

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL
MINUTES OF THE MEETING OF FEBRUARY 16, 2012

PRESENT

JIM RILEE)	CHAIRMAN
TRACY CARLUCCIO)	COUNCIL MEMBERS
TIMOTHY P. DOUGHERTY)	
MICHAEL R. DRESSLER)	
MICHAEL FRANCIS)	
ROBERT HOLTAWAY)	
BRUCE JAMES)	
JAMES MENGUCCI)	
CARL RICHKO)	
MICHAEL SEBETICH)	
RICHARD VOHDEN)	
ROBERT G. WALTON)	

VIA TELECONFERENCE

KURT ALSTEDDE)	VICE CHAIRMAN
MICHAEL TFANK)	
JAMES VISIOLI)	

CALL TO ORDER

Chairman Rilee called the 111th meeting of the New Jersey Highlands Water Protection and Planning Council to order at 4:04 pm.

ROLL CALL

Roll call was taken. Council Members Dressler, Visioli and Dougherty were absent. Council Members Alstede and Tfank were present via teleconference. All other Council Members were present.

OPEN PUBLIC MEETINGS ACT

Mr. Borden announced that the meeting is being held in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6. The Highlands Council sent written notice of the time, date, and location of this meeting to pertinent newspapers or circulation throughout the State and posted notice on the Highlands Council website.

PLEDGE OF ALLEGIANCE was then recited.

APPROVAL OF MINUTES OF JANUARY 19, 2012

Mr. Richko introduced a motion to approve the minutes and Mr. Mengucci seconded it.

Council Comments

Council Member Walton asked if a link can be provided to the website where the public comments submitted during meetings are posted. Ms. Swan responded that public comments submitted during a meeting are posted on the website after the Governor's review period. The public comments

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submitted may be found on the calendar page of the Highlands website next to the specific meeting date under the heading “Addendum to Minutes – Public Comments Submitted”:

<http://www.highlands.state.nj.us/njhighlands/about/calend/>.

Mr. Dougherty was present at 4:07pm.

All members present and on teleconference voted to approve. The minutes were APPROVED 13-0.

A gentlemen in the audience commented that he could not hear what was being said. Ms. Swan responded that there is nothing Council can do about the heating system and the volume is increased as much as possible without feedback. Ms. Swan urged Council Members to speak into their microphones.

APPROVAL OF HIGHLANDS DEVELOPMENT CREDIT BANK MINUTES OF FEBRUARY 2, 2012

Ms. Swan noted that the process of the Highlands Development Credit (HDC) Bank minutes is that they go to the Highlands Council for Council approval and go down with the Highlands Council’s minutes to the Governor’s Authority Unit which then goes through the Governor’s review process before the minutes are in full force and effect. Ms. Swan gave a brief PowerPoint presentation update Council Members on the actions of the HDC Bank.

Ms. Swan stated that the HDC Bank created an Initial Purchase Program to acquire Highlands Development Credits (HDCs) with a priority for landowners in a hardship situation. Four Rounds have been completed as follows:

- First Round – 87 HDCs on 109 acres for \$1,392,000
- Second Round – 54.50 HDCs on 80 acres for \$872,000
- Third Round – 261.75 HDCs on 144 acres for \$4,188,000
- Fourth Round – 93.25 HDCs on 153 acres for \$1,492,000

In sum, these four rounds represent nearly \$8 million in offers to landowners in the Preservation Area. Should the HDC Bank close on all offers, the program will have preserved nearly 500 acres at approximately \$16,346 per acre.

The HDC Bank approved a resolution, at their meeting on February 2, 2012, making offers to purchase the development rights (HDCs) on the following three properties:

- A. Block 19, Lot 110, Sparta Township, Sussex County
- B. Block 73, Lot 5 in Vernon Township, Sussex County
- C. Block 40801, Lot 85.01, Rockaway Township, Morris County

Ms. Swan showed a map of each of the properties which outlined their acreage, the number of HDCs acquired, the value and hardship qualification under which they were considered.

Ms. Swan also noted that the HDC Bank also approved notice of a Fifth Round, with approximately \$1 million in funding remaining, with the following deadlines:

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- April 27, 2012 – deadline for submitting HDC Allocation Application to the Highlands Council if property owner has not already done so.
- June 29, 2012 – deadline for submitting HDC Certificate Application to HDC Bank where property qualifies for Bank consideration.
- August 2, 2012 at 4 pm – HDC Bank meeting to review applications that qualify for Fifth Round consideration.

Ms. Swan then gave the status of HDC Allocations made to date. The Highlands Council has received HDC Allocation applications from 78 property owners since launching the program in November 2009. To date, 55 property owners received an HDC allocation while the 19 property owners did not receive any allocation. Four applications are pending final review. Properties do not receive an allocation if there is no remaining development potential for which HDCs could be allocated. This may occur because of pre-Highlands Act environmental constraints, access issues, undersized lots, or existing easements or deed restrictions. To date, the Highlands Council has allocated a total of 1,205.50 HDCs to these properties representing a total HDC value of \$19,288,000 based upon the \$16,000 initial credit price. The total acreage receiving an HDC allocation to date is 2,314 acres and the average price per acre is \$8,334.

Mr. Holtaway introduced a motion to approve the HDC minutes and Mr. Walton seconded it. Messrs. Dressler and Visioli were absent. All other members present and on teleconference voted to approve. The minutes were APPROVED 13-0.

EXECUTIVE DIRECTOR'S REPORT

Chairman Rilee asked for Ms. Swan's Executive Director Report. Ms. Swan gave a brief summary update to the Council on Plan Conformance Petition reviews. She reported that to date 65 Petitions have been submitted from 60 Municipalities and 5 Counties. Of these, 54 have been deemed administratively complete and have been posted to the Highlands Council website (including 2 Counties).

Of these 65 Petitions, 38 municipal Petitions and 2 county Petitions have been approved as follows: Townships – Allamuchy, Bedminster, Bethlehem, Byram, Chester, Denville, Franklin (Warren), Green, Hardyston, Holland, Lebanon, Lopatcong, Mahwah, Montville, Mount Olive, Oxford, Pohatcong, Rockaway, Sparta, Tewksbury, Washington (Morris), Washington Township (Warren) & West Milford; Boroughs – Alpha, Bloomingdale, Bloomsbury, Califon, Glen Gardner, Hampton, High Bridge, Kinnelon, Lebanon, Mount Arlington, Ringwood and Wharton; Towns – Clinton, Hackettstown and Phillipsburg; and Counties - Passaic and Somerset.

At today's meeting, the Council will be considering Ogdenburg's Petition for the Preservation Area. Should the Council approve this Petition, the Council will have approved 39 of 60 municipal Petitions (65% of the total Petitions and nearly 75% of the complete Petitions). With respect to upcoming meetings, there are eleven Draft Consistency Reports in Municipal Review: Townships of Alexandria, Greenwich, Harmony, Independence, Randolph, Roxbury, Parsippany-Troy Hills, Union and Vernon; and the Borough of Oakland and Far Hills.

Ms. Swan showed maps which represented the Plan Conformance progress since Council's December 16, 2010 meeting through today's meeting. Ms. Swan noted that today's Petitions, if approved, will take effect after the Governor's review period of the Council's minutes and showed the map that would

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result from that action. Ms. Swan showed that the map reflected those municipalities with lands in the Preservation Area lands where conformance is mandatory and in Planning Area where it is voluntary.

