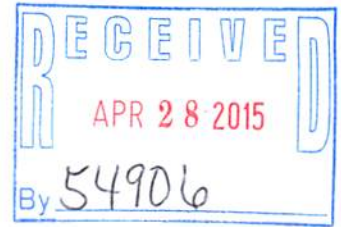


Township of White

Holly Mackey
Mayor

555 CR 519
BELVIDERE, NJ 07823

Kathleen R. Reinalda, RMC
Township Clerk



April 28, 2015

VIA FACSIMILE (908-879-4205) AND FIRST CLASS MAIL

New Jersey Highlands Council
Attn: RMP Monitoring Program
100 North Road
Chester, NJ 07930-2322

Dear Mr. Rilee:

On behalf of the governing body of White Township the following comments are submitted regarding the Highlands Master Plan as part of the Council's 2014-2015 Regional Master Plan Monitoring Program.

1. We have reviewed the comments submitted by the Warren County Planning Department Freeholder Resolution 125-15 and fully support the concerns and questions contained therein. In addition, we also support the Feb. 25, 2015 letter submitted by Freeholder Director Smith to Council Director Nordstrom as relevant to our concerns about the RMP and its impact upon White Township. Copies of these documents are attached.
2. We believe that the RMP has failed to address one of the most important mandates of the Highlands Act which declares so eloquently --- "while also providing every conceivable opportunity for appropriate economic growth and development to advance the quality of life of the residents of the region---" in section 2, the declarations section of the Act. The extreme constraints upon land use in the Preservation Area have created a no growth ever constraint that does not allow for ratable growth to support ever increasing cost of government operations and the education of our children and other essentials. We believe that the RMP must address how this important mandate of the Act will be achieved and what opportunities have and will be provided for economic growth and advancement of the quality of life. We request your response to this extremely important concern!
3. We are aware of the issues raised by Mr. Pat Moffitt whose research has shown that many of the declarations made in the Act and the RMP supposedly based upon documented scientific studies that cannot be found or never existed. We are concerned that there has been no action taken by the council to investigate these issues. We request the Council to call for an independent investigation by some qualified organization to determine if the Act and the RMP, their declarations, their requirements and constraints are truly based upon sound science and research.

Sincerely,


Samuel R Race,
Member, White Township Committee

Cc:

Senator Steve Oroho,
Assemblywoman Allison McHose
Assemblyman Parker Space
Freeholder Ed Smith
Freeholder Jason Sarnoski
Freeholder Rick Gardner
Pat Moffitt

**EDWARD J. SMITH**

Freeholder

Wayne Dumont, Jr. Administration Building
165 Route 519 South
Belvidere, NJ 07823

February 25, 2015

VIA FACSIMILE (908-879-4205) AND FIRST CLASS MAIL

New Jersey Highlands Council
Attn: RMP Monitoring Program
100 North Road
Chester, NJ 07930-2322

RE: RMP Comments Submission

Dear Director Nordstrom:

I am the Freeholder Director of the County of Warren. In that sworn capacity (1), I am writing to respectfully submit the following comments on the Highlands Regional Master Plan, as part of the Highland's Council's 2014 RMP Monitoring Program. Please note that, in accordance with my fiduciary responsibility to my constituents, my comments include issues I observe to be inconsistent with the interests and rights of the constituency I represent.

While the Legislature passed the Highlands Water Protection and Planning Act in 2004, it relies upon both the Highlands Council and the New Jersey Department of Environmental Protection ("NJDEP") to implement the stated goals of the Act. As you may know, the NJDEP's website states, "The Highlands Water Protection and Planning Act N.J.S.A. 13:20-1 et seq. protects drinking water for over 5.4 million people and helps preserve New Jersey's dwindling open space." As you also know, in Section 2 of the Act, the Legislature declared that the Highlands Region is an essential source of drinking water, provides clean and plentiful drinking water for one-half of the State's population, contains other exceptional resources, and provides abundant recreational opportunities for the citizens of the State. The Act created the Highlands Council as a regional planning and protection entity, to develop, and adopt and periodically revise a Regional Master Plan (RMP), with a primary goal of protecting and enhancing the significant values of the resources of the Highlands Region. According to the RMP, "The Highlands Act requires a substantive review take place every six years." "The implementation of a monitoring program will ensure that the RMP remain effective and current." (2)

A primary goal of the monitoring process, as presented to stakeholders, is to allow the measurement of progress toward goals outlined in the Act and the RMP, and shall among other tasks update the science and research agenda. (3)

I respectfully request that, upon review of the comments contained herein, the duly sworn officials (1) of both the NJDEP and the Highlands Council will be compelled by their oath of office, like me, to report the fatal flaws in the legislation that will require significant amendment, or possible repeal, to address the inconsistencies contained therein that preclude implementation of the stated goals of the Act by the agencies charged to do so.

When I began to prepare a comment on the RMP, I studied various aspects of the Highlands Act and its impact on the County of Warren. I found many disturbing facts that are inconsistent with the stated goals of the Act and constitutional provisions regarding equal protection under the law.

