

New Jersey Highlands Coalition
508 Main Street, Boonton, NJ 07005
973-588-7190 (office)/ 973-588-7193 (fax)
www.njhighlandscoalition.org

September 10, 2017

To:

New Jersey Highlands Council
Attn: MPRR Comments
100 North Road (Route 513)
Chester, NJ 07930-2322
Fax: (908) 879-4205

Subject: Monitoring Program Recommendation Report (MPRR) Comments

Dear Margaret Nordstrom and Council members/staff:

On behalf of the New Jersey Highlands Coalition, its individual and organizational members (http://njhighlandscoalition.org/HTML/about_affiliates.html) thank you for your consideration of our comments. A great deal of thought and effort has gone into preparation of these comments, which we believe will assist in helping the MPRR and the Regional Master Plan become more effective in meeting the goals of the New Jersey Highlands Water Protection and Planning Act. We are happy to work with the Council in implementing many of these proposed amendments and other proposals.

Sincerely,

Julia Somers
Executive Director
New Jersey Highlands Coalition

New Jersey Highlands Coalition
Comments
Monitoring Program Recommendation Report (MPRR) (Draft)
September 10, 2017

Contributors to the Comments:

George Cassa, Co-Owner, Shannon's Fly & Tackle, Trustee, Raritan Headwaters Association
Emile DeVito, Ph.D. Manager of Science & Stewardship, New Jersey Conservation Foundation
Wilma Frey, M.L.A., M.P.A., Senior Policy Manager, New Jersey Conservation Foundation
Amy Hansen, Policy Analyst, New Jersey Conservation Foundation
Marion Harris, Chairman, Morris County Trust for Historic Preservation
Alan R. Hunt, Ph.D., Executive Director, Musconetcong Watershed Association
William S. Kibler, Esq., Director of Policy and Science, Raritan Headwaters Association
Mark Lohbauer, Commissioner, Pinelands Commission, Trustee, New Jersey Highlands Coalition.
Doug O'Malley, Director, Environment New Jersey
Dave Peifer, Highlands Project Director, Assoc. of NJ Environmental Commissions (ANJEC)
Elliott Ruga, Policy Director, New Jersey Highlands Coalition
Julia Somers, Executive Director, New Jersey Highlands Coalition
Judy Sullivan, Esq., President, Ramapough Conservancy

Natural Resources Topic Area (Pgs. 10 – 20)

Contributors:

Emile DeVito, PhD
Wilma E. Frey
Alan R. Hunt
William S. Kibler
Dave Peifer

RMP Program: Forest Resource Management and Sustainability (pgs. 13-14)

Emile DeVito, PhD

“Recommendation: Incorporate results of Ecosystems Services Valuation and Forest Management Guidance document into future amendments of the RMP.”

We support.

“Recommendation: Develop Highlands Specific Best Management Practices (BMP) Manual for forestry activities to be incorporated into future Forest Stewardship Plans and Forest Management Plans for Highlands forests.”

We support, with the caveat that this document needs to distinguish between public and private forests in the Highlands. The standards for public forests must be as broad and strong as possible, taking into account the full spectrum of Green Acres goals and objectives for preserved lands, including protections for all rare plant and animal species (Special Concern, Threatened, Endangered, S1, S2, S3, as well as the overall context for the management of public lands in the Region and the State.

Strong Highlands-specific standards for the private forests in the Highlands should be developed, that fully incorporate DEP Highlands rule standards for water and ecosystem protections, but they should not necessarily impose the same exacting standards for all rare species protection that are necessary on lands held in the public trust. For example, it is cost-prohibitive to require a private landowner to survey for all special concern (S3) plant species. However, private forestry plans should protect all S1, S2, and T and E species of plants and animals, as these are the species that are exceedingly rare.

“Recommendation: Update Forest Resources Areas Mapping for the Highlands Region, based on GIS mapping policy and reconsider the use of Forest Resource Area as a mapping unit and instead, rely upon the Total Forest Area data layer to delineate the extent of forest for the Region.”

We support.

Proposed New Recommendation: (maybe this goes into the Science and Research Agenda...)
Incorporate into the forest area mapping the existing historic forest mapping GIS data layer (originally created by CC Vermuele in the late 1800s), as this data layer is significantly

correlated with undisturbed and least-disturbed forest soils (as opposed to soils with a post-agricultural legacy). These historic or legacy forest patches are often of high ecological and biodiversity value, even if in otherwise fragmented forest areas, since their soil substrate was not likely disturbed by tilling. This data layer will be extremely useful to ecological restoration planning efforts.

Science and Research Agenda: (pages 202-203)

Forest Sustainability:

“Develop incentives to encourage invasive species control and deer management.”

We support, but incentives to reduce the rate of forest fragmentation, which is also noted as a forest sustainability issue, should be noted: eg. land preservation through the Council’s Program, Green Acres, state, municipal and nonprofit programs, plus the Council’s HDC Program (-- if the easement would be strict enough to preserve forests....)

“Develop and implement Highlands Forest BMP to supplement current NJDEP BMP Forestry Manual.”

We support. See comment above, re public vs. private lands.

“Develop models to evaluate and determine the value of carbon sequestration” of Highlands forests.

We strongly support, and suggest that public and private lands should be distinguished in the evaluation.

Forest Restoration:

“Investigate mapping methodologies to identify lands where it would be most appropriate to attempt forest restoration. Develop guidance for reforestation based on specific site characteristics.”

We support, and here is where the CC Vermuele historic mapping would be most useful. Forests on legacy soil degraded only by ill-conceived logging practices, as opposed to highly degraded forests on post-agricultural soil, should be the principal target for ecological restoration. Post-agricultural forests and existing agricultural lands could still be restored to forests in order to establish contiguous canopy, stream buffers, etc., but attempts to restore the native biodiversity of herbaceous and shrub layer would be costly and problematic.

Forest Mitigation:

Recommendation: “Field test the Functional Ecosystem Evaluation Methodology to assess usability, functionality and accuracy of the valuation determination.”

We support.

RMP Program: Restoration of Streams and Riparian Areas (pgs. 14-16)

William S. Kibler, Alan R. Hunt

“Recommendation: Clarify and refine language in certain policies and objectives related to Highlands Open Water Protection Areas and buffers, particularly regarding development applications and buffer functionality.”

