



508 Main St
Boonton, NJ 07005 (elliott@njhighlandscoalition.org)

Ms Becky Mazzei, Environmental Specialist 2
Division of Land Use Regulation
New Jersey Department of Environmental Protection
Trenton, NJ (by email: becky.mazzei@dep.state.nj.us)

May 30, 2014

**RE: Comments on the Proposed Settlement Agreement, NJDEP and Bi-County Development Corp
Block 3001, Lots 1, 4, 15, 18
Borough of Oakland, Bergen County, NJ**

Dear Ms Mazzei:

Please accept these comments in response to the notice in the April 1, 2014 DEP Bulletin of the proposed settlement between the NJDEP (the Department) and Bi-County Development Corp. (Bi-County, the Applicant) to develop 200 residential units on property owned by Bi-County in Oakland Borough.

In preparing these comments, in which we will demonstrate the substantial risk the development poses to unique and irreplaceable public trust resources of the State, much of the documentation required to enable the public to provide meaningful comments on the Settlement Agreement (SA) could only be discovered through OPRA requested material submitted through official channels of the Department. NJDEP could not provide us with the requested documents within the statutory time limits set forth in the Open Public Records Act. NJDEP requested three extensions beyond the deadline¹. As a result we were not allowed to review the requested files until May 27, 2014, only four days prior to the expiration of public comments on this matter. During the file review session at NJDEP we were only able to review a limited portion of the relevant requested documents within the allotted time. We were unable to schedule additional time to review the remaining documents in a timeframe that would have permitted us to file these comments within the time allotted. NJDEP's recalcitrance put us at a significant disadvantage and calls into question the sincerity of the Department's purported interest in public input on this matter.

The bases of our opposition to the SA, however, are compelling. Over the several years that the developer has attempted to get the project approved, the Department, the Highlands Water Protection and Planning Council, and the US Fish and Wildlife Service have all issued expert testimony and permit denials that describe the project site as being unique for the valuable and rare public trust resources present at the site, resources that the State holds in the public trust, that the Department is entrusted with the responsibility of protecting, and that the Department is in no position to bargain away, or offer a legal context to allow their sacrifice.

¹ (exhibit 1, attached)

In correspondence between the Department and the Applicant, from November 2001, the attorney representing Bi-County disputed the Department's assertions in a Freshwater Wetlands Letter of Interpretation, that the site is suitable habitat for the Barred Owl and thus classified as an Exceptional Value Wetlands².

The applicant, in spite of ensuing years of unequivocal permit denials from the Department and other government agencies, thus began an epic challenge to the regulatory constraints on its Oakland property.

In 2003, Amy S. Greene, Environmental Consultants, Inc. (ASG), representing the Township of Wayne in a review of a pending Wetland Delineation report by Masur for the Applicant, discusses the escalating series of claims and rebuttals beginning in 2001 between Bi-County and several program units of the Department and between Bi-County and ASG, over the habitat value of B-County's property³. In the review ASG cites research, site surveys, peer-accepted classification standards and ASG's own survey, representing an army of credentialed experts, as a basis to clearly establish the site as habitat for Barred Owl, classifying all wetlands on the property as exceptional resource value and subject to a 150-foot transition area. Bi-County, however, is unmoved.

In 2009, Bi-County petitioned for rulemaking the Department's entire methodology for classifying wetlands merely to have the area of its riparian buffers reduced. After the Department summarily denied the petition, Bi-County appealed to New Jersey Superior Court. In its affirmation of NJDEP's rulings, the Court held, "that DEP's reasons for denying Bi-County's petition for rulemaking are consistent with the purposes of the Wetlands Act and that the agency's action was not arbitrary, capricious, or unreasonable."⁴ We should not lose sight of the Court's affirmation of NJDEP's implementation of environmental statutes in light of Bi-County's persistent and current challenges to regulations.