Ms. Swan noted that these 60 Petitions result in 97% conformance in the Preservation Area lands (401,903 acres) and 33% conformance in the Planning Area lands (147,755 acres). Planning Area conformance recently increased with Hopatcong Borough Council voting to include the over 5,000 acres of their Planning Area in their Petition. Ms. Swan also noted that of the 47 municipalities that have land in both the Preservation Area and Planning Area, 25 municipalities (or 53%) have chosen to conform in the Planning Area. Of the Planning Area only towns, 9 of the 36 municipalities (or 25%) have chosen to conform. In total, 34 of the 83 municipalities with lands in the Planning Area (or 41%) have chosen to conform.

Ms. Swan then summarized a chart on the implementation of approved Petitions:

Implementation Status	#	Municipalities (New in BOLD)
Total Approved Municipalities	37	
Planning Area Petition Ordinance	10	Alpha Borough, Bethlehem Township, Byram Township, Clinton Town, Hampton Borough, High Bridge Borough, Holland Township, Lebanon Borough, Lopatcong Township and Mahwah Township.
Master Plan Re-examination Report	2	High Bridge Borough, Holland Township
Checklist Ordinance	1	Holland Township
Environmental Resource Inventory	4	Byram Township, Califon Borough, High Bridge Borough, Lopatcong Township
Highlands Master Plan Element	2	Califon Borough, High Bridge Borough
Highlands Land Use Ordinance	1	High Bridge Borough

Ms. Swan noted that Passaic County has approved the Highlands ERI, the Master Plan Highlands Element, and the Land Development and Land/Facilities Regulations.

Ms. Swan then provided an update on the Plan Conformance Grant Program and showed the average amounts requested for reimbursement by participating municipalities. Ms. Swan advised the Highlands Council that on average the expenses of the seven Modules are very close to the projected base amounts, with certain exceptions, as set forth in the following chart:

<u>Towns</u>	<u>Base Amount</u>	<u>Average</u>	<u>Number</u>
Module 1	\$15,000	\$13,839	73
Module 2	\$10,000	\$ 6,963	72
Module 3	\$ 7,500	\$15,352	64
Module 4	\$ 2,000	\$ 3,141	64
Module 5	\$ 2,500	\$ 6,534	56
Module 6	\$ 5,000	\$ 4,455	53
Module 7	<u>\$ 8,000</u>	<u>\$ 7,556</u>	51
Module Subtotal	\$50,000	\$57,840	
Municipal Response Costs	\$ 8,000	\$ 6,122	35
Plan Conformance Cost	\$58,000	\$63,962	

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Ms. Swan also reported the average award amounts for implementation plans based on approved Highlands Implementation Plan and Schedules:

<u>Implementation Plans</u>	<u>Average Amount</u>	<u>Number</u>
Highlands Center/Redevelopment Plan	\$22,105	19
Sustainable Economic Development Plan	\$16,333	15
Wastewater Management Plan	\$3,515	34
Stream & Lake Protection Plan	\$29,427	26
Lake Management Planning	\$28,750	4
Water Use & Conservation Management Plan	\$58,000	15
Habitat Conservation & Management Plan	\$17,240	25
Agriculture Retention/Farm Preservation Plan	\$11,594	16

Ms. Swan concluded her Executive Director's report.

Consideration of Resolution – Petition for Plan Conformance by the Borough of Ogdensburg, Sussex County

Chairman Rilee introduced the Resolution for the Petition for Plan Conformance by the Borough of Ogdensburg. *Mr. Visioli was in attendance via teleconference at 4:21pm.*

Ms. Swan gave a PowerPoint presentation presented significant Highlands statistics as they pertain to Ogdensburg Borough:

- Planning Area Lands: 1,240 acres – 86%
- Preservation Area Lands: 197 acres – 14%
- Protection Zone: 902 acres – 63%
- Existing Community Zone: 335 acres – 23% (Roads 6%)
- Wildlife Management Sub-Zone: 114 acres – 8%
- Highlands Open Water Protection: 874 acres – 61%
- Critical Wildlife Habitat: 942 acres – 66%

Mr. Dressler was in attendance at 4:22pm.

Ms. Swan presented photographs of Ogdensburg Borough so the Council could focus on the character of the community and the past planning and protection initiatives of the Borough. Ms. Swan then showed a map of the preserved lands currently in the Borough. Ogdensburg's Petition is for the Preservation Area which encompasses approximately 197 acres (14% of the municipality). However, the entirety of the Preservation Area is either preserved land or water bodies.

Accordingly, the various modules were waived or deferred to address this situation. Ms. Swan provided an overview of the RMP consistency analysis as follows:

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Petition Requirements	Consistent with the RMP	Specific Issues
Modules 1-2 Municipal Build-Out Report	X	None
Module 3 Housing Element/Fair Share Plan	Deferred	-
Module 4 Environmental Resource Inventory	Waived	Due to Preservation Area Lands
Module 5 Highlands Element	Waived	Due to Preservation Area Lands
Module 6 Land Use Ordinance	Waived	Due to Preservation Area Lands
Module 7 Petition for Plan Conformance	Waived	Due to Preservation Area Lands

Ms. Swan reported that the public comment period on Ogdensburg Borough’s Petition opened January 25, 2012 and closed February 8, 2012. No public comments were received during the comment period. Ms. Swan noted that one comment was received after the comment period by the Highlands Coalition and their comment was that they are hopeful that Ogdensburg Borough will consider Plan Conformance in the Planning Area.

Ms. Swan then summarized the Staff Recommendations for Ogdensburg Borough’s Petition for Plan Conformance that it be approved with the following the condition:

- APPROVE with the recognition that the Borough will ensure conformance with its constitutional obligations regarding affordable housing.

Mr. Holtaway made a motion on the Resolution for Ogdensburg Borough. Ms. Carluccio seconded it.

Council Comments

Ms. Carluccio asked what the process is should Ogdensburg decide to opt in the Planning Area. Ms. Swan responded that Council staff would amend their Petition and go through the modules with the Borough similar to the process with Lopatcong when we brought the Petition back to Council for approval. Ms. Carluccio asked if Ogdensburg has expressed any interest in conforming in the Planning Area due to their high quality resources in the Conservation Zone. Ms. Swan responded that the Borough has not mentioned to Council staff of their interest; however, Council staff has reached out to the Borough and gave them all necessary information so they can make an informed decision and Council staff will continue to do that.

Chairman Rilee opened the meeting to the public for comments and mentioned that there is a 3-minute time limit. There were no public comments

All members present voted on the Resolution by roll call. The Resolution was approved by a vote of 15-0.

Chairman Rilee suggested that a short break be taken at 4:29pm.

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Prior to the break, Mr. James stated that he has sought the opinion of Counsel and is recusing himself from the Tennessee Gas Pipeline matter in order to eliminate any appearance of impropriety as Passaic County Counsel William Pascrell is a member of the Princeton Public Affairs Group which is a lobbying organization and represents Tennessee Gas. Mr. James left the meeting at 4:29pm.

The meeting reconvened at 4:35pm.

Consideration of Resolutions: (continued from last meeting)

- 1) Amended Request for a Highlands Act Exemption – Tennessee Gas Pipeline Company 300 Line Project, Passaic & Sussex Counties**
- 2) Request for a Highlands Act Exemption – Tennessee Gas Pipeline Company Northeast Upgrade Project, Bergen & Passaic Counties**

CHAIRMAN'S REPORT

Chairman Rilee stated, for the benefit of the public, that at the January meeting of the Highlands Council the Council introduced the two resolutions, heard public comment, deliberated on the two matters and voted to postpone a vote on the resolutions. In addition, members of the public and Council Members recommended that Council Members visit the site. New Jersey case law specifically authorizes site visits and requires the Council to report out the results of the visits and allow the public the opportunity to address any comments by Council Members. In addition, he noted that there are two changes to the proposed conditions of approval: 1) Environmental Inspector Reports will provide a quarterly reporting on both Comprehensive Mitigation Plans and 2) the Northeast Upgrade Project will include replanting in accordance with No Net Loss Forestry Act. For these reasons, public comments will be accepted today but will be limited to these three items.

