for an allocation of Highlands Development Credits. |

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| Objective 7B7b | Creation of a process by which affected landowners can apply to the Highlands Council for an allocation of Highlands Development Credits. |
| Objective 7B7c | Establishment of a Highlands Development Credit conveyance system, including covenants and restrictions on the use of Sending Zone parcels. |
| Objective 7B7d | Creation of a tracking system for Highlands Development Credits which provides public records for the transfer and use of Highlands Development Credits. |
| Objective 7B7e | Establishment of Receiving Zones where Highland Development Credits can be used as soon as possible. |
| Objective 7B7f | Active transfer and use of Highlands Development Credits throughout the Highlands Region and the seven Highlands counties. |
| Objective 7B7g | Review and assessment of the Highlands TDR Program five (5) years after the effective date of the Highlands RMP. |
| Policy 7B8 | The determination as to whether a particular parcel of land is disproportionately limited by the provisions of the Highlands Act or implementation of the Highlands RMP shall be based upon the development potential as of August 9, 2004, based upon municipal zoning and land use regulations then in effect; State and federal environmental laws and regulations then in effect; and a determination of whether development is precluded or severely constrained by the restrictions imposed pursuant to the Highlands Act. |
| Policy 7B9 | The allocation of Highlands Development Credits to individual Sending Zone parcels shall be adjusted according to the location of the parcel within the Highlands Region, the comparative development potential of the parcel, and whether a Sending Zone landowner chooses to exercise an applicable Highlands Act exemption. |

| GOAL 7C | CREATION OF A HIGHLANDS DEVELOPMENT CREDIT BANK |
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| Policy 7C1 | A Highlands Development Credit Bank shall be created and become operational as soon as possible. |
| Policy 7C2 | The Highlands Development Credit Bank shall be authorized to serve and shall serve as a region-wide information clearinghouse. |
| Policy 7C3 | The Highlands Development Credit Bank shall be authorized to buy and sell Highlands Development Credits. |
| Policy 7C4 | The Highlands Development Credit Bank shall be authorized to serve as the official records keeper of the Highlands TDR Program, including recording and tracking all Highlands Development Credit transactions and use. |
| Policy 7C5 | The Highlands Development Credit Bank shall be authorized to enter into any agreement which promotes the transfer and use of Highlands Development Credits, provided that the substance of the agreement is not in conflict with any express provision of the Highlands Act or the State Transfer of Development Rights Act (N.J.S.A. 40:55D-137 et seq.). |
| Policy 7C6 | The Highlands Development Credit Bank should establish a program for the purchase of Highlands Development Credits as soon as possible. |

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| Policy 7C7 | The Highlands Development Credit Bank should seek to provide an opportunity for Sending Zone landowners to sell their Highlands Development Credits in advance of the establishment of Receiving Zones. |
| Objective 7C7a | Funding for the purchase of Highlands Development Credits prior to the establishment of Receiving Zones pursuant to municipal Plan Conformance. |
| Objective 7C7b | A purchase of Highlands Development Credits program which gives priority to landowners who can demonstrate unique and extenuating financial circumstances as a direct result of the Highlands Act. |
| Policy 7C8 | The Highlands Development Credit Bank shall monitor real estate values throughout the Highlands region and shall submit an annual report to the Highlands Council, including a recommendation with regard to the minimum value of a Highlands Development Credit. |
| Policy 7C9 | To secure sufficient capitalization for operation of the Highlands Development Credit Bank. |
| GOAL 7D | ESTABLISHMENT OF SUFFICIENT HIGHLANDS RECEIVING ZONES TO CREATE A POSITIVE MARKET FOR TDR CREDITS |
| Policy 7D1 | Lands located within the Existing Community Zone or Highlands Redevelopment Areas may be designated as Receiving Zones by a Highlands municipality upon approval by the Highlands Council, provided that such Receiving Zones are consistent with the RMP. |
| Policy 7D2 | Lands located within the Conservation Zone may be designated as Receiving Zones by a Highlands municipality upon approval of the Highlands Council, provided that such Receiving Zones are consistent with the RMP and the development does not conflict with the maintenance of viable agriculture. |
| Policy 7D3 | A municipality located within a Highlands County, but not within the Highlands Region, may also designate Receiving Zones to participate in the Highlands TDR Program upon approval of the Highlands Council, provided that the municipality seeks endorsement by the State Planning Commission as required by subsection l of section 13 of the Highlands Act. |
| Policy 7D4 | A Highlands municipality in the Planning Area may seek designation of Receiving Zones and participate in the Highlands TDR program without regard to whether such municipality is in conformance with the Highlands RMP upon approval of the Highlands Council, provided that the municipality seeks endorsement by the State Planning Commission as required by the State Transfer of Development Rights Act. |
| Policy 7D5 | The Highlands Council shall provide technical assistance to Highlands municipalities in support of designating appropriate Receiving Zones. |
| Policy 7D6 | The Highlands Council shall provide Highlands municipalities with financial grants-in-aid for planning and feasibility studies in support of designating appropriate Receiving Zones. |
| Policy 7D7 | A Highlands municipality may limit the use of Highlands Development Credits to intra-municipal transfers in designated Receiving Zones if the Highlands Council determines that the goals, policies and objectives of the Highlands RMP will be best served by a |