Please accept the following comments, which I respectfully request be addressed by the Council:

1. Citizens within the area, defined by the Legislature in the Highlands Act have responsibilities and obligations that are unique, and are not placed equally upon all of the citizens of the State solely based upon politically determined lines on a map. (4)
2. A stated goal of the Act is to protect the drinking water for over 5.4 million people. (5)
3. Protection of the drinking water supplies of the State, thereby enhancing the general health, safety and welfare of the citizens of the State has been adjudicated as justification for the Legislature to take extraordinary measures that may supersede constitutional protections.
4. A stated goal is that the Act helps to preserve New Jersey's dwindling open space. (6)
5. The preservation of open space, acquired by easement or purchase in fee, is well established in law. (7)
6. All watersheds in the County of Warren flow into the Delaware River, which is the western border of the State of New Jersey. (8)
7. The watershed area of the Highlands Preservation area of the County of Warren comprises 1.5%, or approximately 1/64th, of the watershed area of the upper and central Delaware River. (9)
8. 98.5% of the water, based upon the surface size of the watersheds, mixes with the water from the Highlands Preservation area of the County of Warren at an approximate ratio of 64:1 due to variations of localized weather events that may impact the ratio. (10)
9. There is no man made infrastructure to transport the "protected" drinking water from the County of Warren to the water intakes that facilitate delivery to millions of users in the State of New Jersey.
10. The statutorily protected drinking water of the County of Warren is released and mixed into the Delaware River as a means of transport for the fifteen or more miles to the water intakes for the New Jersey Water Authority. (11)
11. Any contribution, improvement, or protection by the County of Warren to the quality of the drinking water to be used by millions of the citizens of the State of New Jersey is not feasibly measurable and thereby non-existent as a matter of fact.
12. The protected surface waters from the County of Warren do not provide any measurable improvement in the general health safety and welfare of millions of citizens of the State of New Jersey.
13. Recharge of groundwater aquifers is a factor in the Highlands Act, and the key regulatory scheme in the form of nitrate dilution models and impervious coverage restrictions. (12)
14. There are numerous aquifers in the State of New Jersey. (13)
15. The County of Warren is situated upon two aquifers - the Highlands crystalline units in the South, and the Valley and Ridge sedimentary units in the North. (14)
16. The Highlands crystalline aquifer is predominant in the regions delineated in the Highlands Act.

17. The Pohatcong Valley Groundwater Contamination Superfund Site stretches across nearly 9800 acres in Warren County and was added to the "Superfund List" in 1989. (15)
18. The Pohatcong Valley Superfund Site is situated upon the Highlands Aquifer.
19. The plume of contamination, which is an indicator of both water flow speed and direction, has moved westward toward the Delaware River, with groundwater contamination still present decades later, although stretched further west with a defined distance from the source of less than ten miles. (15)
20. If the contamination is moving in the only direction that is not towards another area of the State of New Jersey, and contaminated waters still remain in the area decades later, it is a reasonable presumption that the groundwater resources within the aquifer in Warren County are not a factor in the quality of the groundwater drinking supplies for the rest of the State of New Jersey.
21. When evidence is analyzed from the perspective of Warren County, after ten years, the stated goal of the Highlands Act, being the protection of the drinking water for the millions of residents of the State, the Act is an abject and thorough failure.
22. There is no measurable benefit to justify the special legislation that obligates Warren County to perform unique tasks under the Highlands Act, and is its fatal flaw.
23. Equal protection under the law is a fundamental constitutional right. (16)

General Questions:

1. The nitrate dilution model is used to preserve pristine water quality in a locale, which then, if not harvested, is a component of an overall watershed. Given this fact, how is the impact of the nitrates from the septic of a single family dwelling in the 88 acre zone of the Preservation area more of a factor than the nitrates generated from a single family dwelling in the more densely populated areas of a Planning Zone when both impact the entire production of the watershed equally?
2. Given the virtual non movement of contamination at the Pohatcong Valley Superfund Site, the restrictions of impervious coverage in the Highlands seem utterly irrelevant. Evidence indicates that surface water and groundwater both end up as river flow due to the impermeability of the aquifer. Is there some other factor that benefits the entire State that justifies the severe limits on impervious coverage in the Highlands?
3. Wild and Scenic designation has been assigned to the Musconetcong River, which is a major carrier of the pristine quality drinking water that is produced in the Highlands and ultimately flows to be dumped into the Delaware River. Given the efforts to "Free the Musky" and the need to harness the pristine drinking water generated from the rivers in the Highlands region to benefit the rest of the State, how does such apparatus of diversion which would be needed to collect the Highlands waters before they are mixed with the lower quality water in the Delaware remain consistent with the other environmental initiatives enacted to date, especially since some are under federal law?

1. NJS 41:1-1 et seq.
2. Highlands Master Plan p.416
3. Highlands Regional Master Plan Update "Briefing Report" 10/14

4. A-2635 MCKEON "The Highlands Water Protection and Planning Act" - Section 7
5. www.nj.gov/dep/highlands
6. www.nj.gov/dep/highlands
7. N.J. Constitution Art. I; Paragraph 20
8. "Watersheds of the Delaware Basin" Delaware River Basin Commission (DRBC)
9. "Potable Water Supplied by the Highlands in 1999" NIGS & NJDEP 4/04
10. DRBC Watershed data
11. "Potable Water Supplied by the Highlands in 1999" Pg. 6
12. N.J.S.A. 13:20-1 et seq.
13. Aquifers in NJ NIGS & NJDEP 1998
14. US Geological Survey Principal Aquifers in NJ www.usgs.gov/infodata/aquifers
15. The Warren Reporter 1/23/15 "\$92 million settlement will guarantee funding for cleanup"
16. N.J. Constitution Art I: Par 5 and U.S. Constitution : Amendment XIV

Thank you for the opportunity to provide comments on the Regional Master Plan. If you have any questions, or would like any additional information, please do not hesitate to contact me.