Ms. Carluccio recused herself because the organization she works for Delaware Riverkeeper Network is an intervener in the federal review process by the Federal Environmental Regulatory Commission. Ms. Carluccio left the meeting temporarily at 4:37pm.

Chairman Rilee commented that there were several questions asked at the last Council meeting and Ms. Swan has a presentation today to try to address those questions. Chairman Rilee further commented that after Ms. Swan's presentation the meeting will be open to public comment to address the three items of new information and then there will be Council deliberations and a vote on the two Resolutions.

Ms. Swan introduced Heath Deneke, Vice President of Engineering and Project Management for Tennessee Gas. Mr. Deneke commented that his staff is here today to respond to any questions the Chair may direct be answered.

Ms. Swan began her presentation to say that both resolutions are for Exemption #11 under the Highlands Act and Ms. Swan provided the language from Exemption #11:

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(11) the routine maintenance and operations, rehabilitation, preservation, reconstruction, repair, or upgrade of public utility lines, rights of way, or systems, by a public utility, provided that the activity is consistent with the goals and purposes of this act.

Ms. Swan further stated that these types of exemptions in the Preservation Area are approved by NJDEP in coordination with the Highlands Council who determines consistency and exemptions in the Planning Area are approved by the Highlands Council. Ms. Swan displayed a blank Consistency Determination Report which is a tool the Highlands Council staff uses to determine the consistency of the application. This document is located on the Highlands website.

Ms. Swan then outlined the project description and history:

- Tennessee Gas Pipeline Company's "300 Line" is an existing 24-inch underground natural gas pipeline system, built in the 1950's, that traverses northern Pennsylvania and northwestern New Jersey. The existing maintained right-of-way (ROW) is 50-feet in width in the New Jersey segment.
- Approximately 15 miles of the 300 Line Project is located in the Highlands Region (approximately 10 miles in the Preservation Area and 5 miles in the Planning Area);
- November 12, 2009 - The Highlands Council approved Resolution #2009-56 finding that the 300 Line Project met Exemption #11

Ms. Swan then showed a picture which was taken on July 24, 2009 and is a view of the existing right of way (ROW) established in the 1950s. Mr. Richko asked where the picture was located. Ms. Swan responded that it was Mountain Creek Ski Resort in Vernon Township. Ms. Swan showed a map of the Northeast Upgrade Project (NEUP) line for the second Resolution and the 300 Line Project line for the Amended Resolution.

Ms. Swan continued with the project history to note that:

- Consistency was achieved through the applicant's Comprehensive Mitigation Plan (CMP). The Council conditioned the approval upon the implementation of the CMP.
- July 8, 2011 - Tennessee Gas submits an application to amend the 300 Line Project. Modifications have been proposed since the 2009 determination that the project was exempt from the Highlands Act under Exemption #11.
- November 2011 – 300 Line Project is in service.

Ms. Swan showed a picture taken January 26, 2012 of the installed and restored ROW of Mountain Creek Ski Resort, Vernon Township.

Ms. Swan continued her presentation to outline the 300 Line Project Modifications:

- The Length reduction for 300 Line Project by 1.29 miles and reduction of temporary workspace.
- 16 additional temporary access (existing) roads for use during construction.
- Pipeline route modification to avoid two timber rattlesnake dens.

Ms. Swan noted that the Highlands Council staff reviewed to see if there would be an increase in land disturbance from the 300 Line Project and determined that the project modifications will not result in

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increased land disturbance. She noted that the Resolution for amendment of the 300 Line Project included quarterly reporting specifically on progress of the Highlands Comprehensive Mitigation Plan.

Ms. Swan then presented the exemption application of the Northeast Upgrade Project (NEUP) which is a 7.6 mile upgrade of the existing ROW. She provides a timeline of the project:

- July 8, 2011- Tennessee Gas submits an application for NEUP.
- The upgrade of 7.6 miles of new pipeline is adjacent to existing line. This connects the already constructed loop pipeline to the Mahwah metering station.
- 1.29-mile segment was previously approved for 300 Line Project under Monksville Reservoir by the Highlands Council.

Ms. Swan presented various pictures of the existing ROW as it appears today: Mahwah Metering Stations (view to east of existing ROW), Mahwah Township (view to north of existing ROW), Ringwood Borough (view to north of existing ROW) and Monksville Reservoir (view to north of existing ROW).

Ms. Swan then described NEUP as commencing in West Milford, extending through Ringwood, and terminating in Mahwah (7.6 miles). The project includes the following elements:

- Pipeline/ROW – proposed 325 Loop Segment located at 25-ft offset from pipeline in existing 50-ft ROW; 75-ft permanent ROW.
- Temporary Construction Workspace – additional 25-ROW for “typical 100-ft wide construction ROW.” Other work space as approved for staging areas, equipment etc.
- Access Roads – existing public roads and 13 existing private roads (re-grading and vegetation trimming).
- Pipe and Equipment Storage Yard – Two areas for pipe storage and contractor staging – Tilcon Contractor Yard and Tilcon Pipeyard.
- Meter Station – upgrades to existing meter station located in Mahwah Township.
- Main Line Valves and Pig Receiver – install tie-in valve assemblies at each end of the pipeline loop segment to integrate the loop sections into the existing system. Further, “pig receiver” (i.e., a pipeline component used for removing an inline inspection tool or other device from a pressurized pipeline) constructed at the project terminus in Mahwah

Ms. Swan noted that the need for NEUP is determined the Federal Energy Regulatory Commission (FERC) which is currently reviewing the application for a certificate of public convenience and necessity. FERC reviews the certificate application pursuant to the applicable provisions of the Natural Gas Act and FERC regulations.

Highlands Council Site Visits

Ms. Swan commented that in response to Council Members’ requests and to the members of the public at the last meeting, Council members conducted site visits to see the 300 Line Project. Ms. Swan gave a report and showed photos which were taken during construction and at the site visit which is a direct result of the January 19, 2012 meeting.

Ms. Swan reported that on January 26, February 6 and 8, 2012 Highlands Council Site Visits were taken of the 300 Line Project. Ms. Swan noted that Council Member Vohden visited the site various

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locations, on his own. The following locations visited were determined by Highlands Council staff, in response to issues raised at the Highlands Council meeting on January 19, 2012:

- 1) Mountain Creek Ski Resort, Vernon Township, from Route 94
 - location of the steepest portion of the Right of Way (ROW) workspace
 - Restored ROW
- 2) Highland Lakes Road, Vernon Township
 - Horizontal Directional Drill Entry and Storage Pad
 - Restored ROW
- 3) Canistear Road, Vernon Township
 - Blasting site along ROW
 - Typical access roads
- 4) Clinton Road, West Milford Township
 - Bearfort Waters crossing
 - Valve control station and restored ROW
 - Lake Lookover

Ms. Swan showed a map of the site visits taken by Highlands Council Members on February 6 and 8, 2012 in Vernon and West Milford Townships. Ms. Swan then showed pictures of the 300 Line Mountain Creek Ski Resort during construction and when stabilized and seeded.