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| Policy 7D8 | determination of conformance, notwithstanding the limited use of Highlands Development Credits within the municipality. The Highlands Council shall seek legislation that permits municipalities outside of the seven Highlands counties to designate Receiving Zones that may accept Highlands Development Credits. |
| GOAL 7E | MAXIMIZATION OF THE TRANSFER AND USE OF HIGHLANDS DEVELOPMENT CREDITS. |
| Policy 7E1 | The Highlands Council shall develop and implement incentive mechanisms to create the highest possible demand for Highlands Development Credits. |
| Policy 7E2 | The Highlands Council shall identify ways and means by which the highest possible value of Highlands Development Credits can be achieved. |
| Policy 7E3 | The Highlands Council shall promote the availability of capital funding for municipal infrastructure which is required to support additional human development achieved using Highlands Development Credits. |
| Policy 7E4 | The Highlands Council shall seek and support priority allocation of available State and federal funding for Highlands municipalities which have established Receiving Zones for Highlands Development Credits. |
| Policy 7E5 | The Highlands Council shall seek legislation that requires the payment of a fee to the Highlands Development Credit Bank for any increases in density or intensity of development beyond the allowable development yield as of the effective date of the act, where that development relies on a potable water source located in the Highlands Region and the development is situated in any municipality other than a conforming municipality. |
| Policy 7E6 | The Highlands Council shall not find a Highlands municipality in conformance with the Highlands RMP unless the municipal master plan and development regulations require the use of equivalent Highlands Development Credits for any locally approved increases in development or redevelopment density or intensity of use through variances or municipal ordinance modification that occur after the date of Highlands Council determination of conformance. |
| GOAL 7F | MITIGATION TO THE MAXIMUM EXTENT POSSIBLE OF THE IMPACTS OF EXEMPT DEVELOPMENT ON THE ECOSYSTEM INTEGRITY OF THE HIGHLANDS REGION THROUGH USE OF INNOVATIVE LAND USE PROGRAMS. |
| Policy 7F1 | To encourage municipalities with jurisdiction over lands which are entitled to an exemption under Section 30 of the Highlands Act to establish voluntary, incentive-based innovative land use programs to avoid adverse impacts on the Highlands ecosystem or the fiscal integrity of the municipality. |
| Objective 7F1a | Establish an intra-municipal transfer of development rights program for landowners whose property is entitled to an exemption under Section 30 of the Highlands Act and who voluntarily apply for and receive transferable development rights under a |

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| Objective 7F1b | <p>municipal TDR program.</p> <p>Establish municipal clustering programs which allow landowners whose property is entitled to an exemption under the Highlands Act, for both contiguous and non-contiguous properties, to minimize the impact of such exempted development on the ecological integrity of the Highlands Region or the fiscal integrity of the municipality.</p> |
| Policy 7F2 | <p>To provide an opportunity for landowners whose property is entitled to an exemption under the Highlands Act to voluntarily apply for and receive an allocation of Highlands Development Credits in lieu of developing on-site under the provisions of Section 30.</p> |

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Part 9. Air Quality

The Highlands Act recognizes that the Highlands Region includes “exceptional natural resources such as clean air” (Section 2) and the Highlands Regional Master Plan (RMP) seeks to establish mechanisms for the protection and enhancement of air quality resources for the Highlands Region that consider the interplay of air quality conditions at local, regional, interstate, and global levels. The RMP policies support the State Global Warming Response Act in reducing the level of greenhouse gas emissions in the state by the year 2020 through the reduction of mobile sources, resource protection and energy efficient practices. The RMP also recognizes the importance of the State Energy Master Plan as a means to plan and evaluate for energy efficiency and greenhouse gas reductions at all levels of government.

| GOAL 9A | REDUCTION OF AIR POLLUTION THROUGH USE OF ALTERNATIVE AND EFFICIENT MODES OF TRANSPORTATION AND THE USE OF RENEWABLE ENERGY SOURCES. |
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| Policy 9A1 | To encourage capital facility development and redevelopment that leads to attainment of the National Ambient Air Quality Standards (NAAQS). |
| Policy 9A2 | To support continued, consistent and thorough air quality monitoring and assessment programs as a means of evaluating and managing major air toxic point sources that affect the Region. |
| Policy 9A3 | To encourage land use development and redevelopment practices that promote center-based growth and mixed-use development and offer alternative modes of transportation as a means to reduce automobile dependency, vehicle miles traveled, vehicle trip length, and duration, for the reduction of local and regional air pollutants and of carbon dioxide emissions linked to global warming. |
| Policy 9A4 | To encourage and support state and federal air quality monitoring for the Highlands Region and regulatory action to reduce levels of air pollutants including but not limited to: ozone, carbon dioxide, sulfur compounds, volatile organic compounds, methane, and fine particulate matter pollutants in the Highlands Region. |
| Policy 9A5 | To encourage energy efficient design and green building practices in support of regional resource protection and smart growth planning policies. |
| Objective 9A5a | Encourage development design, as appropriate, to include measures to avoid, limit or mitigate the creation of air pollutants, including but not limited to reduced vehicle emissions, ambient air toxic substances, and hazardous air pollutants as related to development practices and end use activities. |
| Policy 9A6 | To support State and federal initiatives that will reduce air pollution emanating from power plants, incinerators and landfills within and affecting the Highlands Region and particularly in Warren County due to out-of-State power plant air pollution. |

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Part 8. Sustainable Economic Development

The Highlands Act establishes natural resource protection as the fundamental goal for the Highlands Region but recognizes that development, redevelopment, and economic growth in certain appropriate areas of the Region are in the best interests of all citizens of the State, providing innumerable social, cultural, and economic benefits and opportunities. The long term integrity of the Highlands Region requires economic and fiscal vitality as well as the preservation of natural resources. Economic development can be broadly described as any effort or activity that improves general economic health. It may involve a range of activities aimed at increasing the local tax base and providing employment opportunities, and efforts can range in scale from local to regional.

In the Highlands Region, individual economic development activities will vary based on local conditions but will contribute to achieving regional economic vitality. In some areas, the sustainable use of the natural resources of the Region, such as agriculture and forestry will remain a critical local economic initiative. Sustainable economic initiatives may also include the continued development of the Highlands Region eco-, agri-, and heritage tourism infrastructure. Portions of the Region may be well suited for technology-dependent enterprises of all sizes ranging from home occupations to corporate headquarters, while other areas may benefit from main street and downtown revitalization efforts. Economic development in the Highlands Region must be sustainable over time, to avoid damage to natural resources and community character. It must depend heavily on renewal and improvement of economic output without continual development of undeveloped lands. As such, strategies must consider land development and non-development approaches to achieving economic development goals.