Respectfully Submitted,



Edward J. Smith

Freeholder Director

Cc: Governor Chris Christie
Senate President Stephen Sweeney
Senator Robert Smith
Senator Michael J. Doherty
Senator Steven Oroho
Assembly Speaker Vincent Prieto
Assemblyman John McKeon
Assemblyman John DiMalo
Assemblyman Erik Peterson
Assemblywoman Allison McHose
Assemblyman Parker Space

**WARREN COUNTY PLANNING DEPARTMENT
WAYNE DUMONT, JR. ADMINISTRATION BUILDING
165 COUNTY ROAD 519, SOUTH
BELVIDERE, NEW JERSEY 07823-1949**

**DAVID K. DECH
PLANNING DIRECTOR**



Telephone: (908) 475-6532
Fax: (908) 475-6537
planningdept@co.warren.nj.us

February 26, 2015

New Jersey Highlands Council
Attn: 2014 RMP Monitoring Program
100 North Road (Route 513)
Chester, NJ 07930-2322

Dear Mr. Rilee,

The following are comments on the Highlands Regional Master Plan as part of the 2014 Monitoring Program as prepared by the Warren County Planning Department and endorsed by the Warren County Board of Chosen Freeholders, Resolution attached. They are arranged by major topic area as they were presented in the Stakeholder Meeting Briefing Book released October 2014, and are presented in the spirit of the stated goal to update the science and research agenda for the RMP.

Sincerely,

A handwritten signature in black ink that reads "DK Dech".

David K. Dech, Planning Director

DKD/fg

cc. Warren County Board of Chosen Freeholders
Steve Marvin, County Administrator
Warren County Planning Board

**THE WARREN COUNTY BOARD OF CHOSEN FREEHOLDERS
WAYNE DUMONT JR. ADMINISTRATION BUILDING
BELVIDERE, NEW JERSEY 07823**

RESOLUTION 125-15

On a motion by Mr. Sarnoski, seconded by Mr. Gardner, the following resolution was adopted by the Board of Chosen Freeholders of the County of Warren at a meeting held on February 25, 2015.

**RESOLUTION TO TRANSMIT WRITTEN COMMENTS TO THE NEW
JERSEY HIGHLANDS COUNCIL AS PART OF THE 2014-2015 REGIONAL
MASTER PLAN MONITORING PROGRAM**

WHEREAS, the Highlands Council is currently seeking comments from the public regarding the Highlands Regional Master Plan as part of its 2014-2015 RMP Monitoring Program, and

WHEREAS, the monitoring program will evaluate the RMP's effectiveness in fulfilling the goals and objectives of the Highlands Water Planning and Protection Act, and

WHEREAS, the monitoring program will assess the progress made toward achieving the Highlands Act goals and objectives, the relevance of the RMP's policies and programs in addressing the intents and purposes of the Highlands Act, and the overall impact of the RMP on the environmental and economic health of the Region, and

WHEREAS, written comments are due by February 27, 2015, and

WHEREAS, comments have been prepared by the Warren County Planning Department and dated February 25, 2015.

NOW, THEREFORE, BE IT RESOLVED by the Board of Chosen Freeholders of the County of Warren that the comments as prepared by the Warren County Planning Department and dated February 25, 2015 are to be transmitted to the New Jersey Highlands Council.

BE IT FURTHER RESOLVED, that the Planning Director is hereby directed to transmit said comments on behalf of the Board of Chosen Freeholders.

ROLL CALL: Mr. Gardner yes, Mr. Sarnoski yes, Mr. Smith yes

I hereby certify the above to be a true copy of a resolution adopted by the Warren County Board of Chosen Freeholders on the date above mentioned.



Steve Marvin

Clerk

[E6]

Comments on Highlands Regional Master Plan as part of the 2014-2015 Monitoring Program

Prepared by the Warren County Planning Department, February 25, 2015

Natural Resources

There appears to be inconsistency and overlap of maps and figures. For example, Figures 3.2, Forest Resource Area, and 3.3 Forest Integrity Indicators by HUC 14 should be consistent with each other. However some HUC 14 watersheds are depicted as being high in forest integrity yet have no forest resource area. A good example is the Town of Hackettstown. It is not within a forest resource area, yet the HUC 14 watershed that it is located within, is ranked as a high integrity. The mapping is confusing, and the explanation for the mapping is even more confusing.

The same can be said for the Agricultural maps. Alpha Borough is shown as being in an Agricultural Resource Area. This calls into question the accuracy of the Plan's mapping.

The buffer distances established for natural features such as vernal pools (1,000 feet), lake management areas, etc. seem to be arbitrary and are measured with no consideration of existing conditions.

Question #1. To what extent has the RMP been reviewed for internal consistency with its data and assumptions?

Question #2. What is the scientific basis for establishing the blanket buffers and standards?