We support. We agree that “[t]he language of certain policies and objectives is confusing and requires clarification” (p. 15). We encourage the Highlands Council to implement the Highlands Open Water definition uniformly across the Preservation and Planning Areas for Category One waters with the associated 300 foot riparian buffer (see N.J.A.C. 7:38-3.6(e)). For example, Division of Land Use delineations for freshwater wetlands and State Open Waters should also require applicants to utilize the definition of Highlands Open Water when delineating water resources throughout the Highlands area. Agricultural use within a Highlands Open Water buffer must be considered a “disturbance” under the RMP. Additionally, “development” needs to be understood—and defined within the RMP—on a spectrum. While urban areas and farms do not have the same impact on waterways, they are both long-term, man-made changes to the landscape, and are therefore developed. Neither a farm nor a golf course is an undeveloped area in a natural state.

“Recommendation: Work with municipalities to incentivize the development of stream corridor and/or subwatershed based Stream Corridor Protection/Restoration Plans.”

We support, but the recommendation should include working with non-profit organizations and other local stakeholders.

“Recommendation: Facilitate coordination between multiple municipalities that share HUC14 subwatersheds to encourage collaboration (sharing available funding and other resources) in the development of subwatershed based Stream Corridor Protection/Restoration Plans.”

We support, but the recommendation should include working with non-profit organizations and other local stakeholders.

“Recommendation: Periodically review and refine, as necessary, the guidance documents available to municipalities for development of stream corridor restoration plans.”

We support. If the “stream corridor restoration plans” in this recommendation are the same as the “Stream Corridor Protection/Restoration Plans” in the two previous Recommendations, then the same language and formatting should be used to avoid confusion.

The guidance documents must include requirements that Stream Corridor Protection/Restoration Plans must address the projected impacts of climate change.

Science and Research Agenda: (page 16)

*“**Riparian Integrity:** Undertake a full recalculation of the five indicators of riparian integrity that were used for the 2008 Ecosystem Technical Report . . . that were expressed at the HUC14 subwatershed level.”*

We support.

*“**Expand Ambient Biological Monitoring Network in Highlands Region:** . . . The intent of this agenda item is to coordinate with NJDEP to expand and establish a consistent AMNET to include additional stations in the Highlands Region.”*

We support in principal. It would be more effective to coordinate with DEP and local organizations to expand and improve the AMNET. Several local organizations have existing biological monitoring networks that provide quality data more often than AMNET can. For example, Raritan Headwaters has a biological monitoring site in every one of the Highlands HUC14s in its watershed. Those sites provide Tier D data to DEP and the data are used by DEP when compiling the 303(d) list. RHA collects data from every site every year, whereas the AMNET sites provide data only every five years. Similarly, the Musconetcong Watershed Association collects data from monitoring sites which is entered into WQX for the National Data Portal by cooperative agreement with EPA. Working with local organizations would provide more high quality data for the Council’s use and would help address the resource limitations that have thus far prevented expansion of the AMNET.

“Highlands Open Waters and Riparian Areas Inventory: The Highlands Council should develop methods for continued development and refinement of Highlands Open Water and Riparian Areas inventories with an emphasis on identification of headwaters streams and headwaters seeps and springs.”

We support. We encourage the Highlands Council to identify Highlands Open Waters in the Preservation and Planning Areas with the associated 300 foot riparian buffer. This activity should begin with identifying Highlands Open Waters associated with Category One waters first (see N.J.A.C. 7:38-3.6(e)). This is especially critical for protecting headwaters which are intermittent streams, and which may not be evident on current NJDEP maps, such as NJGeoweb. Some information sources include USDA County Soil Maps, which include streams, but are only available in print and have not been digitized for GIS. Also, the Stroud Water Resource Center has developed a high resolution stream network in its Model My Watershed online map, which has been very useful at identifying headwaters intermittent streams in the Musconetcong watershed.

RMP Program – Critical Habitat Conservation and Management:

Emile DeVito, PhD

Regarding *Forest Resource Management and Sustainability*, we strongly support the recommendations and the science and research agenda proposed on page 14.

Regarding *Critical Habitat Conservation and Management*, we strongly support the recommendations and the science and research agenda proposed on page 17. It is especially important to include ALL of the NJDEP Natural Heritage Program *Natural Heritage Priority Sites* in the redefinition of Critical Habitat, as was originally intended

Also, during the process of developing the *Highlands Region (specific) BMP Manual for Forestry Activities* proposed in the Forest Resource Management recommendations, special emphasis must be placed on the development of forestry BMP guidelines for all Critical Habitat, including wildlife habitat, vernal pools and buffers, and Natural Heritage Priority Sites.

We strongly request an additional recommendation that ALL Natural Heritage Priority Sites *on public lands* be treated as State Natural Areas, and that any forestry activities proposed within a Natural Heritage Priority Site on public land be reviewed and approved by the State Natural Areas Council.

We strongly request an additional recommendation that forestry activities proposed in Critical Wildlife Habitat, Vernal Pools and Buffers, and Natural Heritage Priority Sites *on private lands* adhere to special BMPs developed specifically for these critical areas in the proposed Highlands Region BMP Manual.

Regarding the summary of recommendations beginning on page 197, we strongly support all of the recommendations listed under both the Critical Habitat Conservation and Management RMP program and the Forest Management and Sustainability RMP program.

We support all the recommendations proposed under the Science and Research Agenda, with special emphasis on the Forest Sustainability recommendations regarding deer management, invasive species control, and carbon sequestration.

Overabundant deer are the single greatest threat to the ability of the preserved Highlands forests to continue to provide key ecological services. Overabundant deer destroy the native tree seedling, shrub, and herb layer in the forest, and aid in allowing weak-rooted annual invasive weeds to colonize the forest. Once the native herb/shrub/seedling layer is decimated by deer and invaded by alien weeds, the pH of the forest floor rises, alien earthworms consume the complex organic soil layer which houses sequestered carbon. With the consumption of the organic soil layer by earthworms, CO₂ is released to the atmosphere, underlying mineral soil becomes exposed, further attracting weeds instead of native plant species, and the erodability of soil increases. With the sponge-like organic layer reduced or gone, higher sheet flow runoff occurs instead of infiltration of water. Tiny, first-order streams become eroded and channelized, and siltation of downstream reservoirs increases.