Ms. Swan commented that the Highlands Lakes Road Horizontal Directional Drill (HDD) Staging Area Entry Pad was approved by FERC to extend for an additional 100 feet of temporary workspace beyond both sides of the 100 foot ROW. Restoration and reforestation will occur on that additional, temporary work space. Ms. Swan showed pictures of the Highlands Lakes Road, Vernon Township (Newark Watershed) of the HDD, the original 1950s ROW, expanded ROW and staging area. Pictures were also shown of Canistear Road, Vernon Township of restored ROW across wetland complex, improved access road and stabilized slope and restored ROW. Ms. Swan continued with photos of Clinton Road, West Milford Township, Bearfort Waters ROW crossing showing stabilized slope and restored ROW, Wawayanda State Park, and residential presence of Lake Lookover. Ms. Swan then presented the turbidity levels which were measured regularly at Lake Lookover. The table below presents turbidity measurements from early September 2011 to January 2012:

<u>Date</u>	<u>NTU*</u>
9/1/11	18.0
9/17/11	22.2
10/14/11	38.10
10/20/11	24.0
10/29/11	13.0
11/23/11	11.1
12/23/11	2.02
1/27/12	7.58

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*NTU – (Nephelometric Turbidity Units) – a measure of turbidity as determined by an instrument called a nephelometer that measures the amount of light scattered by particles suspended in a water column. Lakes that are considered relatively clear in the United States can have a turbidity up to 25 NTU (Nathanson, 2003).

Ms. Swan showed a picture of Bearfort Waters ROW cross, West Milford Township valve control station, new valve (which showed automatic safety control shut off valves on both lines).

Ms. Swan reported that Tennessee Gas proposes to implement the following elements in the Comprehensive Mitigation Plan (CMP):

- Forest Management Plan (planting meets No Net Loss Act)
- Open Waters and Riparian Areas Plan (monitor for 3 years or until wetland revegetation is successful)
- Steep Slope Construction Plan
- Critical Habitat Mitigation Plan
- Carbonate Rock Plan
- Water Resources Quantity Protection Plan
- Water Quality Protection Plan
- Historic, Cultural, Archaeological and Scenic Resources Plan
- Contingency Plan
- Land acquisition for unavoidable impacts (over 160 acres)

Ms. Swan then presented the land acquisitions and protection for unavoidable impacts on the project.

- Forests - 15.83 acres of permanent forest impacts and 86.1 acres of temporary forest impacts (total of 101.93 acres). Commitment to reforestation and the acquisition and preservation of mature forest land to mitigate for unavoidable forest impacts.
 - *Temporary disturbance*: 86.1 acres. A disturbance : mitigation ratio of 1.25:1 required; target is 107.6 acres of land acquisition.
 - *Permanent disturbance*: 15.83 acres. A disturbance : mitigation ratio of 2.5:1 required for forests of medium quality; target is 39.5 acres but applicant proposed acquisition of 50 acres designated as Highlands Forest Resource Area.
- Prime Ground Water Recharge Areas – 9.9 acres of permanent impacts and 52.4 acres of temporary impacts to Prime Ground Water Recharge Areas. The applicant proposes to achieve:
 - Restoration of the site to maintain pre-construction hydrology.
 - Use of slope and trench breakers to slow down the flow of water and increase stormwater infiltration.
 - Identify and mitigate soil compaction.
 - Acquire and to protect an area of land within a designated Prime Ground Water Recharge Area. Minimum acquisition of 16 acres.

Ms. Swan then summarized the Implementation Plan.

- Construction of project and implementation of CMP contingent upon FERC approval.
- Applicant has developed an Environmental Construction Plan (ECP) specifically for project.
- Following FERC issuance of certificate, applicant will file Implementation Plan with FERC.

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- Implementation Plan includes all construction, restoration, and monitoring requirements including requirements of CMP and ECP.
- Compliance will be monitored by FERC's independent environmental inspectors with weekly summaries to Highlands Council and quarterly reporting specifically on Highlands CMP implementation.

Ms. Swan summarized the public comment process for the 300 Line Project and NEUP as follows:

- Public comment period on the project opened December 21, 2011 and closed January 6, 2012.
- Public Comment and Response Document was posted to the Highlands Council Website in advance of the Council meeting on January 19, 2012.
- The Highlands Council heard additional public comment at the meeting on January 19, 2012.
- The Highlands Council postponed action on the two resolutions and numerous Council Members visited the site.
- A Supplemental Comment and Response Document to address issues raised by members of the public and Highlands Council members was released on February 13, 2012 and posted on the Highlands Council website.
- Highlands Council review of recent submissions.

Ms. Swan then provided the Pipeline Approval Process:

- Project will only commence if approved by FERC;
- NJDEP can permit it in one of two ways:
 - Exemption #11
 - Highlands Preservation Area Approval
- Highlands Council must determine whether or not the Highlands Comprehensive Mitigation Plan is a condition of project approval under Exemption #11.

Staff Recommendations

Ms. Swan reported that the recommendation for Highlands Council is to provide finding to NJDEP stating that NEUP would be consistent with the goals and purposes of the Highlands Act with the following conditions:

- That the Comprehensive Mitigation Plan be revised to address all identified issues.
- That the applicant incorporates its findings and commitments regarding Prime Ground Water Recharge Areas.
- That the applicant address short-term impacts of construction activities on rare, threatened and endangered species as well as vernal pool habitat.
- That the applicant must continue to coordinate with SHPO regarding the identification of archaeological resources (to address the issues identified in the December 29, 2011 correspondence from SHPO to FERC). The Highlands Council determination on this project is conditioned upon satisfaction of SHPO requirements.
- That the applicant provides to the Highlands Council the qualifications of all Environmental Inspectors that would work on the project site prior to commencement of any on-site activity.
- That the applicant coordinate with the Highlands Council to conserve lands in the vicinity of the project that would provide appropriate mitigation for temporary and permanent impacts to forests.

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- That the CMP be modified to assess the potential impacts of foreseeable but low-probability events, such as major weather or other catastrophic events. The CMP shall include a contingency plan to address such events and their impacts, including pre-planning, event management, restoration and reporting protocols to NJDEP and Highlands Council.
- That the applicant will post a performance bond (or modify the existing performance bond posted for the 300 Line Project), to ensure completion of the individual plans of the CMP. Commitment to development and implementation of the CMP would be a condition of the Highlands Act Exemption #11.
- Based on the information available at the time of review, additional project design by any agency may result in alterations to the project, which may result in greater impacts to Highlands Resources. The applicant shall modify the CMP and mitigation requirements appropriately to satisfy additional mitigation based on the same methods provided in the Consistency Determination.

New Information for Public Comment

Ms. Swan closed with the new information open for public comment at today's meeting as Chairman Rilee discussed earlier.

- 300 Line Project and NEUP:
 - Highlands Council Site Visits
 - Environmental Inspector Reports will provide a quarterly reporting on Highlands Council CMP to address continuing restoration requirements
- NEUP:
 - Replanting in accordance with No Net Loss Forestry Act (N.J.S.A. 13:1L-14.1 et seq.), which governs deforestation and reforestation by State agencies

Chairman Rilee opened the meeting to the public for comments on the three items only as the public had the opportunity to discuss issues at last month's meeting. Chairman Rilee noted that there is a three minute limit for comments and asked the public to please adhere to that limit.

Mr. Richko asked if the Highlands Council needs to vote to remove the table motion. Mr. Borden responded that that in accordance with Robert's Rules of Order, a vote on both resolutions were postponed.