Water Resources Protection

The premise behind the Act, Rules, and Plan is to protect Highlands's water quality and quantity for use by the Highlands and non-highlands populations. According to a document titled Potable Water Supplied in 1999 by New Jersey's Highlands by the NJ Geological Survey, it reported that the Highlands supplied 34% percent of potable water used in the State in 1999. 36% of the of the Highlands area is within the Delaware River watershed which consists of all of Warren County, approximately half of Sussex County, and smaller portions of Hunterdon and Morris Counties. All of Warren County's water drains into the Delaware River and no water is collected for drinking water reservoirs for use outside of the region. Further analysis reveals that Warren County comprises about 5.3% of the entire Delaware River basin north of Trenton, 3.88% of the basin is in the Warren Highlands region, and 1.55% is in the delineated Highlands Preservation Area. Water is collected from the Delaware River for non-Highlands users by intakes that feed the Delaware and Raritan Canal south of Warren County and north of Trenton. Water from the Preservation Area in Warren County is collected for distribution to the rest of

the State at the intakes located at Bull's Island at an approximate ratio of 1 part to 64 parts based on watershed area data for the entire Upper Delaware River basin. A dilution of 1 to 64 of "Highlands Warren County" water does not ensure any meaningful or measurable improvement of water quality at the intakes downstream of Warren County. The burden placed on Warren County is unreasonable and arbitrary due to the inability to define any gain at the water intakes.

In terms of groundwater quality, there seems to be a misconception that limiting future development of individual septic systems to extremely low densities, 25 acres and 88 acres, will actually improve water quality. The basis for the lot sizes are based on a NJDEP report titled Basis and Background of the Septic Standard of the Highlands Water Protection and Planning Act Rule at NJAC 7:38-3.4 that used 45 samples throughout the region in mixed use areas. The median ambient nitrate level was .76 mg/L. For pristine areas 7 locations were selected as a representation of "pristine" forested areas. It appears that most of these samples were taken from State Parkland Areas. Therefore the nitrate levels included in the modeling reflect "pristine" conditions, with an average value of .21 mg/L. So the values selected are to maintain the existing groundwater quality despite the commonly used target of 2mg/L in the non-Highlands area of the State. The Federal drinking water public health standard is 10 mg/L.

Question #3. What methods are in place to demonstrate that the strict nitrate target of 25 acre and 88 acre densities, has resulted in an improved ground and surface water quality?

Question #4. Given the facts as presented above, why should Warren County be held to the higher strict standards for water quality, the 25 acre and 88 acre septic density standard when the measurable impact of nitrate dilution downstream in the Delaware is unquantifiable?

Question #5. As discussed above, since Warren County's Highlands water drains into the Delaware River at a 1 to 64 part ratio, having an insignificant impact on water quality at the intakes, is it inappropriate to impose a strict nitrate standard on our region when the users of the water are indigenous?

Question #6. Having no special statewide interest therefore, why shouldn't the nitrate standard in Warren County be the same as the statewide standard of 2mg/l or locally determined if a municipality chooses a more strict standard?

Question #7. What is the purpose of the water being protected at a level at .17mg/l?

Question #8. If the response to question #7 is that it is for drinking water, how is that drinking water transported to its end users?

Question #9. What protections are provided to ensure that the water maintains a .17mg/l pristine standard to where it is harvested at the water intakes 15 miles south of Warren County on the Delaware River?

Question #10. Where is the cost/benefit analysis to justify imposing the .17mg/l standard in the Preservation area when the water is actually taken from the Delaware River 15 miles south of where the Musconetcong River drains into the Delaware?

The Highlands Act, Rules, and RMP rely heavily on regulating and limiting impervious coverage. One of the criteria for a major development in the Preservation Area is that if a development will exceed more

than ¼ acre of impervious coverage it may not exceed 3% of an existing lot. Reconstruction of a structure in the Preservation area may not exceed 125% of the original coverage. Farmland conservation plans limit impervious coverage from 5% to 9% of the farm depending on the farm unit. Redevelopment sites may only be declared in the Preservation Area if the site contains 70% or more impervious coverage.

Question #11. Why is the Highlands so unique that special impervious coverage restrictions are needed and would not be applicable elsewhere in the State?

Question #12. What is the scientific rationale for these impervious coverage standards?

Question #13. What is the rationale in applying different impervious coverage standards in the Preservation Area and in the Planning Area?

Contaminated Sites

There is very little discussion on prioritizing the clean-up of contaminated areas or on methods to conserve water consumption on those that use the water outside of the Highlands Region. And there is little discussion on increasing water supply through the construction or expansion of reservoirs, impoundments, and other surface water and groundwater systems.

One of the planning area goals is "to protect, restore, and enhance the quality and quantity of surface and ground waters therein;" There is little to no discussion in the RMP where the existing contaminated sites are located and no meaningful discussion in setting priority to clean up these sites. According to the RMP, most of the watersheds have impaired water quality. It seems logical that cleaning up contaminated sites that are known to be significant polluters of our environment should be of top priority to restore and enhance the region's water resources.

Question #14. What method and indicators have been developed that demonstrate that existing contaminated sites have been remediated?

There is very limited mention of superfund sites in the RMP, and nothing specific to the Pohatcong Valley Groundwater Contamination Superfund Site that encompasses over 5,000 acres. It is polluting the carbonate limestone aquifer underneath portions of Washington Borough, and Washington, Franklin, and now Greenwich Townships with PCE and TCE. Because it is a limestone aquifer, the contamination can travel further distances in a shorter amount of time within the formation. The contamination plume appears to be contained within the Pohatcong Valley formation and has not migrated into adjacent formations. The contamination has been identified since the 1980's and is still here.

Question #15. What analysis/study is utilized that can demonstrate that the migration of Warren County's groundwater affects water supplies elsewhere in the state?