The goal of the Highlands Regional Master Plan is to protect water; it is time to recognize and act upon the serious threat that overabundant deer pose to both the maintenance of ecological services and water quality protection provided by intact forests.

Natural Resources Topic Area

RMP Program: Carbonate Rock Areas

Dave Peifer (Wilma Frey from notes of phone conversation),
Alan R. Hunt

“Recommendation: Categorize and maintain an inventory of karst features identified through geophysical investigations conducted during project reviews.”

We support. To protect water quality in carbonate rock areas, more information is needed to understand how surface and groundwater interact, such as in the Musconetcong watershed. We note that while all karst is carbonate rock, not all carbonate rock is karst.

“Recommendation: Coordinate closely with NJGS and USGS when carbonate rock mapping is updated.”

We support, but emphasize **that the recommendation regarding carbonate mapping by NJGS and USGS should be unequivocal.** This mapping is essential; the Highlands Council needs to be proactive and commit to it. The Council should provide the matching funding required, and then work cooperatively with the NJGS and USGS on the project.

“Recommendation: Compile a database of municipal carbonate rock ordinances already enacted on a local level. Working with municipalities that have carbonate rock to enact such ordinances may be more applicable than implementing a review or checklist item through Highlands Project Review.”

We support municipal enactment of strong carbonate rock ordinances. Clinton Township and Washington Township (Morris County) municipal ordinances are good. However, Highlands Project

Review should continue to include substantive review of carbonate rock issues where a municipal ordinance is not in effect.

Karst Features Inventory (p. 198). “Establish an inventory of karst features identified through geophysical investigations during project reviews.”

We support. Site specific carbonate rock and karst maps which are associated with projects under Highlands Council review should be digitized and added to the Highlands Council Interactive Map.

RMP Program: Lake Management Areas (pg. 18-19)

Wilma Frey

Marion Harris

“Recommendation: Encourage lake communities without lake management plans to develop and implement a Lake Management Plan using the Highlands Council guidance document and grant program.”

We support. Although many Highlands lakes suffer from problems involving water quality, nonpoint source pollution and ecological integrity, as well as dam maintenance issues, they also offer striking scenic beauty and recreational resources. Highlands Council guidance could assist with both solving problems and protecting resources. In addition to identifying and protecting natural resources, every lake community management plan should be required to include a survey of cultural resources and a plan for their protection.

“Recommendation: Work directly with lake management communities and counties to pursue lake management plans that span multiple municipalities.”

We support.

“Recommendation: Assist municipalities in identifying funding opportunities, including the USEPA Section 319 (Clean Water Act, Section 319, Nonpoint Source Pollution Program) program for lake remediation activities.

We support (hoping Section 319 survives the current Administration in Washington, D.C.).

“Recommendation: Continue to maintain a Highlands Region Lake Management plan database.”

We support.

“Recommendation: Prepare a Best Practices Manual for dam and lake maintenance.”

We support, with the assumption that the manual will prioritize ecological concerns, as well as safety and water quality.

“Recommendation: Create a Highlands Financing and Administrative Handbook for dam and lake maintenance and operation, addressing creative public and private financing programs as appropriate for the lake or dam ownership.”

We support.

Science and Research Agenda

“Undertake a lake management study to focus on Lake Hopatcong and Greenwood Lake. The study should focus on preserving the ecological integrity of the lakes, their water quality, and water source potential.”

We support, but urge that the study also address protection of the historic, archaeological, scenic and recreational resources of the lakes and their surrounding landscapes.

Natural Resources Topic Area

Proposed New RMP Program: Steep Slope Protection Areas (pg. 19)

Wilma Frey

Comment: Although the MPRR states that “no current program exists,” in the 2008 Highlands Regional Master Plan, Steep Slopes is Subpart C of Part I, Natural Resources. It is co-equal in the RMP with Subpart A- Forest Resources, Subpart B – Open Waters and Riparian Areas, Subpart D – Critical Habitat, Subpart E – Land Preservation and Stewardship, Subpart F – Carbonate rock (Karst) and Subpart G – Lake Management. Steep slopes protection and management is clearly an issue of key importance to the Highlands Region, and it warrants attention equal to that of these other resources and issues. Establishing a separate program would provide better recognition of both the critical nature of steep slopes and the complexity of its attributes, which range from devastating erosion and subsidence potential, to exhilarating recreational opportunity, to unique habitat for specialized flora and fauna, to outstanding scenic attributes, both in terms of observation points and views toward unbroken mountain ridgelines.

The Council has already provided a firm (and expensive) underpinning for a Steep Slopes Program with its outstanding 2-foot LiDAR mapping of the entire region.

“Recommendation: Maintain a database of steep slope protection ordinances, ridgeline ordinances, or other such regulations already in place in various Highlands municipalities.”

We support, but the ordinances should not be required to be from Highlands municipalities. Good ideas can come from elsewhere – other localities, counties, or states.

“Recommendation: Coordinate with any municipality that wishes to implement such protections in addition to the Highlands Land Use Ordinance.”

We support.

Recommendation: Provide model ordinance language to municipalities interested in protection of ridgelines.”

We support - however, the ordinance language, and other ordinances, should also be made available to counties in the Highlands, private organizations, the Highlands Scenic Design Advisory Board and local stakeholders.

New Proposed recommendation: That the Council coordinate its Steep Slopes Protection Areas Program closely with its Scenic Resource Protection Program.

Science and Research Agenda: *Addressing green infrastructure initiatives in Steep Slope Protection Area.*

We support.

Topic Area Water Resources (pgs. 20-25)

Contributor:

William S. Kibler

RMP Program: Highlands Restoration: Water Deficits (pgs. 22-23)

“Recommendation: Prioritize the development of municipal-wide WUCMPs [Water Use and Conservation Management Plans] through plan conformance implementation. Develop a system for prioritization and coordinate outreach efforts to municipalities to aid in the development and implementation of WUCMPs.”