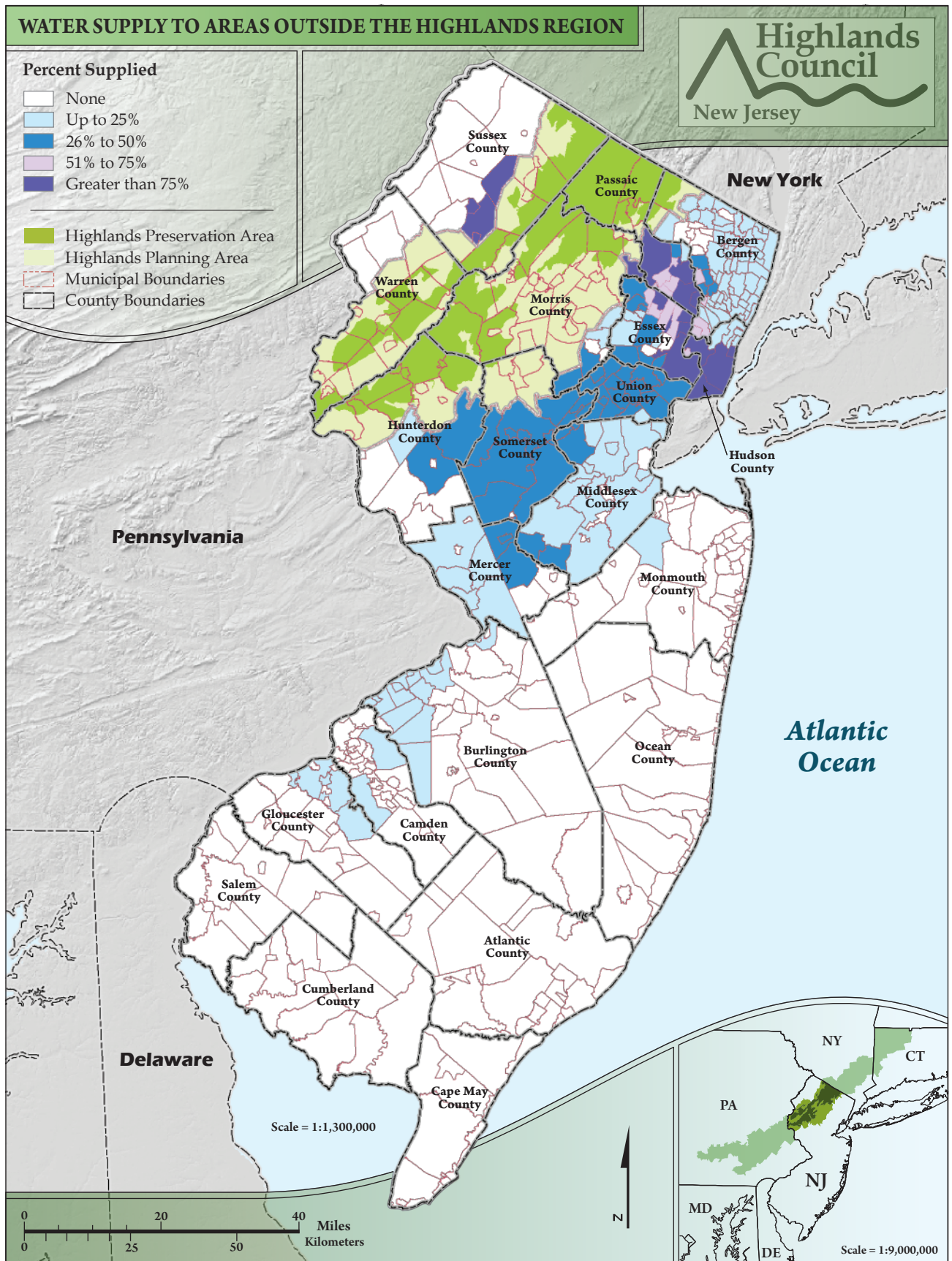
| GOAL 8A | SUSTAINABLE ECONOMIC DEVELOPMENT IN THE HIGHLANDS REGION. |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy 8A1 | To maintain and expand the existing job and economic base by promoting appropriate, sustainable, and environmentally compatible economic development throughout the Highlands Region. |
| Objective 8A1a | Highlands Economic Development Program to identify and promote sustainable economic development opportunities and strategies for recruiting and promoting such development in the Highlands Region, in a manner that integrates economic, social and environmental factors. |
| Objective 8A1b | Serve as an advocate and technical resource for Highlands economic development initiatives in work with municipalities, counties, regional agencies, and the private sector to promote sustainable economic development in the Highlands Region. |
| Objective 8A1c | Public private partnerships to support economic development initiatives. |
| Objective 8A1d | Positive fiscal impact to local governments and the Region through appropriate economic development initiatives. |
| Policy 8A2 | To preserve the high quality of life in the Highlands Region in order to retain and attract workers to live and work through implementation of the RMP. |
| Policy 8A3 | To coordinate and pursue state and federal programs and financial assistance for sustainable economic development in the Highlands Region. |
| Policy 8A4 | To serve as a clearinghouse for economic development opportunities in the |

**DRAFT- FOR CONSIDERATION AT THE MAY 15, 2008
MEETING OF THE HIGHLANDS COUNCIL**

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| | Highlands Region. |
| Objective 8A4a | Identification, marketing, and support of Highlands Region areas including brownfield sites that may be appropriate for local and regional economic development initiatives. |
| Objective 8A4b | A long-term Economic Tracking Program as a means to continually assess the long-term economic progress of the Region through specified economic indicators in order to establish Highlands trends and to support municipal economic plan elements. |
| Policy 8A5 | To advocate for appropriate public investment in the Highlands Region through the strategic location of public facilities and institutions that will spur sustainable and appropriate economic activity. |
| Policy 8A6 | To require that conforming municipalities develop an economic plan element that provides strategies for achieving sustainable and appropriate economic development and identifies development, redevelopment and brownfield opportunities. |
| Objective 8A6a | Coordinate with municipalities and counties as local and regional strategies are developed to improve the tax base and to create jobs and economic opportunities consistent with the policies and objectives of the RMP. |
| GOAL 8B | PROTECTION AND ENHANCEMENT OF THE AGRICULTURE INDUSTRY IN THE HIGHLANDS REGION. |
| Policy 8B1 | To enhance the sustainable economic benefits of agricultural practices in the Highlands Region. |
| Objective 8B1a | Coordinate activities with the NJ Department of Agriculture and other entities to maximize the potential benefits of existing programs that sustain agriculture. |
| Policy 8B2 | To protect and enhance the agricultural economy in the Highlands Region. |
| Objective 8B2a | Coordinate activities with the NJ Department of Agriculture and other entities to ensure a sustainable agricultural industry and agricultural operations that improve farm incomes and the long-term viability of farming. |
| GOAL 8C | EXPANSION OF COMPATIBLE AND SUSTAINABLE TOURISM AND RECREATION WITHIN THE HIGHLANDS REGION. |
| Policy 8C1 | To promote recreation and tourism based economic initiatives, which derive economic benefit from sustainable use of the natural resources of the Highlands Region. |
| Objective 8C1a | Identification of specific economic development initiatives which would encourage and promote eco-, agri- and heritage tourism in the Highlands Region. |
| Policy 8C2 | To enhance the Region's tourism infrastructure in order to encourage visitors to visit and stay longer in the Highlands Region. |
| Objective 8C2a | Encourage the development of overnight accommodations and other services to support recreation and tourism attractions in the Highlands Region, where |