Question #16. It now appears a settlement is in the works with the known polluter to remediate the contamination. Is this settlement included in or related to the RMP in anyway?

Question #17. The fact that the contamination plume has not migrated into adjacent formations is an indicator that the basins seem to be self-contained. This gives credence to the contention that Warren County should not be subject to the same Preservation Area water quality standards. What evidence can be

demonstrated that Warren County's groundwater uniquely contributes to the overall quality of the drinking water of the State.

Water Supply

A-2635 known as the Highlands Water Protection and Planning Act states that the "Highlands is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, including communities beyond the NJ Highlands...". The RMP repeats several times the significance of the Highlands Region's reservoirs in supplying water to over five million New Jersey residents. It was reported that these reservoirs, built by Newark, Jersey City, the North Jersey District Water Supply Commission, and the State of NJ, may have insufficient amounts of water to provide anticipated water needs resulting mainly from growth outside the region. In addition, a few Highlands communities have their own small reservoirs. Development in urban communities will place heavy stresses on these reservoir supplies. Although most reservoir water from the major reservoirs is exported, limited supplies have been contracted to a few communities in the eastern Highlands.

Question #18. If the water supply is at a deficit because of the growing population outside of the Highlands Region, preventing growth in the Highlands Region will have a minimal effect. What is being recommended to construct new drinking water reservoirs or storage facilities, utilize existing non drinking water reservoirs, require strict water conservation measures on non-Highlands users of water, repair leaking water supply lines, and curtail future growth outside the Highlands region to reduce the demand for water?

Question #19. Since the RMP has been adopted what methods and what indicators have been developed to measure how much water supply has been added in the region and conserved by users outside the region?

The RMP goal is to encourage development into non Preservation areas, inside and outside the Highlands region, and into existing cities and towns or high density developments. Cities and towns are usually served with central water and most new higher density developments require centralized water and sewer facilities. Sewage treatment plants discharge effluent into surface waters providing no groundwater recharge that is characteristic with individual septic systems. The NJ Water Supply Plan relies on the recharge of water from suburban development and does not take into account an increase in withdrawals without any groundwater recharge as envisioned in the RMP. As a result groundwater will be depleted much faster under the desired scenario envisioned in the RMP.

Question #20. What analysis was done to project available water supply if future development as encouraged in the RMP were to take place in towns and cities over the next 20 years?

Question #21. When was the NJ Water Supply Plan last updated, and does its current version make reference to the policies implemented in the RMP or vice versa?

Water and Wastewater Utilities

According to the RMP "There are 42 Highlands Domestic Sewerage Facilities representing a total wastewater treatment capacity of approximately 121.61 MGD and a total discharge flow at the maximum three month rate of 99.98 MGD. Some of these facilities have service areas that extend beyond the Highlands Region so a pro rata allocation based on the relative portion of the service area in

and outside of the Highlands Region was used to estimate a Highlands Region treatment capacity of approximately 78.41 MGD and a total discharge flow at the maximum three month rate of 63.11 MGD, or approximately 80 percent of the total treatment capacity. Individual facilities have discharge flow (at the maximum three month rate) ranging from 42 percent to 192 percent (indicating a deficit) of total treatment capacity, and from a deficit of 0.21 MGD to 2.52 MGD of current available capacity. " This illustrates that most of the Highlands is in a water deficit and by continuing the exportation of water to cities outside the Region or encouraging that growth occur in a manner that would necessitate the use of centralized discharge to surface water systems would be counterproductive to ensuring adequate water supply.

Question #22. It would seem that if it were State and Highlands policy to rob the Highlands of its water for the benefit of those living and conducting business outside the region, which is not the case in Warren County at this time, how much compensation has been made to Highlands communities for the loss of water and the loss of potential economic development that may have been diverted elsewhere?

As discussed before, Warren County's water is harvested from the Delaware River after mixing through a 1 to 64 part dilution. For NJ's non-Highlanders to benefit directly from Warren County's pristine drinking water, infrastructure must be built that would harvest and transport the water directly to the water purveyors instead of allowing it to mix with the waters running off from Pennsylvania and New York.

Question #23. There is no infrastructure in place to transport Warren County's water to other regions of the State of New Jersey in a manner that does not degrade its quality. This insufficiency is a fatal flaw in the regulatory structure to effectuate the Act's stated goal of protecting drinking water. What infrastructure needs to be in place to ensure that Warren's water is delivered untainted to the users?

Question #24. What would be the cost to construct such facilities? Until such infrastructure is in place, the Highlands rules/regulations/standards are totally inappropriate and should be suspended in Warren County, and the entire Delaware Watershed area in the Highlands region. There is no measureable or tangible benefit to justify subjecting Warren County to the strict standards established in the Highlands Regional Master Plan and Rules.

Transportation and Air Quality

One way to help traffic congestion and improve air quality is to encourage job growth near the population so that people will not have to drive long distances to their workplaces.

Question #25. What does the Highlands Plan recommend to reduce commuting, and what is the Highlands Council doing to actively promote job growth in the Highlands Region?

Another way to help with traffic and air quality is to promote and subsidize the use and operations of public transportation systems. All forms of public transportation should be encouraged and funded.

Question #26. To what extent has the Highlands Plan supported increasing public transportation systems in the Highlands Region as a way to improve the resident's quality of life, reduce traffic congestion, improve air quality and promote economic growth?