We support, but the recommendation should include working with non-profit organizations and other local stakeholders. Additionally, DEP must consult with the Council on all new water allocation permits and on all permit renewals, not just those with major modifications.

“Recommendation: Update net water availability based on data from completed WUCMPs.”

We support.

Existing Water Use Rates. Coordinate with NJDEP to determine existing water use rates for all public community water supply systems using Highlands Water and assess the relative efficiency of water uses among classes of systems. (p.198)

In general, we support. However, 1) we encourage the Highlands Council to estimate water use rates from historical usage, unlike the methods in the draft NJ Water Supply Plan which utilized an estimated future rate which was 20% lower (about 100 gpd per person) than the historical rate of individual water consumption (about 125 gpd per person), and 2) water use rates for private potable wells must also be included in this assessment as some watershed in the Highlands region have water

deficits due primarily to the abundance of potable private wells, as in the Lower Musconetcong watershed.

“Recommendation: Continue monitoring water withdrawals throughout the region using data cataloged by the NJGS.”

This is a first step, however relying on NJGS data is inadequate to address the intent of the Highlands Act. NJGS monitoring wells are too few to monitor water withdrawal usage. For example, the 42-mile long, 156 square mile Musconetcong watershed has two NJGS monitoring wells. With much of that watershed underlain with carbonate rock, more monitoring well information is needed to understand the localized impacts of water availability and withdrawal on groundwater availability and surface water flows – anecdotal evidence indicates that some surface water streams are losing base flow; however, the two NJGS monitoring wells are far from these sites and show no appreciable changes in water level. We encourage the Highlands Council to develop a more robust monitoring program, which monitors both groundwater and surface water volume, especially in carbonate rock areas, and seek partnerships for establishing groundwater monitoring sites (e.g. NJ Wildlife Management Areas, municipal public lands) and non-profit organizations. Other useful information may be available through the NJDEP well drilling permit program on well depth, depth to water, and need for replacement wells (e.g. due to an original well going dry).

“Recommendation: Prior to the adoption of any revision to the New Jersey Statewide Water Supply Plan, consult with the NJDEP concerning the possible impact of the Plan on the region, including the improvement of the efficient use of Highlands water resources both within and outside the region.”

We support. However, this consultation should occur while the Statewide Water Supply Plan is being drafted, not after it has been released for public comment. The Plan as currently proposed addresses neither water quality nor the water needs of aquatic ecosystems. The Council must ensure that the RMP continues to address those two needs, regardless of the deficiencies of the Statewide Water Supply Plan.

“Recommendation: Develop an RMP sub-program to directly address PGWRAs [Prime Ground Water Recharge Areas].”

We support.

“Recommendation: Develop avoidance/minimization/mitigation strategies and policies associated with development in PGWRAs.”

We support.

“Recommendation: Develop site design guidelines for development in PGWRAs, including permissible uses.”

We support.

“Recommendation: Develop municipally-based guidance for the local identification of municipally-important groundwater recharge areas.”

We support.

Science and Research Agenda: (page 23)

“Approach USGS to determine the feasibility of updating the Low Flow Characteristics of Streams in the Highlands Region report to determine if any measurable change has been observed in the base flows of the Highlands Region.”

We support. Include (1) a long-term trends analysis of base flows; and (2) a projection of base flows 40 or more years out to account for the likely impacts of climate change. To the extent possible this analysis should include river tributaries and streams, in addition to a watershed or basin level flow assessments, because of the localized impacts of water withdrawals.

“Evaluate and suggest locations for new gauging stations that would allow for a more simplified analysis of streamflow conditions in the Region. Potential locations may be based on the following criteria:

*Location of current gauging stations
Type of gauging station
Installation of stations on more critically vulnerable/important streams (i.e. C1, trout production, etc.)
Other recommendations of the USGS.”*

The focus should be on a more accurate analysis of stream flow, rather than a more simplified analysis. However, we can support this recommendation as long as a more “simplified” approach is at least as effective and accurate as the current analysis.

“Identify potential funding sources to support the installation, operation and long-term maintenance needs associated with new gauges situated in the region.”

We support. With the lower cost of continuous flow monitor stations, there is increased feasibility for measuring flow in river main stems as well as streams and intermittent streams. Highlands Council could partner with non-profit organizations to deploy and monitoring continuous flow stations.

RMP Program: The Efficient Use of Water (pgs. 23-25)

“Recommendation: Prioritize development of municipal-wide WUCMPs through Plan Conformance implementation. Develop a system for prioritization and coordinate outreach efforts to municipalities to aid in the development and implementation of WUCMPs.”

We support. The Council should include a recommendation to help coordinate development of WUCMPs among neighboring municipalities, as most HUC14s overlap municipalities and most municipalities include more than one HUC14.

*“Recommendation: Encourage integration of water use efficiency strategies into WUCMPs, such as:
Supply-side conservation
Demand-side conservation
Utility rate schedules that encourage customers to make efficient use of water and discourage*

excessive use

Beneficial reuse of reclaimed water

Recycling of water”

We support the integration of water conservation strategies into the WUCMPs, but such strategies should be mandatory in any municipality that includes all or a portion of any HUC14 in deficit.

“Recommendation: Since irrigation practices associated with golf courses have a relatively large impact on water use in the region, research and develop best management/conservation practices for inclusion in golf course management plans. These practices can also be considered when reviewing water allocation permits associated with golf courses.”

Since the volume water used on golf courses is extremely large, and the use is almost entirely consumptive, best management/water conservation practices should be mandatory in any new or renewed water allocation permit.

“Recommendation: Continue coordination with the NJDEP on water allocation permit actions.”

We support if the coordination between the Council and NJDEP includes all permit actions, whether the permit is new or is being renewed.

“Recommendation: Continue coordination with the NJDEP on water allocation permit actions.”

We support if the coordination between the Council and NJDEP includes all permit actions, whether the permit is new or is being renewed.

“Recommendation: Continue monitoring water withdrawals throughout the region using data catalogued by NJGS.”

We support. However, the Council must take action in those HUC14s that remain in deficit. Also, relying on NJGS data is inadequate to address the intent of the Highlands Act and a more robust groundwater monitoring network needs to be implemented.