Public Comments

Bill Wolfe, resident of Ringoes Township – Mr. Wolfe commented that he was involved with the Highlands task force and this was familiar with the origins of the Highlands Act. Mr. Wolfe made three points which he suggests to Council: 1) suggest Council's conditional approval include a requirement that the New Jersey surface water quality standards apply and be enforced to address turbidity; 2) recommend to NJDEP the they base any future leases and easement across state lands on the full fair market value, not their methodology; and 3) Mr. Wolfe commented on the language used in Exemption #11 which states: "...by a public utility...". Tennessee Gas is not a public utility and does not qualify for the exemption. [Note: An email was received by Highlands Council from Mr. Wolfe on February 18, 2012 asked to retract 3) above as erroneous.]

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Mr. Borden suggested to Chairman Rilee to have the Council Members who attended the site visit to give their comments on the site visit for the record before we go on with additional public comments. Chairman Rilee opened the meeting for Council comments on their site visit.

Council Member Comments on Site Visits

Mr. Francis commented that after listening to the testimony at the last meeting he had concerns and felt a site visit would be appropriate and valuable. Mr. Francis noted that he saw a project of great magnitude and (to a layman's eye) a mitigation process that looked satisfactory. Mr. Francis also stated that he read the Hudson-Essex-Passaic Soil Conservation District letter and it seemed to him that they saw that same thing he saw. Mr. Francis concluded that he saw no abuse to the environment and there was a great effort to make it look neat.

Mr. Visioli commented that he was satisfied with the site visit as it is a very complex, technical and environmental project and he did not see anything that was detrimental to the public good. Mr. Visioli said it was an eye opener and thanked the staff for hosting it.

Mr. Vohden commented that after the meeting on January 16, 2012 he went on his own site visit and spent 4 ½ hours inspecting the gas line project from public roads. He went to 12 locations. Mr. Vohden stated that it is what he expected to see, a linear construction site that appears to be meeting all the requirements. Mr. Vohden was informed that FERC, NJDEP and the Council Soil District monitor the construction and all the work was conducted in the permitted work space and there were only been two notices of violations by the NJDEP and both were due to the extreme weather events of this past summer. Mr. Vohden was satisfied by what he saw.

Mr. Richko commented that Ms. Swan emailed/phoned everyone to ask if Council Members wanted to participate and seven out of the 15 did participate on the site visit. Mr. Richko noted on the pictures that you cannot really tell the amount of slope and does disagree to a point with his colleagues. Mr. Richko predicts that if we have a heavy rain this Spring he does not see that a couple bales of hay will not give the same effects of hurricane Irene disturbance to the site.

Mr. Tfank commented that he did not see any issues regarding the mitigation efforts done on the site and found the work to be excellent, stayed within the borders. Mr. Tfank further stated that he does not see any reason why Council should have concerns as long as we maintain the same level of control, diligence and vigilance by Council staff. Mr. Tfank does not see any reason for anything less in the future.

Mr. Sebetich commented that his reason for attending the site visit was to get an overview of the pipe that was currently there and the 7.6 miles being proposed. Mr. Sebetich commented that what cannot be seen in the project is the potential damage to the groundwater, surface water and natural resources. Mr. Sebetich can see the concerns that the some of the public might have had.

Mr. Holtaway commented that he found the site visit to be competent in execution and maintenance. Mr. Holtaway also commented that there have been significant rain events this past year but felt the site was stable.

Public Comments (cont'd)

Jeff Tittel, Sierra Club – Mr. Tittel referred to a letter which was sent via email last night to Highlands Council by the Columbia Environmental Law Clinic and which was submitted for the record. Mr.

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Tittel commented that an argument that is in specious is that if you do not grant the exemption than you cannot do mitigation. Mr. Tittel strongly believes that under the NJDEP permitting process in the Highlands Preservation Area that the levels and burdens in proof are much higher so the mitigation is much stronger. Mr. Tittel commented that to tie one thing to the other undermines the support and does not believe that this grants an exemption as, in his opinion, it is not an upgrade. Mr. Tittel states it is a new parallel pipe line which can cause environmental damage. Mr. Tittel further stated that there are ten major programs put in place for the Highlands Area because of the major watersheds and 50,000 acres of forest left in New Jersey. Mr. Tittel concludes that cutting this pipeline cannot be mitigated.

Beverly Budz, Vice Chairman of Vernon Township Environmental Commission – Ms. Budz commented on the dangerous contaminants by projects similar to Tennessee Gas which cause major health issues. Ms. Budz commented that she does not know which are more harmful, toxic chemicals which run through the state park or the fact that the NJDEP paid by our tax dollars and who protects our environment lacks the expertise to detect such harmful contaminants. Ms. Budz concluded that this project should not be allowed to go through state parks or environmental sensitive water sources.

Ross Kushner – Pequannock River Coalition, Executive Director – Mr. Kushner submitted email dialogue that he had with the NJDEP on the sediment incident at Lake Lookover last summer. Mr. Kushner stated that the sediment incident started before hurricane Irene. Mr. Kushner also stated that a coffer dam was promised by Tennessee Gas but plastic barriers were put in place for the sediment issue. Mr. Kushner commented that Council staff should have done a site visit when there were issues on the site instead of reviewing reports.

Mr. Dressler left the meeting temporarily at 5:41pm.

Diane Wexler, Vernon Township Environmental Commission – Ms. Wexler submitted for the record documentation and pictures where she shows where the pipeline is and where the oil contamination was found. Ms. Wexler concluded that this is what happens when you give exemptions.

Renee Alessio, Upper Green Wood Lake, West Milford – Ms. Alessio showed her own pictures to Council. Ms. Alessio showed pictures of pre-hurricane Irene and the total degradation of the soil and hill. Ms. Alessio's pictures were submitted for the record.

Mr. Dressler returned to the meeting at 5:45pm.

Wilma Frey, New Jersey Conservation Foundation – Ms. Frey questioned why the photographs only showed aerial views. Ms. Frey commented that aerial photos are useful for location purposes but does not think they provide a sense of what may have gone on. Ms. Frey also commented that various Council Members made comments that the site was competent but she questions if the Council knew what existed prior to the construction particularly in terms of threatened and endangered species. Ms. Frey additionally commented that the NJDEP as of December 21st did not receive comments from FERC about the environmental assessment on threatened and endangered species. Ms. Frey questioned how a judgment can be made that this project causes any damage as there is not even any baseline data. Ms. Frey also questioned what lands are being crossed. Ms. Frey concluded that it is premature to give an exemption when one does not have the necessary information.

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Robert Stevralia, Business Representative for Laborers Local #472 – Mr. Stevralia commented that members enforced along with teamsters and the operating engineers working on this project throughout the project. Over 400 tradesmen working and every report that he received was about how stringent the rules were and a fine line they had to follow while they were working. Mr. Stevralia further stated that the staff report was in collaboration by the people who were there. Mr. Stevralia concluded that those slopes were an engineering marvel and it is awful tough working on those grades.

Susan Williams of Sparta, NJ – Ms. Williams questioned if Tennessee Gas is going to put liquefied gas through the pipe and how the pipe is construction. Ms. Williams questioned if that is known or has it been discussed. Chairman Rilee emphasized that the public portion of today's meeting is on three topics only as public comment was heard at the last meeting.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that most of the public is disappointed that Council is restricting comments to three topics as they are not prepared to comment appropriately. Ms. Somers commented that the only mitigation heard today is acquisition of forest but no creation of new forest. Ms Somers further stated that while she supports the purchase of new forest the Council is not mitigating the loss of forest and request that there be a plan to mitigate the loss of forest at the same value. Ms. Somers then commented on reporting and why that couldn't be done publicly through the website so the public has a mechanism to report what is going on and ask for immediate action to stop the project until things are fixed. Ms. Somers concluded that this is not a project that has been approved by FERC so Council should not think that they have to approve it now. This project will create a massive scar across the Highlands Region.