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| | appropriate and permitted by LUCM Zone. |
| Objective 8C2b | Encourage transit-oriented recreation and tourism connections. |
| Policy 8C3 | To promote public and private tourism attractions in the Highlands Region through the marketing of natural resources, arts, cultural, historic, scenic, agricultural, recreational, and urban amenities and accommodations. |
| Policy 8C4 | To support local, state, and federal eco-, agri- and heritage tourism programs. |
| Policy 8C5 | To advocate for state and federal funding of recreation and tourism initiatives in the Highlands Region. |
| GOAL 8D | EXPANSION OF INNOVATIVE TECHNOLOGY AND ENTREPRENURIAL BUSINESSES INCLUDING HOME OFFICE, ENERGY EFFICIENCY AND RESOURCE CONSERVATION ENTERPRISES IN THE HIGHLANDS REGION. |
| Policy 8D1 | To ensure opportunities for home office, entrepreneurial, and other small business activities in the Highlands Region. |
| Objective 8D1a | Municipal and county development regulations which permit the establishment of home occupations, participation in small business incubator programs and use of innovative technologies that promote compact design, native species landscaping, low impact development, energy efficiency and resource conservation in support of comprehensive RMP goals. |
| GOAL 8E | ESTIMATE AND TRACK OVER TIME THE COSTS AND BENEFITS ASSOCIATED WITH PLAN IMPLEMENTATION AND THE PROTECTION OF CRITICAL RESOURCES OF THE HIGHLANDS REGION. |
| Policy 8E1 | <p>The Cash Flow Timetable shall track the revenues and costs associated with the Highlands Protection Fund, with the exception of the Pinelands Property Tax Stabilization Aid category. Four components that shall be tracked in the Cash Flow Timetable include:</p> <ul style="list-style-type: none"> • Planning Grants Program (including Incentive Planning Aid and Regional Master Plan Compliance Aid); • Highlands Property Tax Stabilization Aid; • State Aid for Local Government Units (Watershed Moratorium Offset Aid and other State Aid funding); and • Land Acquisition Tracking. |



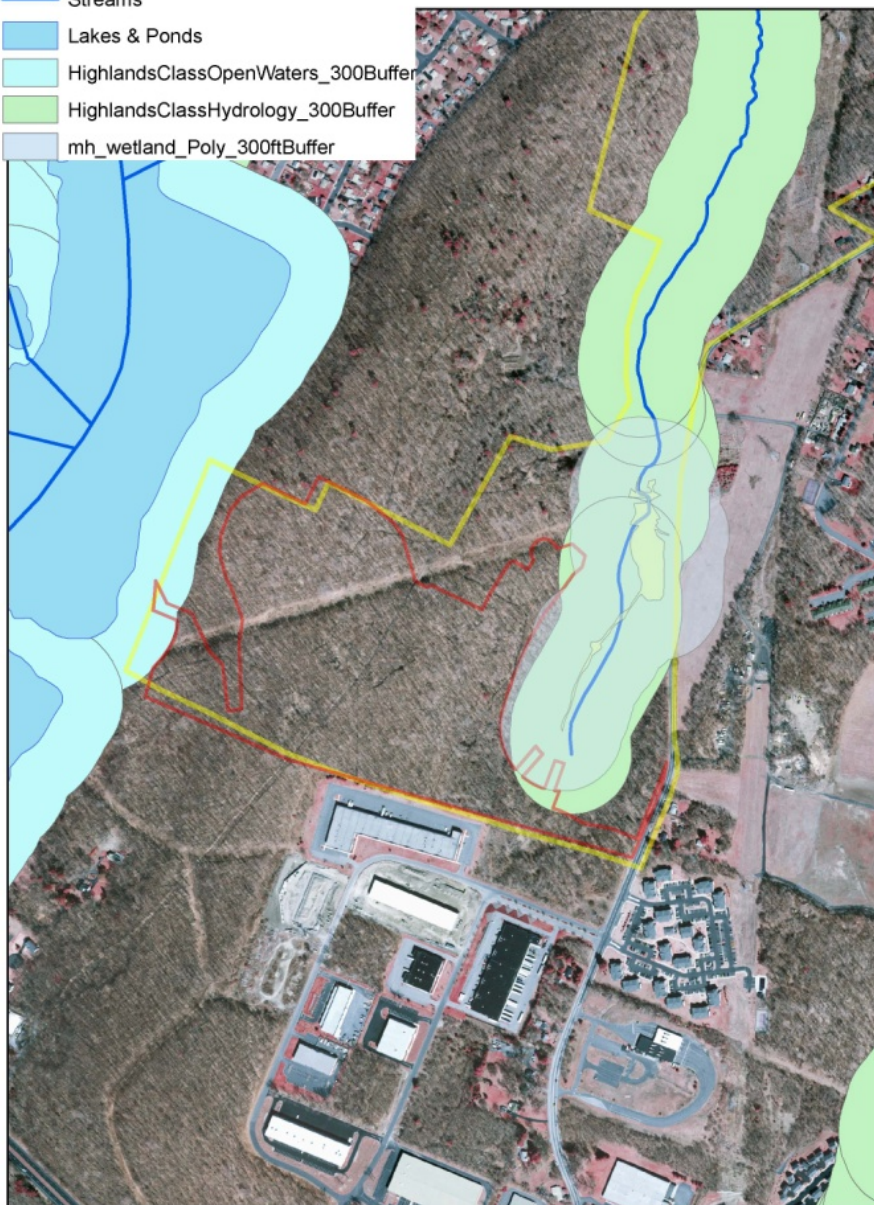
Project Review

May 15, 2008

Legend

- Property Boundary
- Streams
- Lakes & Ponds
- HighlandsClassOpenWaters_300Buffer
- HighlandsClassHydrology_300Buffer
- mh_wetland_Poly_300ftBuffer