“Recommendation: Continue to ensure, through the project review process, that all proposed new development incorporates LID design, relies on stormwater for irrigation purposes to the maximum extent practicable, and includes water conservation measures in site layout and structures (e.g., water efficient landscaping, rain collection systems, use of gray water); and new commercial development uses internal recycling or beneficial reuse of reclaimed water to the maximum extent practicable.”

All projects should be required to reduce their water consumption, reuse stormwater on site, and recycle water for beneficial reuse “to the maximum extent possible.” At a minimum, clearly define the phrase “to the maximum extent practicable” for purposes of the RMP and ensure that water conservation measures are used on all sites.

“Recommendation: Develop and/or provide educational materials to Highlands municipalities regarding water use efficiency and conservation practices for distribution. Educational materials should also be made publicly available on the Highlands Council website.”

We support. Coordinate outreach with and provide these materials to NJDEP and appropriate regional non-profits.

“Recommendation: Determine feasibility of enacting a water user fee imposed on water purveyors who derive water from Highlands Region sources and dedicating funds raised by such fee to assist in compensating landowners in the Highlands Region whose future land use expectations have been impacted by the Highlands Act.”

We do not support. The courts have clearly and repeatedly held that “future land use expectations” are not a taking and therefore not compensable. Offering a hand out every time someone is impacted by a regulatory or zoning change would bring essential government functions to a halt. However, we would consider a proposal to enact a water user fee to compensate Highlands landowners willing to sell their property for preservation purposes, or willing to place an agricultural or conservation easement on their property.

“Recommendation: Collaborate with the NJDEP (all uses) and the NJDA (agricultural uses) to select the most appropriate metrics for water use efficiency.”

This collaboration should be broader and might be a good use of a Technical Advisory Committee (TAC). Include in the TAC water authorities, such as the New Jersey Water Supply Authority and the North Jersey District Water Supply Commission, water utilities, academics, and non-profit organizations such as watershed associations.

“Recommendation: Collaborate with the NJDEP to determine existing water use rates for all public community water supply systems using Highlands water, categorize the systems for comparison purposes, and assess the relative efficiency of water uses among common classes of public community water systems.”

We support. Water use rates for private potable wells must also be included in this assessment as some watersheds in the Highlands region have water deficits due primarily to the abundance of potable private wells, as in the Lower Musconetcong watershed.

“Recommendation: Collaborate with the NJDEP, NJDA, and Rutgers Cooperative Extension Service to determine existing water use rates for all agricultural and other self-supplied irrigation uses using Highlands water, categorize the uses for comparison purposes, and assess the relative efficiency of water uses among common classes of purposes.”

We support.

RMP Program: Water Quality Restoration (pgs. 25)

“Recommendation: Coordinate outreach efforts to conforming municipalities regarding implementation of the grant-funded Highlands Stormwater Management Program components.”

We support. The Highlands Stormwater Management Program must ensure that municipalities address current and predicated future effects of climate change.

“Recommendation: Following the guidance set forth in the NJDEP Stormwater Best Management

Practices Manual, identify high priority HUC14 subwatersheds and a pilot study area for which to develop a Regional Stormwater Management Plan. Further steps would include the identification of participants, data gathering, and the development of implementation and evaluation strategies.”

We support.

“Recommendation: Facilitate coordination between multiple municipalities that share HUC14 subwatersheds to encourage collaboration (sharing available funding and other resources) in the development of subwatershed based Stream Corridor Protection/Restoration Plans.”

We support.

“Recommendation: Identify if any watershed-based management plans associated with the Highlands Region have been developed and/or implemented.”

There are watershed-based management plans in the Highlands, so perhaps the recommendation should be to collect and catalog all existing watershed-based management plans in the Highlands, update their implementation status, coordinate support for their implementation, and prioritize for development of a plan those watersheds within the Highlands that presently lack a management plan. For example, the Musconetcong River has a federal designation as Wild & Scenic, and has a River Management Plan administered through the Musconetcong River Management Council.

Science and Research Agenda: (page 25)

“Improve existing monitoring networks and use additional data sources, in coordination with the NJDEP, NJGS and USGS, for monitoring and evaluating both natural conditions and anthropogenic factors in water quality.”

We agree that existing governmental monitoring networks are insufficient to provide the level of information to management water availability and quality in compliance with the Highlands Act. We encourage the Council to work with non-governmental partners, some of which have robust monitoring networks and 10+ year monitoring programs. Many of these utilize Citizen Scientists, such as the Musconetcong Watershed Association’s River Watcher program and other similar programs. Non-profits can help improve monitoring networks by collecting high quality data at more monitoring locations less expensively than NJDEP or NJGS.

“Coordinate with the USGS to review existing USGS logistical regression models for estimating septic densities based on median nitrate concentrations which may be further tested and refined with additional data collection and modeling.”

USGS’s current regression model has proven to be inadequate and the Council should not rely on it. A new regression model should be developed, tested, and peer-reviewed before revisiting the septic density issue. The Council should not adopt any regression model or outside report on nitrate concentrations that has not been peer reviewed. The Council should recognize that median nitrate density is not the sole factor in determining development densities in the Highlands.

“Work in conjunction with the NJGS and USGS to design an improved ambient groundwater quality

modeling network in support of refining models for estimating septic densities.”

While septic density can be an important lens to interpret groundwater quality protection needs, estimating septic densities is only one of the many reasons to improve the groundwater monitoring network in the Highlands, and one of the less important reasons at that. Design an improved groundwater monitoring network to collect data for a variety of potential pollutants. Use the data to prepare an analysis of temporal and spatial trends in groundwater quality and quantity in the Highlands.

“Determine, based on sufficient available data, where water quality improvements would be beneficial. Develop and implement watershed-based management plans based on the results.”

We support the development and implementation of watershed-based management plans where they are needed. However, the Highlands Act directive to “protect, restore, **and** enhance the quality and quantity of surface and ground waters” (emphasis added) is not geographically limited to those places in the Highlands with “sufficient available data.” Where existing data aren’t sufficient, it is incumbent on the Council to collect sufficient data and then use that data to improve water quality.

