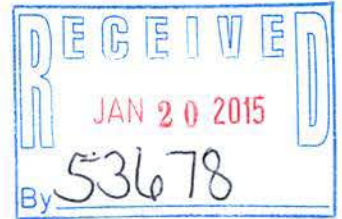


To Highlands Council

Re Comments for RMP Monitoring Program

Date January 15, 2015

From Deborah Post



Any fiscal impact analysis regarding the Highlands Act and its associated economic devastation in the Highlands must consider the NJ Highlands in the context of its larger mid-Atlantic location in the United States. Limiting the fiscal impact analysis to only an analysis of the Highlands in the context of New Jersey is highly misleading. Reference attached editorial by Warren County Freeholder Ed Smith.

# Highlands Act' is 10 years old: 'Highland water is still unprotected

By Warren Reporter

on January 14, 2015 at 11:06 PM, updated January 14, 2015 at 11:07 PM

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Warren Reporter

## By Warren County Freeholder Director Ed Smith

The Highlands Act has left a legacy of costs that are uniquely borne by the people of the Highlands region. As a Warren County Freeholder, I view things from a Warren County perspective.

Less than five miles from the county's western border, there is an economic activity level that is quite unlike Warren's, and it has for the most part continued to grow during the last decade. During the same period, Warren County's growth has stalled.

Until 10 years ago, Warren County was growing like the Lehigh Valley, and then it stopped. Some say it was the economic downturn from 2008 that did it, but Northampton and Lehigh counties continued to grow. So what happened? The answer is the Highlands Act.

The differential in growth on the two sides of the Delaware River became evident subsequent to the passage of the Highlands Act. For Warren County, the differential easily translates into tens of millions of dollars in lost jobs, business activity, and tax revenues over the past 10 years. There is a real cost that Warren County has paid to produce clean "Highlands" water.

Geographically, Warren County is unique in the Highlands in that all of its watersheds drain into the Delaware River. It is this fact that leads to a single

question: What does the State of New Jersey do to protect the clean water generated in Warren County so it can be used for the benefit of other users in the state?

The answer is nothing. Water from the Paulinskill, Pequest, Pohatcong, and Musconetcong, along with many other streams, flows unrestricted, and unpreserved, into the Delaware River to be picked up at the Bull's Island water intake for the New Jersey Water Authority's Delaware and Raritan Canal that flows to New Brunswick. Bull's Island is approximately 15 miles downstream of Warren County's southernmost watershed, the Musconetcong River.

The protection of Warren County's "Highlands Preservation Area" surface water lasts only until it is dumped into the Delaware River where it frequently represents less than 1/64th of the volume of the river. This vastly disproportionate volume is mixed with interstate waters that are mostly regulated to have a nitrate levels that can be nearly 100 times above the levels required in preservation regions within the Highlands. It is the nitrate level that is the basis of the "Nitrate Dilution Model" that is used to justify building lot sizes in the Highlands of up to 88 acres for a single family home.

Groundwater, the other asset that gives cause for nitrate regulation in the Highlands, is equally unprotected. The grand aquifers beneath the state span well beyond the Highlands, and the clean Highlands water that is produced at significant cost to the Highlands region, is mixed with and degraded by less stringent non-Highlands standards as soon as it flows out to the surrounding regions where it is used.

I believe that the direct benefit – the level of improvement of the general public health safety and welfare – too frequently used to justify a policy that ignores the equal protection provisions found in our Constitution, is not measurable even 10 years after the enactment of the Highlands Water Protection Act.

The sacrifice of a region can't be measured by improved water quality at the Bull's Island water intake or at the great water wells outside of the Highlands region. The costs of the sacrifice of Warren County go unlisted on the balance

sheet of the N.J. Water Authority, which assigns no asset value to the commodity they sell.

Financially speaking, \$0.00 is the value of the water they sell, only the transportation and storage costs are considered. Any costs borne by Warren County that may improve the quality of the product they sell are not considered because they most likely can't honestly show, by any means of accounting, where there is a direct benefit that came to them as a result of the effort.

Billions and billions of gallons of clean water, produced at significant cost, are not directly harvested, protected, or accounted for, and are gone without a trace. That is the legacy of the great Highlands Water Protection and Planning Act.

Water protection does not stop at a line on a map. It either is, or is not, an obligation of the entire political entity to ensure that water quality is protected. Any region can pollute the aquifer, and therefore, all regions have an equal obligation of sacrifice to ensure that the public benefit of clean water is not compromised. Equal protection under the law is a foundation of our constitutional republic. If a locality wants more stringent regulation, it has the power to pass such laws to that end. No entity, such as a state legislature, has the right to place dissimilar burdens upon any particular group or class when no measurable public benefit can be determined.

The "Highlands Act" needs to immediately go through a cost-benefit analysis. The "Nitrate Dilution Model" must be reevaluated to determine its suitability to mandate 88-acre minimum lot sizes for a single family home.

Finally, the Legislature needs to implement a non-discriminatory statewide water protection policy that equalizes the burden of responsibility for water protection to all regions of the state.