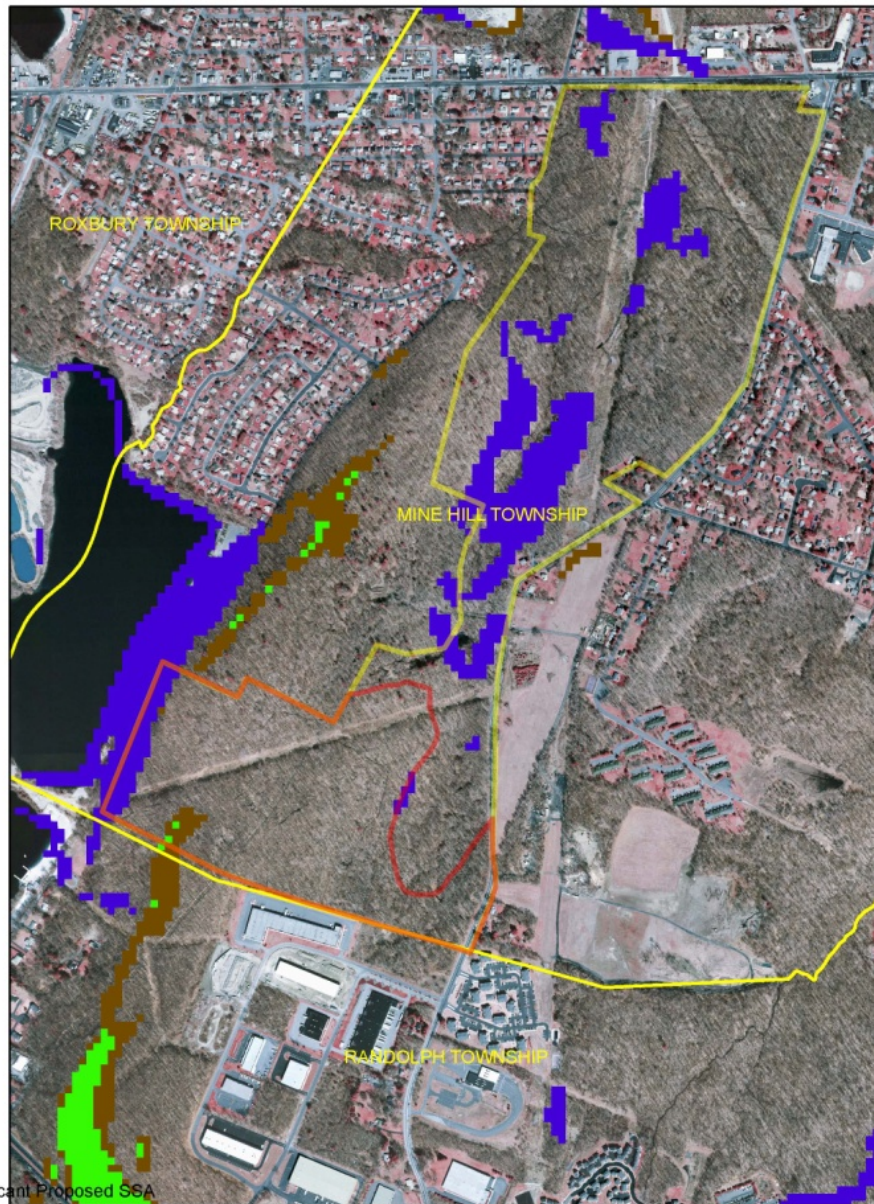
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300 0 300 600 Feet