Water & Wastewater Utilities (pgs. 26-31)

Contributor: Elliott Ruga

Highlands Act Goals: Water and wastewater utilities are human engineered infrastructure that, depending on policy, can either promote or limit development. The Highlands Act, on the other hand, vastly limits development otherwise made possible by engineered systems by the presence of functioning natural ecological systems—the higher functioning natural systems (prime groundwater recharge, high integrity forest, vernal pools, critical habitat, etc.), the greater the limits put on engineered systems to promote growth and development. The policies that will limit water and wastewater utilities are set forth in the Highlands Act, which states:

*“(E)ncourage, **consistent with the State Development and Redevelopment Plan and smart growth strategies and principles**, appropriate patterns of compatible residential, commercial, and industrial development, redevelopment, and economic growth, in or adjacent to areas already utilized for such purposes, and discourage piecemeal, scattered, and inappropriate development, in order to accommodate local and regional growth and economic development in an orderly way while protecting the Highlands environment from the individual and cumulative adverse impacts (thereof);”*

Under *Highlands Act Goals* of this chapter of the draft MPRR, the bolded section above is omitted, arguably because the adopted State Plan is so obsolete as to be irrelevant. However, the Highlands Council, no matter how well intended here, may not merely delete sections of the Highlands Act, especially if the section asserts where the regional body must be consistent with state-level policy. In the least the Highlands Council might incorporate a justification for ignoring the legislature’s mandate whether in the body of this section, or as a footnote: *Until an updated State Plan is adopted,*

the Council cannot be held back from responding to the majority of the Highlands Act mandates. Currently there is no state-level plan with which the Highlands Regional Master Plan, per the Highlands Act, shall be consistent.

Highlands Regional Master Plan: In listing the fundamental goals and objectives the RMP addresses in discussing water and wastewater utilities, the following are prominent in the RMP yet are omitted from the draft MPRR: Limit current and future water system demand in areas that are dependent on Current Deficit Areas or Existing Constrained Areas for sources of water; prohibit or limit the extension of water and wastewater utilities into the Protection Zone, Conservation Zone, or Environmentally Constrained Sub-Zones in the Planning Area; promoting cluster development and TDR receiving zones, where appropriate, as a requirement of extending utilities into the Protection, Conservation and Constrained Sub-Zones; prohibiting water transfers between subwatersheds; promotion of recycled and re-used water for non-potable uses.

Highlands RMP Programs: The MPRR omits the programs responsive to the fundamental goals and objective listed above.

Wastewater System Maintenance: We support this program and its elements. However, as noted in the RMP (Issue Overview p. 276) very few municipalities have adopted septic system maintenance ordinances, they are difficult to enforce, and failing septic systems often are a financial hardship on the part of the homeowner to replace. Yet the impacts to water resources, particularly in older Lake Communities, can be devastating.

Indicators: The indicators provided yielded interesting, but hardly useful findings, and little insight as to whether or not the Highlands Act's goals and objectives are being met for this topic. That most of the water supply EAS lies within the ECZ of the Planning Area, and that most of the wastewater EAS lies within the ECZ of the Planning Area, is hardly noteworthy. That since adoption of the RMP, an overall decrease in wastewater EAS might elicit further investigation, but that it was found to be due to more accurate mapping of EAS, not so much. And so on with Public Community Water System Capacity and Demand, and Domestic Sewerage Capacity and Demand.

Recommendations:

Develop procedures that improve coordination with WMP partners to accelerate development and adoption of WMPs.

We support.

Update EAS data for both wastewater and water utilities on a regular schedule.

We support.

Continue to coordinate with NJDEP on water allocation decisions and project reviews that demand public water and/or wastewater utilities, particularly regarding sensitive resources.

This is a statutory requirement of NJDEP.

Identify and prioritize areas that are in need of upgraded infrastructure.

We support.

Investigate opportunities for creating grant programs to assist with infrastructure upgrades.

We support.

Overall, this topic has been shown to be a missed opportunity. If the indicators were more reflective of showing how well the **Water and Wastewater Utility** programs succeeded in meeting the fundamental goals and objectives of the Act and the RMP for this topic, there would be more meaningful recommendations to make at this time.

Topic Area: Agricultural Resources (Pgs. 32 – 35)

Contributor:

Amy Hansen, New Jersey Conservation Foundation

"MPRR Recommendation: Promote sustainable agriculture and the expansion of agricultural uses and opportunities within the framework of protecting the Highlands Region."

Comment: We suggest that the RMP promote organic agriculture in the Highlands Region through education and technical assistance as a way to fulfill multiple Highlands Water Protection and Planning Act resource protection and sustainable economic goals, including especially protection of water quality, biodiversity, human and environmental health.

The Environmental Quality Incentive Program (EQIP), within the Natural Resource Conservation Services (NRCS) menu of programs, can provide monetary assistance towards transitioning farms to organic, as well as maintaining or creating buffers and installing efficient irrigation systems and cover crops. Financially, this makes sense, as organic continues to be the fastest growing agricultural sector in the United States and around the world.

Organic agriculture is appropriate for the Highlands Region, utilizing cultural, biological and mechanical methods to promote soil health, provide fertility, suppress disease and manage insects and weed pests without relying on routine inputs of synthetic fertilizers and pesticides. Organic farmers use management techniques such as crop rotation, cover cropping and the promotion of beneficial insects to control pest populations and disease. Natural materials rather than synthetic materials are used for fertility and pest control. Organic livestock must be fed organic feed, have outdoor access and be housed in a manner that allows them to engage in their natural behaviors. Organic livestock health care emphasizes prevention of disease and prohibits the use of antibiotics and hormones. Organic products must not be bio-engineered (genetically modified), subjected to irradiation or produced with sewage sludge (biosolids).

Based on current agricultural land-uses, more needs to be done to control erosion, to reduce sedimentation in streams and the transport of on-farm input into waterbodies. Cover-cropping, relay-cropping, wide spread implementation of riparian buffers, and the conversion of poorly-managed row crop land into permanent, productive cover (e.g. hay, pasture) can help control soil erosion. The USDA NRCS has previously developed targeted implementation of farm conservation practices on a

watershed basis through its Regional Conservation Promotion Program, and farms preserved through the State Agricultural Development Committee are eligible for SADC conservation funds. Targeting these resources to the Highlands Area could have a measurable impact in water quality.