In 2004, with the passage of the Highlands Water Protection and Planning Act, Bi-County was provided with an exemption from the increased regulatory standards placed on properties located in the Highlands Preservation Area because a small portion of its property was located in an area designated as Planning Area 1 or 2 and the development was subject to a Court ordered settlement to provide a municipal fair share affordable housing obligation. Although the exemption provide Bi-County with relief from NJDEP's Preservation Area Rules, it was not exempted from WQMP rules, amended with stipulations for the Highlands region, or from Executive Order 114, issued in 2008.

In 2005, Bi-County initiated further permitting procedures with NJDEP including a request for a Highlands Applicability Determination and a Water Quality Management Plan Consistency Determination.⁵ The evaluations of the subject property by the Department's program units and the Highlands Council, as administrative requirements of the permitting process, found the Bi-County property to contain environmental features and resource values that are the rarest and most valuable we know to exist in the State. In addition, it becomes clear that the intensity of development as contemplated by the Applicant would unacceptably deplete water from a subwatershed already shown to be in deficit.

² Nov 9, 2001, Michael Gross to Richard Kropp

³ Aug 13, 2003, Amy S. Greene to John Fiorello

⁴ Bi-County Dev Corp v. NJDEP, Superior Court NJ Appellate Div No. A-1047-09T3 Oct 22, 2010

⁵ Jun 3, 2005, HAD and WQMP Consistency Determination, issued to Rosemarie Maccario

In an August 2007 memo from Larry Torok (DLUR) and Mike Valent (Senior Zoologist, ENSP) to Assistant Commissioner Mark Mauriello, rebutting Bi-County's continuing efforts to minimize the site's habitat value, concludes, "...much of the site offers habitat characteristics of high quality for the species. Trees of suitable nesting size are scattered about the onsite forest. Suitable hardwood forest with an open understory and closed canopy is available for foraging. Suitable cedar and hemlock stands are available for roosting or weather refugium. Development of the site as proposed will fragment the existing forest block and remove most of the onsite cedar community. Such an action will greatly reduce the probability that this forest patch would continue to support the barred owl." ⁶

In February, 2008, the Highlands Council commented on the Bi-County proposed amendment to the Northeast WQMP, as authorized in the WQMP Rules and stipulated in Executive Order 109. As required, the Highlands Council considered the proposed WQMP and Bi-County's Comprehensive Conservation Plan (CCP) for consistency with the final draft Highlands Regional Master Plan (RMP) (the final Plan wasn't adopted until July, 2008). Some of its findings⁷ include an assessment of impacts to Barred Owl habitat:

"Barred Owls require contiguous, old-growth wetland forests with upland forest buffers and typically shun human activity by avoiding residential, industrial, or commercial areas (Beans and Niles, 2003). Any disturbance to the mapped habitat for Barred Owl on the entire site will result in forest fragmentation, which would be inconsistent with the policy statement prohibiting the alteration or disturbance of critical wildlife habitat. The Highlands Council's review of the CCP indicates that any disturbance to the site would potentially result in the destruction of Barred Owl habitat."

On water quality impacts, "The proposed development footprint is inconsistent with the Final Draft RMP policy that prohibits uses of land within a Prime Ground Water Recharge Area of the Protection Zone, and in addition prohibits uses that may reduce recharge volumes or other uses that may impair water quality within or draining to a Prime Ground Water Recharge Area."

On extension of public water to the site, "All three source water subwatersheds are in deficit of net water availability. Any exacerbation of that deficit is inconsistent with the RMP unless 125% mitigation is provided in the deficit subwatersheds. Even then, the amount of conditional water availability is insufficient for the project's proposed water demand (66,255 GPD). If the applicant were permitted to use conditional water availability from all of the three source watersheds, the 27,600 GPD conditionally available for depletive uses is still less than half of what is proposed in the WQMP amendment. Therefore, the projected water demand must be reduced to a maximum of 27,600 GPD. The use of the three subwatersheds' conditional water availability would in effect "retire" all water availability in those areas, thus preventing future withdrawals."