Kate Millsaps, representing the Sierra Club – Kate Millsaps asked who the eighth Council member was who went on the site visit. Ms. Swan stated that six Council members conducted a site visit on February 6, 2012 accompanied by her and Tom Borden. Judge Dressler conducted a site visit on February 8 accompanied by herself and Tom Borden and that Council Member Vohden told Ms. Swan that he had gone to the site on his own. Ms. Millsap expressed concern that with eight Council members requesting a site visit there could have been a quorum. Chairman Rilee responded that eight members were not together on the site at the same time and that even if all 15 members wanted to conduct a site visit, it would have been arranged such that there was not a quorum. Ms. Millsap stated that the site visit should have been announced to the public so that the public could have attended. She noted that typically planning boards and agencies announce site visits to the public and the Highlands Council should have done same. Chairman Rilee stated that it was not true and that no laws were broken here.

Ms. Millsap stated that she disagreed with the Council's interpretation of Exemption 11 with respect to utility lines such as these. She stated her opinion that this project does not meet the definition of Exemption #11 of routine maintenance and operations as it is truly an expansion. She stated her opinion that NJDEP has not even issued its permits for the 300 Line approved by the Council two years ago. She expressed concern about the Monksville Reservoir crossing and noted that NJDEP and FERC have expressed concern and that this Council is the only entity that does not express concern about the Monksville Reservoir. Next, Ms. Millsap stated her opinion that at the last Council meeting, several Council members stated that the Council should wait to make a determination until after FERC made their federal determination. She said that while Chairman Rilee want to table the determination for 30 days most of the members of the Council wanted to wait until after the FERC determination, and she specifically identified Judge Dressler as being one Council member who wanted to wait for FERC. Chairman Rilee stated that it was not true and that she was misleading the public. He

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suggested that Ms. Millsap should listen to the recording of the last meeting. Judge Dressler stated that his reason for wanting to table the discussion was that he was not satisfied with the level of information available; he stated that his reason for wanting to table a decision was not predicated on the FERC decision.

Steven Roth, northern New Jersey resident – Mr. Roth commented that early in the meeting it was mentioned about Robert’s Rule of Order and thinks poor form was used. Secondly, Mr. Roth understands that Tennessee Gas hired the inspectors. Ms. Swan responded that the compliance program is run by FERC and FERC chooses the inspectors/firm but Tennessee Gas pays for it. Mr. Roth also commented he lives in a 100 year flood plain and have had four 100 year floods in the last 12 years so it is safe to say that there will more heavy storms coming. Mr. Roth concluded that regarding the union representative’s comment on how tough it is with the slopes, this may be an indication that if there is to be a pipeline built it is being built in the wrong place or should be placed somewhere else or not at all. Chairman Rilee responded to Mr. Roth’s comment about poor form.

Matt Smith, resident of Wyckoff, New Jersey – Mr. Smith read into testimony a paragraph from the National Oceanic Atmospheric Administration (NOAA) in response to Richard Vohden’s comment regarding his site visit and Ms. Swan’s comments about the unforeseen weather. “From extreme drought, heat waves and floods to unprecedented tornado outbreaks, hurricanes, wildfires and winter storms, a record 14 weather and climate disasters in 2011 each caused \$1 billion or more in damages — and most regrettably, loss of human lives and property.” Mr. Smith also read another paragraph from NOAA: “Philadelphia is not alone in setting a wettest year in recorded history mark in 2011. Over a dozen major cities in the Ohio Valley and the northeast have set a newest year record or close to doing so”. Mr. Smith concludes that the idea that the storms we received in 2011 are unforeseen or not likely to happen again in our lifetimes contradicts all the conclusive science and facts.

Naomi Gamorra, Glenrock Environmental Commission – Ms. Gamorra is representing 12 commissions in Bergen County. Ms. Gamorra would like Council Member Sebetich to elaborate on his concerns about the water. Chairman Rilee asked Mr. Sebetich if he would like to discuss his comments now or later during Council Discussion. Mr. Sebetich responded that he would prefer to discuss his comments amongst Council Members. Ms. Gamorra commented that we are all here for the water. Ms. Gamorra commented that Council needs to consider the ramifications of everything. Ms. Gamorra submitted a letter for the record.

Jim Rapp, Jackson resident – Mr. Rapp commented that he went on a site visit and took 32 photographs. Mr. Rapp questioned if Tennessee Gas is the same company for the pipeline in Pennsylvania, Wayne County. Mr. Rapp commented that his photographs show a wetland sensitive area during a storm last year and the photos show no one monitoring the site at times and that timbers are placed over the wetlands. Mr. Rapp further commented that loggers assess loss of forestry by board foot. Mr. Rapp asks if this is the math being applied for no net loss forestry with this project. Mr. Rapp concluded that a re-visitation by the Federal Government setting guidelines for construction of a project of this scope and scale is needed before the Council approves. Mr. Rapp’s photos were submitted for the record.

David Shope, owns property in Lebanon Township – Mr. Shope commented that the presentation identifies a quantity of lands by acre that will be used to mitigate the impacts of the pipeline. Mr. Shope would like the area which this funding can be spent to include the entire Highlands Preservation Area and not just the pipeline area.

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Margaret Wood – Ms. Wood commented that the project violates Exemption #11 as it is not an upgrade but an expansion. Ms. Wood commented on the arrogance of Council's layman comments that everything looked good. Ms. Wood commented that Council needs to rely on the experts. Ms. Wood submitted the Alerts from the Passaic County to their customers. Ms. Wood commented on chemicals that are caused by drilling and the health effects. Ms. Wood submitted documentation for the record to support her comments.

Jackie Schramm, Franciscan Response to Fracking Group – Ms. Schramm commented that her daughter lives in West Milford in High Crest Lake and last year she received a notice and recently a much more serious notice that they have violated the drinking water standard but not to worry as it is not an emergency. Ms. Schramm asked Council if they had seen these notices. Her daughter has been drinking bottled water for a year because the water smells like wet dog and is brown. Ms. Schramm commented if the water quality cannot be fixed in a community that is already having a serious problem what makes us think in 3-5 years we can handle a much larger community problem.

David Peifer, Association of New Jersey Environmental Commission – Mr. Peifer commented that if Council is getting reports from inspectors in the field on this project that those reports be posted so the public can review them as it is best to have disclosure on these matters. Mr. Peifer also commented that Council needs a deeper policy to deal with exemption #11 and the vague language in the Act. Mr. Peifer hopes that there is some thinking in that direction by the Council and Council staff. Mr. Peifer concluded that Council has such a complicated situation here that should make the finding on this project to be inconsistent and pass it to the DEP to process.

Chairman Rilee commented that he would like public comments finished by 6:30pm.

Karina Wilkinson, an organizer with food and water watch – Ms. Wilkinson submitted for the record a petition of 434 names in opposition on the pipeline and how it will put the drinking water supplies, waterways and aquifers at risk as well as several state and federal endangered species. Ms. Wilkinson commented that the Council does not have a mitigation plan in place reasonable for the 300 line. Ms. Wilkinson asked that more information be brought forward before any vote.