Open Waters

Steep Slopes

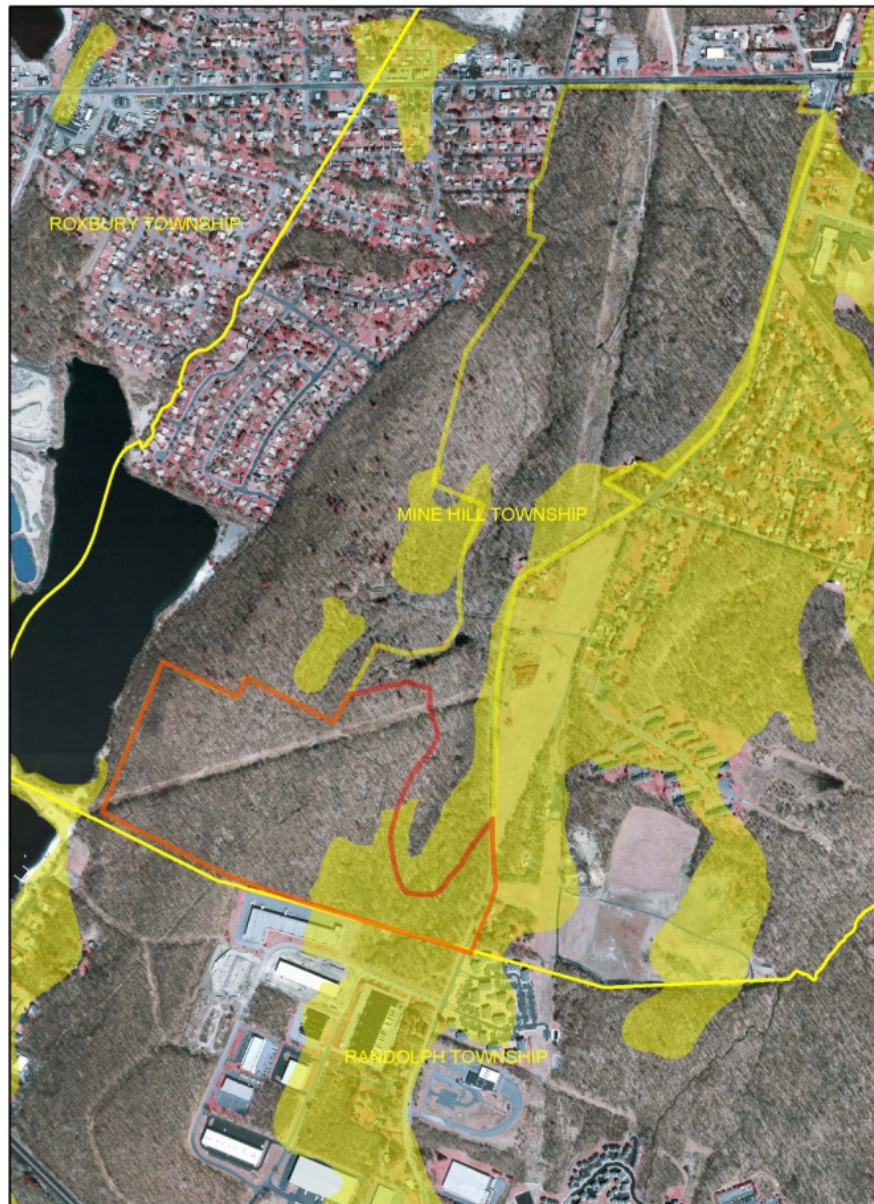


Legend



-  Applicant Proposed SSA
-  Riparian Slope >10%
-  Slope Greater than 15% in Forest Areas
-  Slope Greater Than 20%