On consistency with the Final Draft RMP, "The review of the proposed WQMP amendment reveals several inconsistencies with the Final Draft RMP. Inconsistencies include alteration of Highlands Open Water protection areas and riparian areas, critical habitat, forests, prime ground water recharge areas, and

⁶ Aug 9, 2007, Larry Torok & Mike Valent to Mark Mauriello & Larry Baier

⁷ Feb 11, 2008, Eileen Swan & Staff to Highlands Council re: Proposed Amendment to NE WQMP and Feb 29, 2008, Eileen Swan & Staff to Highlands Council, update to above

expansion of water and wastewater into those areas. Although this project has been deemed exempt from the Highlands Act and the Regional Master Plan, the Highlands Council is authorized to provide a recommendation to NJDEP in accordance with N.J.A.C. 7:38-1.1(k).”

As an exempt project, The Highlands Council further comments on inconsistencies limited to matters addressed in Executive Order 109 and NJDEP’s WQMP Rules at NJAC 7:15:

1. “Highlands Open Waters: Encroachment into the 300-foot protection buffers/riparian areas is inconsistent with the objectives of the Final Draft RMP. The proposed construction of stormwater outfalls within the riparian area of the C1 tributary (Pond Brook), would be inconsistent with RMP policies prohibiting land uses that would alter or be detrimental to the water quality of a Highlands Open Water. Similarly, alteration of natural vegetation in the site’s riparian corridors would alter or be detrimental to the T&E habitat would be inconsistent with RMP policies prohibiting land uses that would alter or be detrimental to habitat quality of a Riparian Area.
2. “Critical Habitat: Despite NJDEP’s determination of the site functioning as a migration corridor for Barred Owl, but not breeding or nesting habitat, the Highlands Council recommends that any disturbance to the mapped habitat for Barred Owl will result in forest fragmentation, which would be inconsistent with the policy statement prohibiting the alteration or disturbance of critical wildlife habitat. These areas should be protected from damage or destruction resulting from indirect impact of development activities.
3. “Water Availability: The proposed water use is inconsistent with the RMP both because it exceeds the 27,600 gpd in conditionally available water for the three subwatersheds, and does not provide 125% mitigation of the depletive water uses. In addition, the project is inconsistent with the RMP prohibition on extending water systems and wastewater service areas in the Preservation Area or Protection Zone, and due to a prohibition on increased consumption/depletive uses in current deficit areas.”

On providing realistic opportunities for affordable housing that are consistent with the need to protect natural resources, “While this project must be reviewed with deference as it is designed to provide affordable housing under a builder’s remedy settlement, it is well settled under the Mount Laurel doctrine that the provision of affordable housing should not necessitate bad planning or the destruction of environmentally sensitive lands. The requirements of Executive Order 109 and the Water Quality Planning Act require proper planning to protect water quality and environmentally sensitive lands. While the Proposed Amendment is designed to provide affordable housing in accordance with the Mount Laurel doctrine, the present design of the project inadequately protects water quality and the site’s environmentally sensitive lands.”

Two months after the Highlands Council’s adoption of the Regional Master Plan in July, 2008, Governor Corzine issued Executive Order 114⁸, which as of this date has not been rescinded. There are 2 stipulations in that order that directly apply to Bi-County. They have not been referenced in the proposed Settlement Agreement:

⁸ Sep 5, 2008, Executive Order 114, Orders and directs stronger implementation of Highlands Regional Master Plan

“9. The DEP shall take appropriate action to ensure that no water allocation permit is issued for any development project located in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, as delineated in the Highlands Plan, within a HUC14 subwatershed that is in, or anticipated to be in, a deficit of net water availability, as identified by the Highlands Plan, until such time that a Municipal Water Use and Conservation Management Plan, consistent with the policies in the Highlands Plan, has been approved by the Highlands Council and has been fully implemented.

10. The DEP shall take appropriate action to ensure that no approval is given to any portion of a Water Quality Management Plan amendment in the Protection Zone, the Conservation Zone, or the Environmentally-Constrained Sub-Zones, as delineated in the Highlands Plan, within a HUC14 subwatershed that is in, or anticipated to be in, a deficit of net water availability, as identified by the Highlands Plan, unless the approval is conditioned on a Municipal Water Use and Conservation Management Plan, consistent with the policies in the Highlands Plan, having been approved by the Highlands Council and having been fully implemented.”