Historic, Cultural, Archeological and Scenic Resources

Protecting historic, cultural, archeological and scenic resources are worthwhile and important goals. With the identification and protection of these resources it would be equally important to prepare and implement an economic development strategy that could promote these resources.

Question #27. What resources have been solely dedicated for use in the Highlands to allow the Council to fulfill the stated goal?

Question #28. What percentage of the statewide appropriations for these purposes has been dedicated to preserving these resources in the Highlands?

Question #29. Has the Council informed the Legislature of any insufficiency that precludes the Council from achieving its stated goal?

Question #30. While supporting the protection of these resources, how does the Highlands Plan promote policies that will support local economic development strategies?

Agricultural Resources

Agriculture appears to be supported in the Plan. However, agricultural uses are one of the heavier contributors of nitrates, yet the concern with the level of nitrates in the water seem to contradict whatever support the Highlands Plan seems to give to agriculture.

Question #31. How will the Highlands Plan and Council deal with this contradiction in policy?

Implementation

Plan Conformance

The burdensome process of plan conformance that municipalities must go through seems to far outweigh any benefits that they may receive after attaining plan conformance. According to the Highlands Council website, as of January 12, 2015, 60 of the 88 municipalities in the Highlands region filed a petition for plan conformance for the Preservation Area or both the Preservation and Planning Area. Five of the seven counties filed for Plan Conformance. As of January 12, 2015 three municipalities have obtained unconditional approval for plan conformance, two for preservation area only, and one for both areas. Almost all of the others are approved with conditions. Most of the petitions were filed in 2009 or 2010. The three that were granted unconditional approval obtained conformance in three years.

In addition, almost \$4.7 million has been approved in grants to municipalities to go through the conformance process. Although grants are provided, it seems like an extraordinary amount of money was spent to have just three of the 88 municipalities come into conformance. This is an indication that the plan conformance process is much too time consuming and costly to attain.

Question #32. How can the process be reformed to make it simplified and inexpensive to compare a municipal master plan against the RMP.

Question #33. What have municipalities gained or expect to gain by going through the plan conformance process?

Question #34. Many municipalities chose to opt in due to concerns over COAH mandates. Recent decisions seem to indicate that COAH obligations will force development in a manner that is contradictory to the stated goals of the act. What can be done regarding this conflict?

Future Land Use

Transfer of Development Rights

According to the Highlands Planning and Water Protection Act at N.J.S.A. 13:20-8 Preparation, adoption of master plan for the Highlands Region, it reads

8. a. "The council shall, within 18 months after the date of its first meeting, and after holding at least five public hearings in various locations in the Highlands Region and at least one public hearing in Trenton, prepare and adopt a regional master plan for the Highlands Region. The Highlands regional master plan shall be periodically revised and updated at least once every six years, after public hearings. *The council shall not adopt the regional master plan unless it recommends receiving zones in the planning area and capacity therefor for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this act.*"

And then according to the Act at N.J.S.A. 13:20-13 it reads "The council shall set *a goal of identifying areas within the planning area that are appropriate for development as voluntary receiving zones that, combined together, constitute four percent of the land area of the planning area*, to the extent that the goal is compatible with the amount and type of human development and activity that would not compromise the integrity of the ecosystem of the planning area."

The Plan states on page 353 that 17,776 acres are to be identified to meet this statutory goal. However the current plan has "identified" only 12,980 acres equating to approximately 3% of the planning area 12,000 acres are redevelopment and infill areas, and 980 acres are considered greenfields. The plan falls 4,796 acres short of the statutory requirement. In addition, the areas mapped are inaccurate and inappropriate. Using Belvidere as an example, the Courthouse, Annex, the Third Street School, the Catholic Church, the High School, etc. have been identified for redevelopment and infill possibilities. How can the Highlands Regional Plan identify these buildings/areas for redevelopment/infill when they are used currently for essential county, school, and religious activities. The surrounding land area around the building are athletic fields, parking lots, and small green spaces. Yet these lots are being used in the calculation to meet the 4% land area goal for receiving zones.

Belvidere is not the only example. One can look at Hackettstown, Washington Borough, and Phillipsburg. It is apparent that no meaningful attempt was made to identify land appropriate for receiving zones for TDR. Page 354 states that it will rely on the plan conformance process with

municipalities to identify the remaining additional lands. This statement is not consistent with the intent of the Act for two reasons. The first is that the statement assumes the areas identified as part of the 4% are appropriate for development. The second is that the Act does not say to identify a portion of the 4% and then identify the remaining lands during plan conformance.

Question #35. The Plan was adopted before it met this statutory requirement. What efforts are being made to identify viable receiving zones to remedy this statutory insufficiency before the next RMP is adopted?

Question #36. Has the Council advised the Legislature of the inconsistencies with the Act, and the need to remedy the insufficiencies in this statutory mandate?

Clustering

The Highlands Plan's policies specify that clustering is to take place on a parcel where 80% of the remaining land area is to be left vacant for agricultural, environmental, open space purposes. The plan states further that the development should take place on no more than 10% of the parcel. While it is understood that the goal is to prevent complete coverage of lands and to protect and preserve vital agricultural and environmental features, it seems that placing the 80% and 90% restrictions on new clusters would tend to discourage clustering rather than encourage it.

Question #37. Rather than being so rigid in the clustering standard what provisions will be included in the RMP to provide flexibility in the clustering standards to avoid going through a lengthy waiver process?