1,400 3,333 4,666 6,000 7,333 8,666 10,000
1,400 2,800
Fe

Agricultural Soils



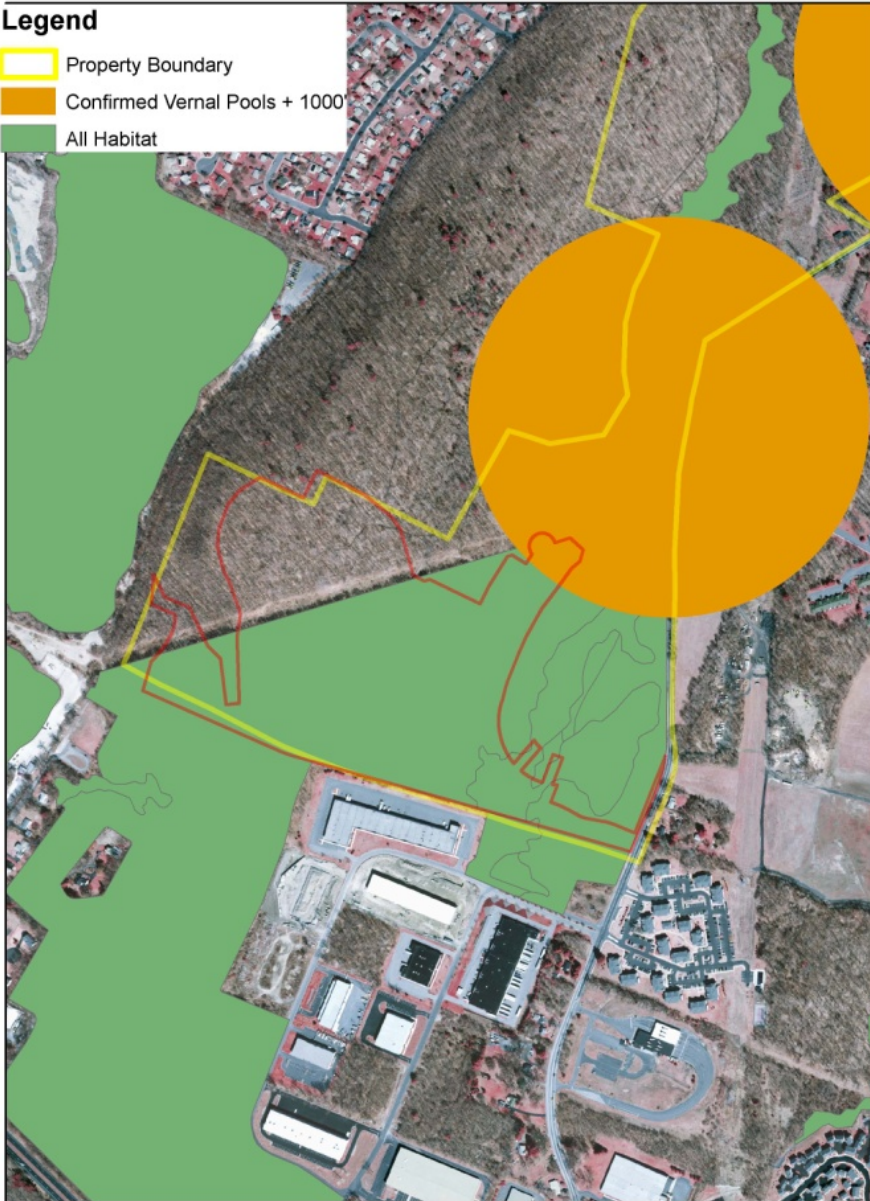
Legend

-  Applicant Proposed SSA
-  Important Soils

1,400 3,333 4,666 6,667 1,400 2,800
Fe

Legend

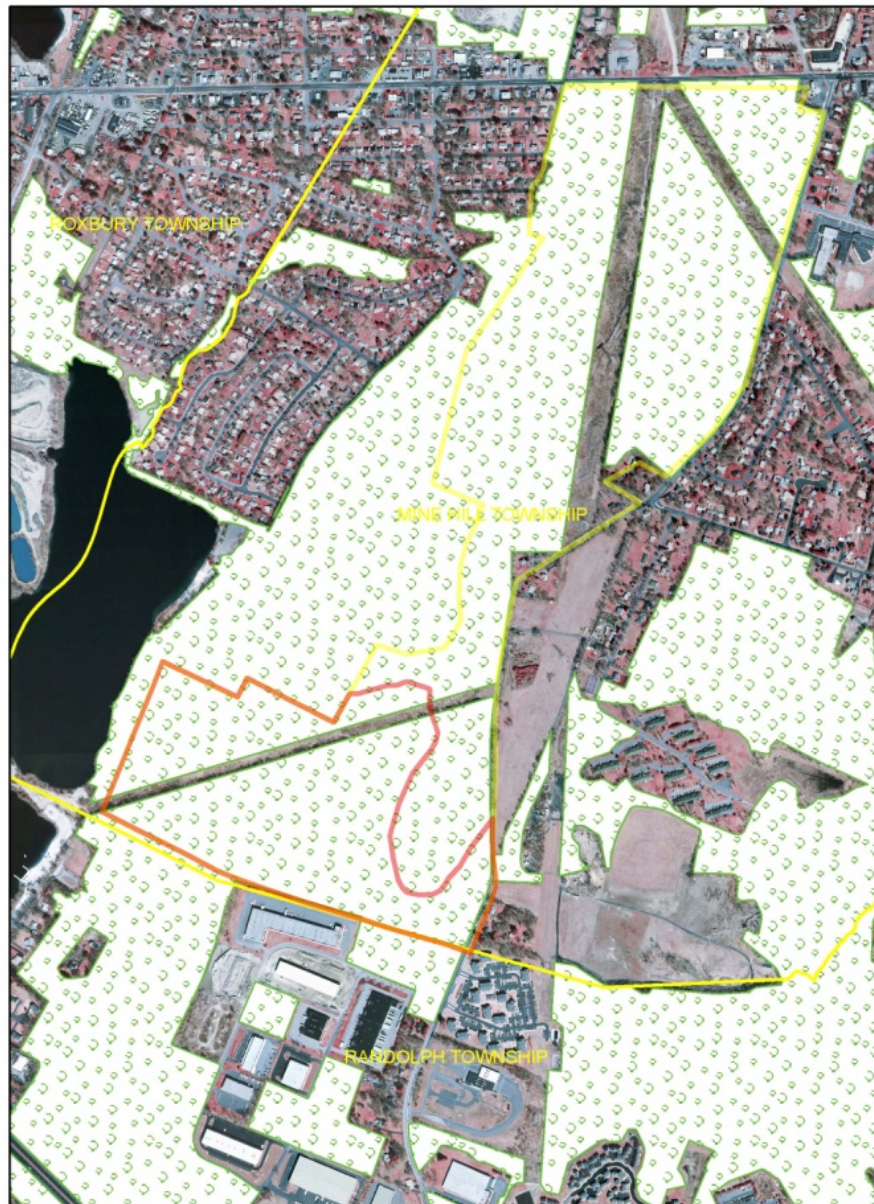
- Property Boundary
- Confirmed Vernal Pools + 1000'
- All Habitat





300 0 300 600 Feet

Critical Habitat

Forest Areas

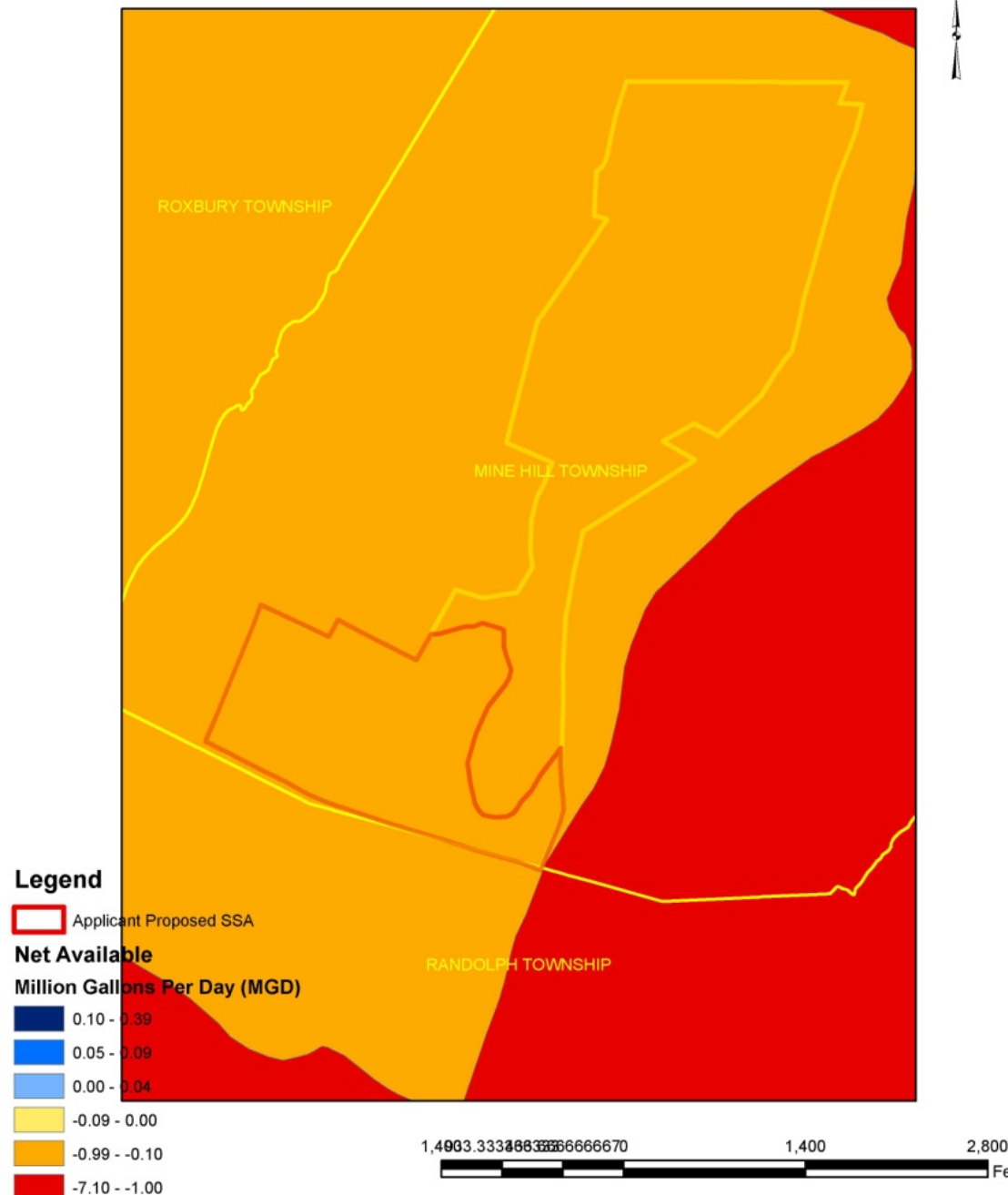


Legend

-  Applicant Proposed SSA
-  Total Forest Area

1,400 3,333 6,666 10,000 1,400 2,800
Feet

Net Available Water



Legend

- Property Boundary
- Streams
- Lakes & Ponds
- Flood Prone Areas
- Streams
- Lakes & Ponds - Intersect Hydro