The Bi-County property is located in the Protection Zone and it is within a HUC14 that is currently in deficit.

In its letter disapproving Bi-County’s WQMP amendment,⁹ the Department raised several key concerns:

It noted that nearly one hundred and forty concerned individuals attended the public hearing in Oakland on the amendment request.

The decision to disapprove the amendment was based on, “a comprehensive evaluation of the numerous environmental impacts associated with the proposed project, with due consideration given to the **unique diversity of significant natural resources** present on and adjacent to the Property.” (emphasis added) And that “the Department has determined that the extension of sewer service needed for this proposal would violate the objectives of the Water Quality Planning Act (N.J.S.A. 58:11A), and the stated purpose of the Water Quality Management Planning Rules (N.J.A.C.7 :15). Further, the proposed project would result in a development that is incompatible with the environmental resources throughout the Property and its surrounding.”

On the depletion of water from a deficit subwatershed, “The Project’s proposed diversion would constitute an inter-basin transfer and would result in a loss of water to the Upper Passaic Basin and to the North Jersey District Water Supply Commission system. Depletive losses to a surface water supply/intake and interbasin transfers of water are discouraged by the Department.”

On impacts to threatened and endangered wildlife and rare plant habitat, “The project as presently proposed would protect 16 acres of forested steep slopes in addition to wetlands and transition areas as part of a comprehensive conservation plan. However, the areas to be protected are not contiguous and would further fragment, degrade, and destroy critical forested habitat. Development of the site as proposed would fragment the existing forest block and remove most of the onsite vegetative cedar community. Such an action will greatly reduce the likelihood that this forest patch would continue to support the barred owl. Approval of the extension of sewer service to facilitate this proposed Project

⁹ Aug 18, 2008, Amendment Disapproval, Larry Baier to Raymond Walker, Masur Consulting

would directly conflict with the Department's mandate to protect threatened and endangered species habitats.

“Additionally, the proposed Property is located wholly within the Preakness Mountain Macrosite Natural Heritage Priority Site. Natural Heritage Priority Sites are identified by the Department's Office of Natural Lands Management (ONLM) as **critically important natural areas necessary to the conservation of New Jersey's biological diversity**. Using the Natural Heritage Database (ONLM) has developed a coverage of Natural Heritage Priority Sites that represent some of the best remaining habitat for rare species and exemplary natural communities in the State. These areas are considered to be top priority for the preservation of biological diversity in New Jersey. **If these sites become degraded or destroyed, the State may lose some of the unique components of its natural heritage.**”

“The Preakness Mountain Macrosite, consisting of about 1,070 acres is the largest remaining tract of forested land east of the Highlands in northeastern New Jersey...**the site encompasses a globally imperiled ecological community.**”

“The Property is located within the Preakness Mountain Macrosite, and the development in fact would fully bifurcate into northern and southern portions. For this reason the Department has determined that **the proposed Project would have a significant adverse impact on this environmentally sensitive area, and would significantly damage the ecological integrity of the Preakness Mountain Macrosite.** The extension of sewer service to facilitate **this project would directly conflict with the Department's land use plans and policies and would damage critical natural resources of the State.**” (emphasis added)

“Both the COAH and Wastewater Management Plan submissions, the Borough has identified five other sites for the provision of affordable housing. The Department has reviewed these five sites and determined that none of these other sites possess the environmental attributes, or sensitivity of the Pinnacle Property. Thus, the Department concludes that these sites are better suited to intense residential use and based upon the municipality's documentation these proposed sites would also likely yield a higher number of affordable units with less environmental impact and are superior alternatives to the Pinnacle Property for high density development with inclusionary affordable housing. As part of its review of the Borough's Wastewater Management Plan, the Department will ensure that appropriate and adequate wastewater treatment capacity exists to support affordable housing on these sites.”