"MPRR Recommendation: Integrated Crop Management and Integrated Pest Management (IPM): maintain and expand the program for farmers throughout the Highlands Region."

Comment: We strongly recommend first prioritizing a transition to organic agriculture as noted above, and then the reduction of synthetic pesticides, herbicides, etc. through IPM.

"MPRR Recommendation: Market Development/Niche Crops: develop and promote new markets for Highlands agricultural products (new products, value-added products, and niche crops) and develop and promote agritourism initiatives and activities."

Comment: We support marketing assistance that promotes Highlands' products within already existing venues, including farmers' markets. Many farmers have experienced a decrease in farmers' market attendance due to the over-abundance of such markets. Other regions have developed farmers' market networks to promote best practices on market management, operating weekday markets, and reducing duplication/overlap of marketing venues, primarily through grant funds provided to develop a regional farmers market organization, such as the New York City Green Markets or the Washington DC Fresh Farm markets. Research into the benefit of cooperatives could be useful for Highlands farmers. In Pennsylvania, the Lancaster Farm Fresh Coop successfully supports local farmers while selling to customers, both retail and wholesale, in the tri-state area. We encourage Highlands Council to offer competitively awarded grants to non-governmental organizations to provide marketing assistance and training. It's important these resources be offered on a regional basis and any regional branding efforts be linked with regions that resonate with consumers (e.g. a scenic region like the Highlands versus the political boundary of a County).

"MPRR Recommendation: Value Added Facilities: The Highlands Region serves as an important source of fresh, high quality, local food for northern New Jersey. The Highlands Council should advocate for and assist with the siting of value added facilities responsible for aggregating, processing, and distributing multiple products grown in the Region and beyond."

We support. It's important these resources be offered on a regional basis. Otherwise, overlapping brand identities or distribution/marketing facilities will undermine the potential success of any single entity. For these reasons, non-profits, cooperatives, or marketing alliances are often involved in coordinating these efforts. Resources for developing these types of facilities are available from the USDA Rural Development Value-added program and from the SUDA Agricultural Marketing Service Local and Regional Food Division, which provides consulting services for facility design.

"MPRR Recommendation: Agricultural Loan Bank: Coordinate with SADC to establish an Agricultural Loan Bank to collateralize debt for farm equipment purchases based on the pre-Act value of the subject property where said value was adversely impacted by the Highlands Act."

Comment: Instead of creating a new agricultural loan bank, more education could be provided to farmers regarding existing loan opportunities from the federal Farm Service Agency and Farm Credit East, a regional commercial entity. Both of these organizations can provide equipment loans. However, land purchase capital is more restrictive. USDA FSA can only provide land purchase loans for farms which are 1/3 the size of the state average, so about a 30-acre farm, and has a maximum lending cap of \$300,000. Farm Credit offers farmland purchase loans at a rate of 6-7% with a high down payment (30% or higher). For a farm of 100 acres, a 30% down payment can be over \$300,000. Securing fencing for larger-sized parcels, especially for a livestock production, capital for farmland purchase is a major barrier. This is especially acute for beginning farmers who lack collateral. Non-traditional financing options could help support agricultural types which have higher up-front costs, such as fencing and water for livestock, and longer than a one-year business cycle, such as with livestock and orchards, but which can reduce soil erosion through use of permanent cover. Innovative financing models, including exploration of an Agricultural Loan Bank, could help facilitate expansion of organic and sustainable agriculture in the Highlands region.

"MPRR Recommendation: Agricultural Advisory Committee: Establish an Agricultural Advisory Committee of the Highlands Council."

Comment: If an Agricultural Advisory Council is established, it is important that it include organic farmers in its membership, and include cross-sector representation in order to address the marketing and supply-chain issues faced by farmers, (e.g. marketing diversification specialists, consumers, retailers, and distributors). The Council should include representatives from both the Northeast Organic Farming Association of New Jersey (NOFA-NJ) and the Foodshed Alliance. The latter is working for increased access to farmland and affordability with a diverse group of partners. The Council could provide information to farmers about the availability of EQIP and loan programs, and assist with transitioning farms to organic or at a minimum, facilitating decreased use of synthetic pesticides and fertilizers, and identify processing, distribution, and marketing gaps and needs. Resources for forming this type of advisory committee are available from the Johns Hopkins Center for Livable Future's Food Policy Council Network.

"MPRR Recommendation: Science and Research Agenda: Agricultural Property Values: Measure the change in median per-acre value of property sales and assessed value for preserved and non-preserved farmland."

Comment: We suggest checking with the State Agriculture Development Committee (SADC) to see if they have these numbers already.

Additional comments on the MPRR:

The MPRR Natural Resources Topic: Forest Sustainability Program recommendations that "there must be proactive management of deer populations," and that the Council should "Develop incentives to encourage invasive species control and deer management," are also applicable to Agricultural

Resources, as farmers contend with strong deer pressure in the region. We support both recommendations.

We also support MPRR Recommendations regarding the Restoration of Streams and Riparian Areas Program (p. 15), which urge coordination with municipalities to incentivize the development of stream corridor and/or subwatershed-based Stream Corridor Protection/ Restoration Plans, and assisting municipalities in identifying areas where existing development, land disturbances or land uses within Highlands Open Waters buffers Riparian Areas have removed or substantially impaired natural vegetation and have significantly reduced or impaired the functional values of Highlands Open Water buffers. We add that it is important that non-profit organizations and other local stakeholders be included in the plans.

Also on p. 15, the MPRR notes, in “Program Issues,” that agricultural use is not currently considered a “disturbance” even when it occurs adjacent to the banks of a Highlands Open Waters feature. **We recommend that in the area where a stream buffer should be located, agricultural use should be considered a disturbance, and that the agricultural land be replaced with the required amount of stream buffer.**

General comment: We support additional farmland preservation in the Highlands Region, especially using the federal Agricultural Land Easement program, which requires an impervious cover limit. Limitations on impervious cover protect water quality and improve stormwater management effectiveness and success.