Charles Nunzio, Franciscan Response to Fracking Group – Mr. Nunzio commented on the quarterly report for up to three years on restoration and asked what happens after the 3 years if the restoration is not satisfactory. Mr. Nunzio asked for clarification on the replanting of trees in the area of the construction site. Ms. Swan responded that in terms of replanting the No Net Loss Forestry Act governs the replanting at a minimum per acre as follows: 204 (2"- 2 ½ ") caliper tress per acre, or 408 whip/container (4'-6') tress per acre or 1,210 tree seedlings per acre. Ms. Swan further responded that the size and age of plantings shall be determined upon site conditions such as aspect, soil types and slopes and is governed by experts in the field.

Robert Simsons, Wayne Environmental Commission on his own behalf – Mr. Simsons commented that he found the replanting information interesting and questioned if there is a plan to see that the laws are being fulfilled with the requirements. Mr. Simsons also questions what offers are made to reimburse the residents for the disturbance to the areas. Mr. Simsons applauds the Highlands Council on preserving. Mr. Simsons urges Council to vote no.

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Teresa Stimpfel, Sierra Club volunteer – Ms. Stimpfel commented for Council to look at the environmental impacts of the project and what other people have addressed and to vote no as it will deteriorate the environment.

Justin Sidious, concerned young citizen of this county and state – Mr. Sidious commented that the Council should not approve this exemption due to science and studies. Mr. Sidious commented that Council and should use this opportunity to show leadership to uphold the intent of this Act. Mr. Sidious urged Council to look into their conscience to protect the health and safety of New Jersey citizens today and in the future.

Chairman Rilee suggested that a short break be taken at 6:32pm. The meeting was convened at 6:40pm.

Council Discussion

Mr. Alstede commented about the Highlands Act and his belief that the Legislature made it quite clear that these utility upgrades were anticipated and Exemption #11 was specifically included for projects of this nature. Mr. Alstede commented that this project meets the definition of an upgrade and it is consistent with the goals and purposes of the Act with the Mitigation Plan in place. Mr. Alstede noted that the Regional Master Plan recognizes the needs for increased energy and that the proposed project will provide energy while protecting the environment with the implementation of the mitigation plan. Mr. Alstede added if the Council voted no, the project would be approved by the federal government and the NJDEP but without the enhanced mitigation that the Comprehensive Mitigation Plan offers. He views this as a win/win for the state of New Jersey and is voting yes.

Mr. Visioli stated that he toured the site, read all the considerable information provided by staff, and listened to all comments provided by the public, and he thanked the public. He stated that he agrees with the comments Mr. Alstede made and noted that these would be parallel lines. He believes that the mitigation plan meets the goals and purposes of the Highlands Act and he is voting yes.

Mr. Tfrank noted that he lives in West Milford and so cares very much about the protection of the environment. He stated that with a yes vote, the Highlands Council has an opportunity to provide enhanced mitigation and that voting no would be giving up that opportunity. He will be voting yes.

Mr. Richko stated that this was a sad day for the Highlands Region and that he is voting no. He noted that we are the Highlands Water Protection and Planning Council whose important charge is to protect water quality and natural resources. He stated that Tennessee Gas and FERC do not care about this Region. He feels that the project will impact water resources, forests, the Monksville Reservoir, lakes, C1 streams, and wetlands. He hoped that other Council members would agree with him and want to send a strong message to NJDEP, EPA and other agencies. He stated that this will come back to haunt the Council.

Dr. Sebetich stated that he agrees with Mr. Richko and that he will also be voting no. He stated concerns about water quality with potential impacts to both ground water and surface water. He expressed specific concern about the Monksville Reservoir and the Ramapo River. He also stated concern for the other natural resources that would be affected. He stated that he heard all the concerns from the public and feels that someone has to speak on their behalf. Dr. Sebetich stated that he understands that fracking is not part of the issue before the Council, but he feels that it really is. He stated that he was from Pennsylvania and has seen the damages that pipelines there have done, while making pipeline companies rich. He stated that he will be voting no.

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Mr. Vohden stated that he reviewed all of the information that was made available. He noted the project's benefits to the State as reported in the Rutgers report. He noted that gas moving through the State will benefit the State as well as providing different parts of the nation with natural gas – that the project will benefit the USA as a whole. He noted a quote by Lisa Jackson where she states that natural gas causes less pollution than other fuels. He noted another quote by Lisa Jackson that stated that she was not aware of any case where fracking polluted water resources. Mr. Vohden stated that he would like to build on what Mr. Alstede said and he pointed to page 126 of the Highlands Regional Master Plan which lists the 17 exemptions. He stated that he is of the belief that the project qualifies for Exemption #11 and he finds it consistent with the goals and purposes of the Highlands Act.

Mr. Visioli returned to the conversation to note that his cell phone was breaking up and he wanted to vote yes on both resolutions just in case he drops off the line. Chairman Rilee asked Tom Borden about the legality of this. Mr. Borden asked if there is anything another member could say that may sway his opinion. Mr. Visioli said no.

Mr. Visioli left the meeting via teleconference at 6:59pm.

Mr. Holtaway stated that he does not like it when public bodies work out of areas of their jurisdiction. He noted that this Council is limited to a determination regarding Exemption #11. He noted that the Council previously found the project to be an upgrade and consistent with the goals and purposes of the Act. Mr. Holtaway noted that we are discussing an existing right-of way that is already impacted. Having to construct a new line elsewhere would disrupt existing development and the natural environment. In response to a comment a member of the public made that there are no trees on the existing right-of-way, Mr. Holtaway noted that you cannot plant trees over a pipeline route – that access is needed for inspection and maintenance. He noted that this is an opportunity that the Council has to provide for enhanced mitigation. He noted that nobody will look after this project more intensely than the Highlands Council and its staff.

Mr. Francis noted that he listened to all the testimony. He noted that should the Highlands Council not have this mitigation opportunity that it would be a loss. He expressed his opinion that the Council has one of the best technical staff of any agency and asked how the Council could pass up this opportunity for enhanced mitigation. He stated that the Comprehensive Mitigation Plan is the best way to achieve mitigation for this project. He stated that he is voting yes.

Mr. Walton stated that he would like to dovetail on what Mr. Vohden stated about the economy. He stated that every BTU that can be generated domestically is one less BTU that this country needs to get from a foreign country, including some foreign countries that wish to do harm to this country. He stated that clearly it is in our interest locally, state-wide, and nationally to generate energy domestically. He stated that it is not in the interest of Tennessee Gas to purposely damage the environment and that it would hurt them economically if they developed a reputation of damaging the environment. He stated that it is in the company's best interest to do this job well. He noted that the first charge the Highlands Act gives the Highlands Council is to protect water resources. But he noted that the Act also charges the Council to promote economic development to enhance the quality of life for people of the Region and the State. He believes that approval of this project will benefit the economy and the environment and that we will all be better off for it.

Mr. Dougherty thanked everyone from the public who had come out to the meeting and for their passion. He stated what he believes the real issue at hand is – is the mitigation strong enough. He

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questioned if quarterly reporting is adequate enough and should there not be weekly reporting. Ms. Swan stated she wanted to clarify that Council staff do receive weekly reports but that the quarterly reporting mandate came from the Highlands Council staff for work conducted specifically for the Highlands-mandated Comprehensive Mitigation Plan. She noted that the Council staff will continue to receive weekly reports. Mr. Dougherty stated his concern is that he wants members of the public to be able to have access to this information and in a timely manner and asked if Council staff could post on the Highlands Council website. Ms. Swan noted that the public can get directly from FERC website. Mr. Dougherty stated that he would like to see the information posted on the Highlands Council website. A discussion ensued about the feasibility of that given limited resources. Mr. Dougherty turned to the point that if the Council votes no and turns this project to the NJDEP, then the enhanced mitigation provided by the Comprehensive Mitigation Plan would be lost.