More recently, in May, 2014, the United States Fish & Wildlife Service, in its review of the Bi-County FWW permit¹⁰, communicated with NJDEP about its concern that the subject property may include habitat for current and proposed federally listed endangered species—Indiana Bat, Northern Long-Eared Bat, and Small Whorled Pogonia. Since the Fresh Water Wetlands Act is in part a component of New Jersey's delegated authority to implement the federal Clean Water Act, USF&W is monitoring this development closely and concludes, “The Service was recently informed that the NJDEP entered in a settlement agreement with the applicant. If the NJDEP is unable or unwilling to condition the permit with the aforementioned Service requests, Federal review may be required.”

¹⁰ May 7, 2014 USFW/NJDEP 2-Way Memorandum, Carlo Popolizio/USF&W and Larry Torok/NJDEP

Our overarching concern with the proposed Settlement Agreement is its almost entire neglect in considering any impacts to the public trust resources the Department is charged with protecting. We do not understand how a legal loophole coupled with an unseen “Comprehensive Conservation Plan” can in any way trump the Department’s primary responsibility of environmental protection. In fact, it is unconscionable. Yet even if one were to set aside for a moment the Department’s major lapse in carrying out its fundamental responsibilities, the legal arguments the Agreement hang on are slight.

The use of an agency’s settlement power to avoid regulatory compliance is generally disfavored. *See, e.g., Dragon v. N.J. Dep’t of Env’tl. Prot.*, 405 N.J. Super 478 (App. Div. 2009). Here, not only is NJDEP attempting to use its settlement power to avoid forcing Bi-County’s compliance with the Highlands Water Protection and Planning Act, it is also trying to use the same settlement mechanism to dramatically redefine the term “final approval” as used in the Municipal Land Use Law. The proposed settlement agreement must be rejected on factual and legal grounds.

Perhaps most importantly, the project’s exemption under the Highlands Act has expired and no amount of convoluted and disingenuous “legal interpretation” can revive it. The relevant “exemption provided pursuant to this paragraph shall expire if construction beyond site preparation does not commence within three years after receiving all final approvals required pursuant to the “Municipal Land Use Law,” P.L.1975, c. 291 ([C.40:55D-1 et seq.](#))”. In this case, the Oakland Planning Board granted the project preliminary and final approval on July 12, 2007. More than three years have elapsed since the final approval and no construction has commenced.

Nevertheless, in a tortured effort to sustain the exemption, the agreement states that the July 12, 2007 Oakland Planning Board preliminary and final site plan approval for the project was not “final approval” within the meaning of N.J.S.A. 40:55D-4. The settlement appears to justify this ridiculous conclusion in two ways. First, that planning board approval is not final until all conditions are satisfied; and second, that board approval is not final until the possibility of amendment has subsided. Both justifications are incorrect as a matter of law.

The proposition that board approval is not “final” until all conditions are satisfied is contrary to statutory language and judicial precedent. The statutory definition of “final approval” expressly contemplates the existence of conditions in a final approval, noting that conditions are not an obstacle to a final approval so long as “guarantees [have been] properly posted for their completion, or approval [is] conditioned upon the posting of such guarantees.” N.J.S.A. 40:55D-4. Specific reference to “final approval” conditioned on “legally required approvals from other governmental entities,” is also made in N.J.S.A. 40:55D-52(d), which includes a provision allowing for an extension of the “final approval” period when the developer has made a diligent effort to pursue these additional approvals. N.J.S.A 40:55D-52(d).

