

# NATURAL RESOURCES COMMITTEE

## REPORT FOR THE JUNE 9, 2005 MEETING

### Introduction

On June 9, 2005, the Natural Resources Committee held a meeting at the New Jersey Highlands Council office in Chester, New Jersey. Notice of the meeting was provided to the public on the Highlands Council's web site. Council members present at the meeting were: Tim Dillingham, John Weingart, Eileen Swan and Tracey Carluccio (via teleconference). Council staff members present were: Adam Zellner, Dante DiPirro, Steve Balzano, Tom Borden, Lynn Brass-Smith, Kim Kaiser, and Dan VanAbs. There was one matter on the agenda: NJDEP rules. The meeting was called to order at 1:00 p.m. by Committee Chair Mr. Tim Dillingham.

### NJDEP Rules

The committee focused on priority issues for the purpose of today's discussion. The purpose of the meeting was to discuss the issues and determine how to best present the recommended solutions in a comment letter to the NJDEP. The Council staff would then prepare draft language for consideration by the Committee at their next meeting. Council staff took the lead in presenting the issues, and then all members participated in the discussion and development of preliminary recommendations.

#### *Upland Forested Area.*

The 16-point system to determine an upland forest should be replaced with a system developed by the Council staff, with the understanding that the new system is subject to revision pending review by the State forester.

Bill Wolfe (public) suggested that the Council/DEP use forest metrics, edge and fragmentation (developed by Eric Stiles, NJ Audubon) to measure impacts and to apply to mitigation.

#### *Land Management (stream restoration, invasive species control, etc.)*

Guidelines should be developed allow for ecologically beneficial activities to be treated differently than major Highlands Development, and to that ensure the activity has an ecological benefit and will not impair Highlands resources. A simplified permit process (general permit) should apply.

#### *Potential Conflicts with the Regional Master Plan*

The existing rules do not include a process to reconcile the potential differences between the policies and standards that will result from the Regional Master Plan and NJDEP's standards. A "placeholder" process should be drafted to ensure that any differences between the NJDEP rules and the Regional Master Plan are resolved.

#### *Potential Conflicts in the Planning Area*

The rules need to specifically define how NJDEP rules and programs will interact with the Regional Master Plan in the Planning Area. A major issues relates to Wastewater Management Planning; if a municipality "opts in" and relies on the Regional Master Plan for their sewer service analysis, septic densities and impact analyses, NJDEP should adopt the results as an approved Wastewater Management Plan simultaneously with Highland Council endorsement;

also discussed was the idea of the Highlands Council being designated as the regional planning authority under the Water Pollution Control Act.

#### *Highlands Open Waters*

Certain water resource features now protected by the Highlands Act have been unregulated previously; therefore, there are no established features or methodologies for defining these resources in the field for purposes of regulation. A technical manual should be developed to enable the DEP staff and applicants to be able to define Highlands open waters through a designated methodology. The rules could incorporate by reference the manual.

#### *LOIs and HRADs*

Recommend that HRAD reliance be stricken.

LOIs do not capture all Highlands open waters and 300-foot buffers, and should not be used in place of a HRAD, but rather a resource with the understanding that further field work to verify the extent of (and possibly delineate) Highlands open waters and buffers will be necessary.

Susan Kovaks (Warren County Environmental Commission) questioned what role the WCEC could take in HRADs. Do they receive a duplicate application? Similar to a LOI, the applicant submits a complete application to the clerk and the municipal and county EC does receive a notice letter. They can provide comments to the Department based upon their local knowledge of the resources.

#### *Linear Development – Preferred Alternative and Section 36 Standards*

When a final alternative is established, the applicant should fully address how the proposal will best minimize impacts upon the resource(s) through which it will pass. This would be established by minimizing the width of the route no greater than that minimum standard set forth in municipal standards or RSIS and adhering to a list of BMP's (to be developed as part of the rules).

Bill Wolfe (public) noted that the cumulative effect is not adequately provided for in the rules.

#### *Impervious Surface*

Calculation of impervious surface coverage should be determined at August 10, 2004 and the date a HPAA is submitted to the Department to ensure that the 3% impervious surface cap is not exceeded

#### *Antidegradation and Stormwater Regulations*

The DEP rules do not include a section to implement the following provision of the Highlands Act: “the antidegradation provisions of the surface water quality standards and the stormwater regulations applicable to category one waters to be applied to Highlands open waters.” The rules should be amended to include the specific language regarding Category One application for all Highlands waters in the Preservation Area.

#### *Definition of “Single family dwelling”*

The rules should be amended to include the single family dwelling issues previously legislated through the Municipal Land Use Law (“MLUL”) for group homes and shelters.

Tim Dillingham adjourned the meeting at 10:00 p.m. and announced that the next meeting of the Natural Resources Committee would be held at the Chester office on June 16 at 10:00 a.m.