According to the RMP, the median HUC 14 nitrate concentrations measured in the Highlands region range from .17mg/l to 3.6mg/l are well below the Federal public health standard. The Warren County Strategic Growth Plan used 2 mg/l which is five times more stringent than the Federal public health standard and was considered to be an acceptable model assumption to protect groundwater resources, and has been adopted for use in statewide application by NJDEP. In addition, the County's Strategic Plan suggested alternative septic systems that promote a denitrification process that provides for a further reduction in nitrates and allows septic system densities to be much less. These systems will help promote clusters.

Question #38. How will the RMP promote the use of alternate septic systems and denitrification systems to promote clustering on smaller lots?

Clustering and Nitrates

The following wording appears in the Plan.

Objective 2L2e: New residential development using septic systems where clustering or conservation design techniques are employed shall have a gross density (for all parcels involved in the development proposal) based on the nitrate dilution target appropriate for the Land Use Capability Zone, but with the density for the developed portion of the site based on a nitrate dilution target not to exceed 10 mg/L or any more stringent requirement as required by N.J.A.C. 7:15.

It seems like a conflict in the application of scientific principles. The 25 acre and 88 septic densities are used in the preservation area because of the purported desire to maintain or restore water quality to a pristine condition for drinking. Yet in a cluster, while the overall density of the cluster is to remain at the level established in the Protection, Conservation, or Existing Community Zone, the developed portion of the site may be built on lot sizes based on a nitrate dilution model using the 10mg/l standard. This sets a standard where nitrates may be higher in clusters and that human consumption of higher nitrates living in clusters is acceptable.

Question #39. If it is acceptable to drink water with up to 10mg/l nitrates in a cluster, why not use that standard when modeling water quality Statewide?

Question #40. Why do nitrates introduced at a cluster in a watershed have less impact than nitrates introduced in a non-cluster in a different location in the same watershed?

Question #41. Is there any indication that septic nitrate inputs for a single family varies in impact on overall water quality based on whether it is located in a planning or preservation zone?

Land Owner Equity

Transfer of Development Rights

The Highlands Council website states that a new Highlands Development Credit Program will be rolled out in 2015. This could be an acknowledgement of how the current TDR program has not been entirely successful. Since its inception, 98 applications have been submitted to the HDC program and 18 have actually been funded. According to the website, 518.25 credits have been purchased, for \$8.292 million, preserving 603.14 acres of land. This equates to \$13,748 per acre. It is unclear if this program preserves the land from future development. There appears to be no discussion stating that the property would carry a development restriction in exchange for selling the HDC's.

Out of the 98 applications submitted for HDC, 25 were deemed eligible for HDC purchase. 18 were funded and for the others it appears that either the land owner declined the offer or the HDC Board withdrew the offer. The Highlands website offers no explanation why the other 73 applications were not eligible for the program.

Furthermore, there appears to be no market for the HDC's when they are purchased. No information is provided for where the credits may have been used.

Problems with the TDR system could be 1. lack of adequate funding, 2. lack of interest in voluntary zone property owners, 3 lack of interest in establishing viable receiving zones, 4. no market to use HDC's.

Question #42. A better system needs to be put in place to establish receiving zones and market the HDC's so that the program can be successful. What indicators are in place to measure the TDR program's effectiveness?

The lack of an effective TDR and unusual and unique septic density regulation has severely limited the ability of the farming community to use their land as business collateral. The zoning densities that were

in place at the time the Highlands Act was adopted were based on rational assumptions vested with municipal authority.

Question #43. Landowners who had their land downzoned to 25 or 88 acres by regulatory mandate have not been compensated for their loss in value. What has been done to address this inequity? The Legislature must be advised by the Council of its responsibility to provide adequate funding.

Equity for other landowners

Not every farmer or landowner will wish to enroll in a government sponsored preservation program. And not all land areas, small or large, farm or forest, will qualify under existing farmland preservation or open space type programs. The landowners of these properties cannot realize the benefits of a government program that are thought to help protect a landowner's equity. The Highlands Council must develop, promote, and demand a program that will compensate landowners that realize a loss in equity/value and do not qualify for existing preservation programs.

Question #44. Has the Council advised the Legislature of such insufficiencies and the Council's inability to address this component?

Economic Development

Agritourism – Heritage Tourism

The Regional Master Plan tends to put too much emphasis on tourism. While Agritourism and Heritage tourism can thrive in the Highlands region, neither can generate significant employment and wages to sustain an indigenous population of the region. How many petting zoos, wineries, Christmas tree farms and corn mazes can this area support? Seasonal employment cannot sustain a family year round. As is evident in other parts of the country, economic growth based on natural resources often results in the growth of secondary employment industries such as retail establishments, restaurants, hotels, active recreational parks, etc.

Question #45. As written, the Highlands Act, regulations, and Plan would make it too difficult if not impossible for retail establishments, restaurants, hotels, active recreational parks, etc. to build in the Highlands. How can waivers or a relaxation in standards be written into the Rules and the RMP to allow for agritourism and heritage tourism based industries and support industries to locate and build in the Highlands?

Question #46. How much in sales revenue, employment, and wages were realized in the agri-heritage based tourism industries since the RMP was adopted?

Question #47. How will the RMP be amended to provide an equal opportunity and standard of living for residents of the region that is found elsewhere in the State or at least equal to what it was prior to implementation of the restrictions of the Highlands Act?

Question #48. Has the Legislature been advised by the Council of this challenge?