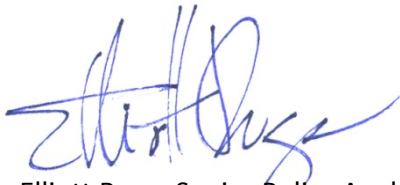
The two-year vested rights clause of N.J.S.A. 40:55D-52(a) similarly contradicts the understanding of “final approval” offered by the settlement agreement. N.J.S.A. 40:55D-52(a) states that all rights conferred upon the developer “whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted.” *See, e.g., Darst v. Blairstown Twp. Zoning*

Bd. of Adjustment, 410 N.J. Super. 314, 336, 982 A.2d 27, 40 (App. Div. 2009) (recognizing that two-year protection of N.J.S.A 40:55D-52 was triggered when board passed conditional final approval). If an approval only becomes final when all conditions are satisfied, the preservation of conditionally granted “final approval” rights would be mere surplusage. *In re Commitment of J.M.B.*, 197 N.J. 563, 573, 964 A.2d 752, 758 (2009) (affirming basic interpretive canon that “[i]nterpretations . . . render[ing] the Legislature’s words mere surplusage are disfavored”).

The second conclusion of the settlement agreement, that the possibility of amendment precludes a final approval, is even less convincing. Under such an interpretation, an approval cannot be considered “final” until the possibility of amendment no longer remains. The possibility of amendment to a site plan approval exists at least until construction. Thus, the interpretation offered by the settlement agreement would render impotent the two-year vested rights provision of N.J.S.A. 40:55D-52, as the protections would not activate until after construction begins.

Because of the well documented exceptional resource value of the site and the degree that they are imperiled by the proposed project, because the project would further deplete a water-deficit subwatershed within an area that the State’s water supply depends upon, because of the extent of regulatory relief needed to move the project forward creates an unjust privilege, and because the settlement agreement rests on the unsupportable premise that the exemption has not expired, the agreement should be rejected.

Sincerely,



Elliott Ruga, Senior Policy Analyst
New Jersey Highlands Coalition

attachment

EXHIBIT 1



State of New Jersey
Department of Environmental Protection
GOVERNMENT RECORDS REQUEST FORM



IMPORTANT NOTICE

Please read this entire form carefully as it contains important information concerning the response to your record request, accessing records, disputing denials, and your rights concerning government records. For further information, access WWW.NJ.GOV/DEP/OPRA.

Requestor Information

First Name:	ELLIOTT	MI	Last Name	RUGA
Company:	NEW JERSEY HIGHLANDS COALITION			
Mailing Address:	508 MAIN ST			
City:	Boonton Town	State:	NJ	Zip: 07005 Email: elliott@njhighlandscoalition.org
Business Telephone:	(973) 588-7190		Extension	2
Facsimile Telephone:	(973) 588-7193			

State Use Only

Tracking #	152779
Received Date	04/21/2014
Access Method	On-site access, visit, copy
<p>All matters relating to the response and access of any records identified for this request should be directed to:</p> <p style="text-align: center;">NJDEP – Office of Record Access 401 East State Street PO Box 420 Mail Code 401-06Q Trenton, New Jersey 08625-0420 Tele #: (609) 341-3121 Fax #: (609) 292-1177</p>	

Record Request Details:

Property Desc: Undeveloped Any written communications, including notes, emails, interoffice correspondence, letters and memoranda between January 1, 2003 and February 6, 2004 within the Division of Land Use Regulation (DLUR) and between DLUR and the Commissioner's office and between DLUR and other consulted entities regarding the Letter of Interpretation requested by the above named owner for the above named site. Any written communications, including notes, emails, interoffice correspondence, letters and memoranda between December 1, 2004 and June 3, 2005, within the Division of Watershed Management (DWM) and between DWM and the Commissioner's office and between DWM and other consulted entities regarding the application for a Highlands Applicability Determination and WQMP Consistency Determination requested by the above named owner for the above named site. Any written communications including notes, emails, interoffice correspondence, letters and memoranda between July 1, 2005 and August 18, 2008, within the Division of Watershed Management (DWM) and between DWM and the Commissioner's office and between DWM and other consulted entities regarding the application for a site specific amendment to the Northeast WQMP to extend Wayne's Mountain View Wastewater Treatment facility to include the the above named property.

