

New Jersey Highlands Council **Letter 63**

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Forest Resource Area - Obj.1A2a p. 138 of the RMP; Obj. 1A2e, p. 138 of the RMP The RMP is primarily concerned with land uses that have resulted in forest loss: "Land use change within the Highlands Region has resulted in forest loss and reduction in important forest ecosystem functions and societal benefits" (p. 55). In many cases there has been an addition to forested areas in the highlands as agricultural land has gone fallow and trees have grown up on it. The RMP does not complete the expansion of agricultural uses to forests within a single tract/lot, and may in fact prohibit it. (Policy 1B4 [p140. Of the RMP] could state that it also encourages forestry practices that allow agricultural uses.) How the RMP defines a "Forest Resource Area (pp. 55-58) directly affects the potential productive land area available to my family's small farm, which over two lots is about 28.5 acres. Of this area, about 6.5 acres is within the Highlands Preservation Zone and about 2 acres in the Highlands Protection Zone. Further, the hedgerows on our farm, and an entire 5 acre field is classed by the Highlands Commission's Interactive web mapping tool as "Forest Resource Area." This is a relatively unusual occurrence because our farm is surrounded by forested areas on three sides, and this specific five acre field has trees on all four sides. Also, several parts of our hedgerows are defined as "Total Forest Area." The buffer applied to forest areas is too wide. While agricultural land use is an exempted activity, a buffer designed to be so wide that a five acre field would be considered a "Forest Resource Area" seems unreasonable and introduces regulatory uncertainty. For example, in NJSA 7.38-3.9 provides 2 ways for a forest to be determined. The first (b) is by laying out a 142' by 142' whereby 33% of that square, when placed anywhere on that lots contains frosts, is deemed an "Uplands Forested Area." On our property, this would result in much of our open field area being classed as "forest." The second method (c), is to use 25' by 25' plots, through which a Diameter Breast Height of trees equal to 16" inches in total results in a "forest" classification. An area with 16 1" saplings would constitute forest. Such a determination could limit our ability to maintain the boundary of our current hedgerows and result in a loss of open field space. Further paragraph (d) identified that the edge of the forest cover is the edge of the canopy. A well maintained hedgerow with mature trees will have a tree crown extending perhaps 30-50' from the trunk – the land underneath this canopy should not be considered a "forest" if in agricultural use (e.g. field, pasture). While the RMP may not be able to address issues of a statutory nature, the RMP could provide clear guidance in its section on agricultural uses that maintenance of existing hedgerows is an allowed agricultural land use. This would address our concerns about current or future regulatory uncertainty on enforcement of Forest Resource Area on our fields. Further, the Interactive mapping tool should be programmed to limit the application of forest buffer areas on tracts/lots that have been deemed in agricultural use. This would reduce landowner confusion. In effect, this might me creating an "Agricultural Land-use Forest Area" layer and a "Development-protected Forest Resource Layer." Because our farm is small, it has little income in its current uses. While we are not required to have a forestry management plan, to be required to have one would impose a financial burden. We have applied to USDA NRCS for funding for a plan and their payment levels reflect only 50% of plan costs. And requirements within a revised RMP, such as those contemplated in the Highlands Ecosystem Technical Manual Report (p. 50), should impose no additional cost or time burden on landowners who can demonstrate a low agricultural sales level (e.g. less than \$100,000 per year). If there additional burdens, these should be compensated fully by NRCS or by the Highlands Commission. Funding Assistance, discussed on page 52 of the same report, may be inadequate to meet demands and there may be limited land owner awareness of these resources. Specifically, Policy 1B1 should explicitly state that it will provide resources to agricultural land owners applying for Forest Management Plan Funding from NRCS, that the Highlands Commission will provide the remaining balance of the landowner's cost-share for an awarded NRCS grant. Related to the above, a specific concern to our farm's viability is the provision of an on-farm location for farm worker housing. As an agricultural use, the new construction of farm worker housing would be best suited within forested areas. Developing fields for housing would result in a low of productive land area. If we proposed farm worker housing in a forest cover area in the Preservation Zone, would this need to go to the Highlands Commission for approval? Or would this be considered a normal agricultural use? Wetlands - Policy 1D1, p. 141 of the RMP Maintaining an inventory of wetlands by remote sensing is useful at the landscape level, but problematic at the tract level. In the Highlands Interactive mapping tool the satellite imagery identifies areas of our fields as wetlands which are mostly dry while missing areas that are occasionally wet. Further, at certain times of year (e.g. spring with snow melt, after prolonged or heavy rain) some dry areas are temporarily wet. The Highlands Commission may need to update the NJDEP's Land Use Cover Map more frequently than the NJDEP updates this map. The wetlands mapping should be conducted at different times of year and over multiple years. Also, if a landowner questions the Highlands Commissions wetlands map, when they are developed through remote means, the burden of proof should be upon the Highlands Commission to identify the area as a wetland. Satellite imagery may be fine to give a sense of areas that can be wet, but the methods are prone to error based upon the limited time frame observed by the remote imaging technology. It should be noted that on Page 10 of the Highlands Ecosystem Management Report (referred to in the RMP), the NJ DEP does not consider remote sensing an appropriate determination for a wetlands. And that on Page 15 of the same report: "It should be noted that there are numerous situations where an accurate identification and mapping of wetlands can not be made through visual interpretation of aerial imagery alone. In those cases, supplemental field surveys are necessary to accurately map the full extent of wetlands." While remote imaging is much cheaper than field assessment, when on-the-ground certification is needed about a wetland, the Commission should be responsible for those costs especially when legitimate grounds for questioning the remote imaging (e.g. lack of open water, lack of wetlands plants, agricultural land use, etc.). A landowner should not need to pay or hire anyone to disprove a wetlands identified by remote sensing. Steep Slopes – Policy 1E1, p. 146 of the RMP Using remote sensing to maintain an inventory of steep slopes can be problematic. Part of our land has been classed as "steep slopes" and "constrained slopes" by remote imaging in the Highlands Interactive Map. The areas that were classed as a steep slope are stone hedgerow dividing our fields, and in another area, a raised bed of a former railroad spur. While we are not planning on moving those stones or the old rail bed any time soon, this designation of these small areas as "slopes" seems unnecessary and I think affects the credibility of what the steep slope protection is designed to protect. The calibration of the steep slope layer should be adjusted to have a minimum surface area requirement.

Respondent

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