Redevelopment

On Page 325 of the Highlands Regional Master Plan, under Programs for Redevelopment, the section contains two maps identifying Tier 1 and Tier 2 sites for redevelopment. This is a start but in order to promote meaningful economic development in the Highlands Region, the Council should do more to actively promote and market these sites. The additional requirements to obtain redevelopment designation by the Highlands Council should be streamlined, if not eliminated altogether. A case study is Borealls in Mansfield Township. Borealls struggled to obtain status as a redevelopment site in the Preservation Area. It took years to obtain that designation when in reality it should have been designated with very little question.

Question #49. Redevelopment and brownfield sites in the Highlands Region should be subjected to the same rules and regulations as those elsewhere in the State. Impervious coverage regulations should be eliminated for brownfields. How will the procedures be streamlined for properties located in the Highlands?

Question #50. What program will the Highlands Council develop to actively promote the development of redevelopment and or brownfield sites? This will help to offset the loss of ratables resulting from the overly strict development standards imposed by the Highlands Act, Rules and Plan.

S-1240

Senator Oroho has introduced S-1240 which provides an exemption/waiver to properties in the Preservation Area situated along major roadway and freight railroad corridors that were zoned commercial or industrial when the Act was passed. It estimated that 1,651 acres or 2.46% of the Preservation Area land area in Warren County could be affected.

Question # 51 Passage of this bill will reinstate some of the properties that municipalities had planned for economic development prior to the Act. Will the Highlands Council support and recommend passage of S-1240?

Municipal Equity

This relates to how the Highlands Region and in particular the municipalities that have a significant amount of land located within the Preservation Area and had its non-residential commercial/industrial zoning with a planned centralized sewer designations stripped of its planned development potential. Local governments and school districts that rely on property tax revenues have been placed in an inequitable situation by the State. All local governments in the State are limited by the 2% levy cap law. All local governments face increasing costs in material and labor and they provide levels of service that must be maintained. When local growth is restricted by the Highlands Act, municipalities cannot rely on increased ratables to boost their tax base thereby forcing local government to increase taxes up to the 2% limit while also cutting services.

According to the Abstract of Ratables for Warren County, the county equalized valuation in 2008, the year that the RMP was adopted, was \$13,822,543,191. In 2014, the equalized valuation was \$10,631,545,458. The valuation in the intervening years exhibited a steady straight line reduction in value with an overall loss of \$3,190,997,733 or a 23% loss of county equalized valuation. During the

same time period, net county taxes apportioned went from \$68,451,996 in 2008 to \$71,252,994 in 2014. Meanwhile the amount that must be raised in taxes by the County has increased by 4% over the last 6 years, resulting in higher tax rates. Whether the reduction in value may be attributed to appeals, loss of ratables, or reassessments, the fact is that the Highlands Region is at a disadvantage in attracting ratable growth needed to offset the continued reduction in assessed land value and rising county expenditures.

Question #52. The strict standards contained in the Act, Rules and Plan need to be relaxed to permit growth out of fairness to the region's taxpayers, and residents. What actions will the RMP recommend and the Council take to prevent the region from falling into an economic depression?

Question #53. What analysis of the cost and benefits that have resulted from the implementation of the RMP and of the Highlands Rules has been conducted? Specifically the analysis should be conducted for the regions located within the Delaware River Watershed that are subjected to the unique rules and standards.

Question #54. If a cost/benefit analysis has been completed, please provide it for review. If one has not been done, why not?

Question #55. According to the report Potable Water Supplied in 1999 by the New Jersey Highlands, 7% of the Delaware River intakes' water is from watersheds located in the New Jersey Highlands. Is the entire volume of that 7 percent considered to be drinking water? If so, how much better is that drinking water protected at the point of intake as a result of the Highlands Act from the Delaware River 15 miles south? What is being done to make it better? What can be done and how?

SUMMARY: In general, the Highlands Act, Rules and Regional Master Plan have established a region of the State that is being treated in an inequitable manner through the imposition of unique, complicated, difficult, and costly environmental standards and processes that have no demonstrative outcomes or results. All of Warren County's water drains to the Delaware River where it is diluted with waters from the States of Pennsylvania and New York at an estimated ratio of 64 to 1. Intakes for the NJ-American Water Company and Trenton Water Works are located just north of the City of Trenton. Another water intake is located south of Trenton for the City of Burlington. In the overall scheme, Warren County's efforts in the preservation of the drinking water supplies of the state result in an insignificant and unmeasurable benefit to the overall quality of the drinking water of the state and is the most notable failure of the implementing agencies to effectuate the stated purposes and goals of the Act. While Warren County's residents face the same strict standards as those in the Highlands that are in locations that do supply larger ratios of water, there is no adjustment in the regulatory scheme to reflect this fact. The Legislature needs to be advised of the irreconcilable problems that the Council, and the NJDEP, face to address the statutory mandates of the Highlands Act in an appropriate and equitable manner. It is evident that the RMP has no ability to address changes needed to cure apparent fatal flaws in the Act. The Legislature, the NJDEP, and the Highlands Council need to promptly address these monumental failures, and lay out, plan, and execute an immediate remedy.

The Council has a fiduciary responsibility to advise the Legislature of the circumstances or the statutory insufficiencies that may preclude the Council and or NJDEP from effectuating the purposes of the Act.

How and when will the Council be formally advising the Legislature, the NJDEP and Governor of the issues contained herein?