Disposition Notes	Record Request Response																
<p>Based on this record request, responsive records were located. Contact us at 609-341-3121 to schedule access. Some records are exempt pursuant to N.J.S.A. 47:1A-1 and not subject to public access. See Addendum Disposition Notes for further information.</p>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">In Progress</td> <td style="width: 10%; text-align: center;">-</td> <td style="width: 15%; text-align: center;">Open</td> <td style="width: 60%;"></td> </tr> <tr> <td>Filled</td> <td style="text-align: center;">-</td> <td style="text-align: center;">Closed</td> <td></td> </tr> <tr> <td>Denied</td> <td style="text-align: center;">-</td> <td style="text-align: center;">Closed</td> <td></td> </tr> <tr> <td>Partial</td> <td style="text-align: center;">-</td> <td style="text-align: center;">Closed</td> <td style="text-align: center;">x</td> </tr> </table>	In Progress	-	Open		Filled	-	Closed		Denied	-	Closed		Partial	-	Closed	x
	In Progress	-	Open														
	Filled	-	Closed														
	Denied	-	Closed														
Partial	-	Closed	x														
<p>Addendum Disposition Notes: Part Of this request is being denied pursuant to N.J.S.A. 47:1A-5.g. The request fails to provide the proper information required in order for the NJDEP to identify the subject matter concerning the records sought in addition it requires the NJDEP to conduct research & correlate data, which is not required pursuant to N.J.S.A. 47:1A-9 & Mag Entertainment v Div of Alcoholic Beverage Control 375 NJ Super 537 (App Div 3/05).</p>	<p style="font-size: 1.2em; font-family: cursive;">Matthew J. Coefer</p> <p>04/30/2014</p>																
	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">Custodian Signature</td> <td style="width: 30%; text-align: center;">Date</td> </tr> </table>	Custodian Signature	Date														
Custodian Signature	Date																

Subject: OPRA Request 152779

From: "Rausa, Trisha" <Trisha.Rausa@dep.state.nj.us>

Date: 4/24/2014 8:21 AM

To: "elliott@njhighlandscoalition.org" <elliott@njhighlandscoalition.org>

CC: DEP records <Records.Custodian@dep.state.nj.us>

The New Jersey Department of Environmental Protection, Office of Record Access received your Open Public Records Act (OPRA) request on _____ 4/21/14 _____ to which the above tracking number was assigned. As such, the seven (7) business day deadline (due date) to respond to your request is ___ 4/30/14 _____.

Your request requires additional time beyond the due date because of the time required to search for the responsive records. Your request requires an extension of time until [5/2/14]

Please confirm your acceptance or denial of this request within three (3) business days by replying to this E-mail. Failure to respond will be considered an acceptance of the revised due date which includes the three (3) business days for this response.

Please be advised that by agreeing to the new due date you are not waiving any of your rights under N.J.S.A. 47:1A-1 et seq.

Thank you,

Subject: FW: OPRA Request 152779

From: "Rausa, Trisha" <Trisha.Rausa@dep.state.nj.us>

Date: 5/8/2014 2:01 PM

To: "elliott@njhighlandscoalition.org" <elliott@njhighlandscoalition.org>

CC: DEP records <Records.Custodian@dep.state.nj.us>

Elliot,

This is the only email that was found with what information you provided. Again, there are still records that you will need to review on 5/19/14 that may have e-mails too.

From: 549-canon@dep.state.nj.us [mailto:549-canon@dep.state.nj.us]

Sent: Thursday, May 08, 2014 2:02 PM

To: Rausa, Trisha

Subject: Attached Image

— Attachments: —

1241_001.pdf

15.1 KB

Subject: File Review Appointment

From: DEP records <Records.Custodian@dep.nj.gov>

Date: 5/19/2014 2:24 PM

To: "elliott@njhighlandscoalition.org" <elliott@njhighlandscoalition.org>

Mr. Ruga,

Unfortunately the Office of Record Access was unable to host your review scheduled on May 19th, 2014 as we were not able to obtain all the files and have them reviewed by the Division of Law for any privileged records. As such your review has been rescheduled for May 27th at 9 am. Thank you and have a wonderful day.

State of New Jersey
Dept. of Environmental Protection'
Office of Record Access
Mail Code 401-06Q
PO Box 420
Trenton, New Jersey 08625