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Riparian Areas



300 0 300 600 Feet

Legend

- Property Boundary
- RECHARGE



320 0 320 640 Feet

Recharge Areas

Issues for Council Discussion

May 15, 2008

Carbonate Rock

Carbonate Rock GPOs Changes

- Text added to clarify that karst is not strictly a surface condition.
- Expanded text regarding the functional values that carbonate rock provides.
- Language added regarding the importance of prolific carbonate rock aquifers in the Region.
- Two objectives added regarding instances when specific karst features are identified:
 - Prohibit new land uses and facilities that would constitute unacceptable risks in areas with karst features
 - Prioritize upgrades or remedial actions for existing high risk land uses and facilities in areas with karst features

Prime Ground Water Recharge

Prime Ground Water Recharge

- 2006 Draft RMP required 125% mitigation for development of Prime GW Recharge Areas, but no distinction between LUCM Zones
- 2007 Final Draft RMP continued 125% mitigation, and included complete prohibition on development of Prime GW Recharge Areas in the Protection Zone, but no other restrictions
- These drafts did not specify water quality considerations in Prime Ground Water Recharge Areas.

Proposed Approach

- Continue 125% mitigation requirement; clarify that it applies to the portion of the Prime GW Recharge Area that is developed
- Include a clear policy for avoiding Prime GW Recharge Areas using low impact development
- Create a scale of permittable disturbance that is most stringent in Protection Zone and addresses the Conservation and Existing Community Zones
- Ensure that potential contaminant sources are prohibited in the same manner as WHPA Tier 2
- Limit wastewater utility expansion or creation in Prime GW Recharge Areas in the Protection and Conservation Zones

Overview of Approach

| LUCM Zone | Area of Prime Ground Water Recharge Area Disturbance | Required Recharge Volume (Mitigation) | Water Quality Constraints |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Protection | <ul style="list-style-type: none">• LID to minimize• 15% maximum disturbance limit if no cluster or waiver• No upper disturbance limit for Clusters & Waivers as long as LID used to minimize | 125% of preconstruction recharge from disturbed portion of Prime Ground Water Recharge Area | <ul style="list-style-type: none">• New development controls equivalent to Tier 2 WHPA• Existing development management equivalent to Tier 3 WHPA |
| Conservation | <ul style="list-style-type: none">• LID to minimize• 30% maximum disturbance limit if no cluster or waiver• No upper disturbance limit for Clusters & Waivers as long as LID used to minimize | | |
| Existing Community | <ul style="list-style-type: none">• LID to minimize• 45% maximum disturbance limit | | |

Transportation

Transportation GPOs Changes

- Clarifications:
 1. Need to evaluate transportation projects that may result in unintended growth or growth inducing effects due to increased motorized vehicle roadways.
 2. Requirement of the Act that the RMP recognize projects that promote a sound and balanced transportation system consistent with smart growth principles.
 3. Recognize the role and agency coordination with the 13 county Metropolitan Planning Transportation Region that the Highlands Region resides within.
- A policy was added regarding the role of regional airport facilities within the Highlands Region.
- Text was added recognizing the shuttle as a form of local transit.
- A policy was added regarding scenic byways and corridors in the Highlands Region.

Redevelopment

Redevelopment Program and Policy

GPO Revisions

- More detailed description of appropriate redevelopment activities for each LUCM Zone in the Planning Area. These activities may be approved through Plan Conformance or the Highlands Redevelopment Site Approval process consistent with resource protection policies.
- Municipal conformance requirements were updated to include:
 - Identification of development, redevelopment and brownfield opportunities in the local land use element of the master plan.
 - Development regulations and zoning amendments to enable project implementation of identified redevelopment initiatives.

Smart Growth

GPOs for Smart Growth & Low Impact Development

- Modified narrative to describe low impact development as an element of smart growth that allows the natural features of the land to guide site design, stormwater management and resource protection
- Elaborated on low impact development strategies to be utilized in design and development, stormwater management and resource management in the Highlands:
 - General strategies, such as water conservation requirements
 - Site design & development, such as limiting building envelope and using energy efficient features
 - Stormwater management, that mimics natural hydrology of site & uses grass channels, bio-swales, water gardens
 - Resource management – avoid resource or minimize negative impacts

Landowner Equity

Landowner Equity

- Revised language in two policies to reflect that the TDR program is not limited to use in the Preservation Area and that sending zones may also be identified in the Planning Area upon Plan Conformance.
- Revised language to clarify that allocation of Highlands Development Credits to sending zone parcel includes a provision for a bonus credit if the landowner chooses not to exercise a Highlands exemption.
- Added language in to clarify that establishment of receiving zones must be consistent with the RMP.
- Clarified language that municipalities outside of the Highlands Region but within the 7 counties that choose to establish receiving zones must seek Plan Endorsement from the State Planning Commission.
- Clarify that Planning Area municipalities that do not conform to RMP, but wish to establish receiving zones must also receive Plan Endorsement from State Planning Commission as per the State TDR Act.

Landowner Equity New GPOs

New landowner equity policies addressing the need for legislation that:

- Permits municipalities outside of the seven Highlands counties to designate Receiving Zones that may accept Highlands Development Credits.
- Requires the payment of a fee to the HDC Bank for any increases in density or intensity of development beyond the allowable development yield as of the effective date of the act, where that development relies on a potable water source located in the Highlands Region and the development is situated in any municipality other than a conforming municipality.

Sustainable Economic Development

Sustainable Economic Development

- Clarified the municipal conformance requirement to develop an economic plan element (where appropriate) to achieve sustainable economic development and identify development, redevelopment and brownfield opportunities.
- Updated language in several policies to more broadly refer to the development and enhancement of the Region's tourism infrastructure.
- Revised policies and objectives to address public-private partnerships to support economic development initiatives.

Air Quality

Air Quality GPOs Changes

- Text was added to the policies in order to clarify that the monitoring and assessment of air quality for the Highlands Region be consistent and recognize power plants, landfills and incinerators as sources which are included in State and Federal monitoring programs.
- Recognition of additional key air toxic compounds were added to the “including but not limited to” language regarding air toxics in order to be consistent with State and Federal Programs.
- Text was added to clarify that the RMP energy efficient and green building polices support both the New Jersey Global Warming Response Act and the State Energy Master Plan.