Mr. Dressler stated that the minute he looked at this application he hated it and he noted that he made the motion to table the discussion at the last Council meeting. He noted that he did a site visit and thanked Council staff for that visit. He noted that he read all the materials provided and did a considerable amount of research. He stated displeasure with the applicant and did not understand why they keep coming in for little pieces of the project – the 300 Line two years ago and now the continuation with the Northeast Upgrade project. Mr. Dressler stated that when he took this Council position, he took it to help preserve the water supply. He rhetorically asked members of the environmental groups in the audience if they were of the belief that if the Highlands Council said no, would the NJDEP do a better job with regards to mitigation. He stated that it is extremely important to have a good Comprehensive Mitigation Plan. He stated that he does not believe that the NJDEP would extract mitigation as strong as the mitigation in the Comprehensive Mitigation Plan. He stated that based on what he has heard, he believes that the NJDEP would approve this project anyway. Mr. Dressler stated that he does not like this project but if it is coming anyway, it needs the Highlands-mandated mitigation plan to be in effect and so, he will be voting yes.

Chairperson Rilee thanked members of the public and fellow Council members. He stated that the Council and Council staff took this very seriously. He noted that staff had spent all of their time this last month on this project. He stated his belief that everyone did their due diligence. He stated that for all of the reasons discussed at this meeting that he is voting yes.

All members present voted on the Amended Tennessee Gas Pipeline Company 300 Line Project Resolution. A roll call was taken. The Resolution was APPROVED by a vote of 10-2.

All members present voted on the Tennessee Gas Pipeline Company Northeast Upgrade Project. A roll call was taken. The Resolution was APPROVED by a vote of 10-2.

Ms. Swan recognized and thanked Highlands Council staff member Chris Ross, Aquatic Biologist who lead this protect and also Keri Benscoter, for doing an incredible amount of work on this project. Chairman Rilee complemented Ms. Swan on all her hard work and this Council appreciates her efforts.

Messrs. Alstede and Tjank left the meeting via teleconference at 7:25pm. Mr. Holtaway left the meeting at 7:25pm. Ms. Carluccio returned to the meeting at 7:25pm.

Chairman Rilee opened the meeting for public comments.

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Public Comments

Jim Rapp – Mr. Rapp commented that the three minute comment period does not give sufficient time to way into an issue. Mr. Rapp asked Council to reform the process to better the system.

Beverly Budz, Vice Chairman of Vernon Township Environmental Commission – Ms. Budz asked for an email address because she plans to keep the Council up to date on this project. Ms. Swan responded that Ms. Budz could send information to the Highlands email on the website. Ms. Budz also asked what the turnaround time is for Council staff to forward information to the Council. Chairman Rilee asked Ms. Budz to submit it and Council will respond.

Mr. Dougherty left the meeting temporarily at 7:30pm.

Julia Somers, New Jersey Highlands Coalition – Ms. Somers commented that the need for natural gas in the northeast is decreasing and it is her opinion that this gas will be exported.

Diane Wexler, Vernon Township Environmental Commission – Ms. Wexler asked for clarification on any contamination report/issue. Chairman Rilee responded that the Mitigation Plan will be used. Ms. Swan responded that any report is submitted to the NJDEP's Enforcement office. Mr. Richko responded that the Highlands staff will not be going out to the site for any issues, it will be the NJDEP.

Mr. Dougherty returned to the meeting at 7:33pm

Steven Roth – Mr. Roth commented that about 20% of this natural gas will be exported. Mr. Roth commented that anyone who thinks this is going to be consumed domestically is misinformed.

Jeff Tittel, Sierra Club – Mr. Tittel commented on NJDEP's role on linear development and misinformation. Mr. Tittel commented that PSE&G is using the Highlands Exemption to lobby government agencies and Highlands Council is doing it again by approving the Tennessee Gas project. Mr. Tittel commented that Lisa Jackson's quote was on the EPA website almost a year ago and EPA is investigating some major fracking spills and other pipelines being proposed that will come to Council.

Teresa Stimpfel, Sierra Club volunteer – Ms. Stimpfel asked Council how they are going to monitor this project. Ms. Stimpfel questions why Council would risk the water. Chairman Rilee responded that the pipeline has not been approved. Chairman Rilee emphasized that Council has approved a Comprehensive Mitigation Plan if/when the project moves forward by FERC. Ms. Stimpfel asked what the mitigation plan is. Ms. Swan responded that the PowerPoint presentation will be posted to the Highlands website next week for her review and clearer understanding.

Bill Wolfe, resident of Ringoes Township – Mr. Wolfe commented that the NJDEP is the enforcement arm. Mr. Wolfe commented that Council should have a condition to Council's approval to have enforceable standards in the mitigation plan so Council staff can oversee it. Mr. Wolfe commented and questioned on Exemption #11 and the wordage used "by a public utility". Mr. Dressler commented that in 2009 this Council deemed Tennessee Gas as a public utility.

Karina Wilkinson, an organizer with food and water watch – Ms. Wilkinson commented that Council is implicating what is going on the Pennsylvania

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Matt Smith, an avid hiker in the Highlands – Mr. Smith questioned Mr. Alstede’s definition of the word “upgrade” when referring to this project. Chairman Rilee responded that Mr. Alstede is not available for comment.

Hank Klumpp, owns property in Tewksbury Township – Mr. Klumpp commented on the decision which included Tewksbury Township in the Highlands region. Mr. Klumpp also commented on his loss of equity due to the Highlands Act and how he has been harmed. Mr. Klumpp submitted his hand-written comments for the record. Mr. Klumpp has concerns about getting a hard copy of what he submits to Council because a synopsis is only entered in the minutes. Mr. Klumpp would like a hard copy of the public comments submitted to the minutes made available.

David Shope, owns property in Lebanon Township – Mr. Shope commented that at the January 19, 2012 meeting he asked who the Governor was who issued Executive Order #122. Mr. Borden responded that it may be Governor Codey and later advised that it was Governor McGreevy in 2004. Mr. Shope would like Council to add language to the third WHERAS of Council’s resolutions to read “... the home of 800,000 people that have suffered under the heel of a very corrupt State government”. Mr. Shope also submitted a report which showed a summary of water quality conditions at 21 NJDEP/USGS sites sampled in the Raritan River basin from 1991-97. Mr. Shope concluded his comments to urge Council to submit comments to the New Jersey Water Supply Authority on their annual rate review asking for an increase in the amount of money assessed to water purveyors.

Mr. Richko made a motion to adjourn the meeting. Mr. Walton seconded it. The meeting was adjourned at 8:01pm.

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CERTIFICATION

I hereby certify that the foregoing is a true copy of the minutes of the meeting of the Highlands Water Protection and Planning Council.

Date: 3/16/12

Name: Annette Tagliareni
Annette Tagliareni, Executive Assistant

Vote on the Approval of These Minutes

	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			✓			
Councilmember Carluccio			✓			
Councilmember Dougherty						✓
Councilmember Dressler			✓			
Councilmember Francis			✓			
Councilmember Holtaway						✓
Councilmember James					✓	
Councilmember Mengucci		✓	✓			
Councilmember Richko	✓		✓			
Councilmember Sebetich			✓			
Councilmember Tfrank			✓			
Councilmember Visioli			✓			
Councilmember Vohden			✓			
Councilmember Walton			✓			
Chairman Rilee			✓			