Other Beneficial Agricultural Programs:

The national Sustainable Agriculture Research and Education (**SARE**) program offers grants and provides a wealth of agricultural information, targeted by US region. <http://www.nesare.org>

Important research and agricultural practices are taking place on some farms that help to sequester carbon. The Marin Land Trust (**MALT**) in California is a great source of information on this topic. <http://www.malt.org/protected-lands/carbon-farming>

Grass fed beef operations are expanding in the Highlands Region and Carbon Farming is an exciting example of a win-win solution for farmers and the environment. Although rotational grazing is of course already practiced, the carbon sequestration being achieved by the addition of compost to the soil is a very promising tool in the fight against climate change. The [Marin Carbon Project](#) – a consortium of ranchers, scientists, nonprofits, agencies and policymakers – has shown that a one-time addition of compost to well-managed rangeland improves soil health and water retention, which nurtures better growth for pasture grasses. Healthier grasses are able to draw more carbon from the atmosphere and fix it in the soil, where it won’t contribute to global warming. Farmers are collaborating with scientists, who are performing exacting research, which shows the potential of these practices. <http://www.marincarbonproject.org/>

Carbon farming is a set of practices that reduce or reverse a farm or ranch’s greenhouse gas emissions. Carbon farming practices include: **Rotational grazing** – moving livestock from pasture to pasture allows the land to heal and grasses to regrow; **Woodland and stream restoration**; **Methane capture**: dairies operate methane digesters, which capture methane from their cows’ manure and transform it into energy that powers their operations; and **Spreading compost on rangeland**.

Economic Incentive: In 2014, the American Carbon Registry, a group that certifies carbon offsets, used results from the Marin Carbon Project to approve a protocol for adding compost to rangeland. Through the new protocol, ranchers who spread compost on their pastures can now sell carbon offset credits through voluntary carbon markets.

Topic Area: Historic, Cultural, Archaeological, and Scenic Resources (Pgs. 36 – 39)

Contributors:

Marion Harris, Chairman, Morris County Trust for Historic Preservation

Wilma Frey, Master of Landscape Architecture and MPA, Harvard University

George Cassa, Founder, AHH, Association for Historic Hamlets

Judy Sullivan, Esq., President, Ramapough Conservancy

Historic, Cultural and Archaeological Resources Protection Program

*“MPRR Recommendation: Amend the Plan Conformance Program (including model municipal documents) to make the review of impacts on historic, cultural, and archaeological resources a **required component**, in compliance with the stated goals, policies, and objectives of the RMP.*

We enthusiastically support.

“Recommendation: “Consider amending the language of the RMP to more strongly reflect the intention of the Highlands Act goal to “preserve...historic sites and other historic resources.”

We support. Further, we note that the Highlands Council has the authority to identify historic and cultural resources, as part of a Highland resource area, in the Planning and Preservation areas ((N.J.A.C. 7:38-1.1(d)) and should utilize this authority fully in furtherance of the RMP goals.

“Gather information related to historic preservation efforts in each Highlands municipality and county and prepare, and keep up-to-date, an inventory of Certified Local Governments, historic preservation plans, surveys, and ordinances.”

We support. Please add **for Highlands municipalities and counties**.

“Recommendation: In cooperation with SHPO (State Historic Preservation Office), initiate an education and outreach program for the Highlands Region, as described in the RMP.”

We support.

“Recommendation; In coordination with the NJ Historic Trust, establish a mechanism for tracking public spending on historic, cultural and archaeological resources. “

We support.

Comment:

By Marion Harris

Cultural resources is an umbrella term that covers historic resources, archaeology, scenic byways and vistas, cultural landscapes, and all manifestations of human impact on the world.

We are making two points:

1. Cultural resources cannot be separated from the natural resources with which they are permanently connected; each is the context for the other, and neither exists without the other.
2. Where the current RMP includes extensive, thorough, detailed plans for natural resource protection procedures, its mentions of cultural resources (except for the scenic vista section) are just generalities, and need to be developed by amendment into precise programs of action.

Further, the natural resource protections have been carried out systematically since the RMP went into effect, but no such practice has been implemented with respect to cultural resources, although it could have been, because the generalities in the plan - and the language of the Act - provide enough guidance to authorize it.

Several of the current Recommendations mention specific ways to include information and recognition of cultural resources. But these suggestions are pretty tentative, and should go a lot farther if they are to accomplish any actual protection.

The idea of tying cultural resource inventory-taking to conformance is top-notch – an excellent place for Highlands Council grant funding. But the requirement shouldn't stop with identifying resources; the conformance process should be amended to require the municipality to include a cultural resources element in its master plan, and to require the establishment of establish a historic preservation commission by ordinance (as well as an environmental commission).

That's just one example of the way the RMP should be amended to integrate cultural resource protection processes into the RMP text. Every land-use application to the Council – as for waivers or map adjustments – should be required to include a professional description of any cultural resources on the site. This is a matter for Implementation.

In view of the complementary nature of natural and cultural resources, there are also many points in the RMP text where the impact on cultural resources may be relevant; the plan should be amended to include cross-referencing language. A list of those points, which probably isn't exhaustive, includes: Water Resources, Water & Wastewater Utilities, Agricultural Resources, Transportation (these

categories create their own cultural resources as time passes), Future Land Use, Lake Management, Recreation, Tourism (all kinds).

The drafters of the Highlands Act understood the mutual reinforcement of natural and cultural resources. We should take full advantage of their understanding.

Archaeological Resources Protection

Contributor: Judith Joan Sullivan, Esq., President, Ramapough Conservancy

Comment:

Native American and Indigenous Peoples sites are embarrassingly scarce on the NJ portion of the National Register of Historic Places. Other states have hundreds of listings. Federal agencies, recognizing historically poor treatment of indigenous resources and peoples, have recently increased their efforts to protect both the present and "past" culturally important sites and landscapes of native peoples. New Jersey, one of the first colonies in America, should be especially vigilant about protecting these heritages. It is vitally important to recognize that indigenous peoples are one with the land, a concept Europeans often have difficulty grasping.

Proposed Recommendation: The RMP should increase the importance of processes and funding for recognizing, mapping, protecting and preserving Native American and Indigenous Peoples sites, landscapes, rock shelters, cemeteries, etc. that are located in the New Jersey Highlands Region.

Scenic Resources Protection Program

Contributor:

Wilma Frey, Master of Landscape Architecture, Harvard Graduate School of Design

The public values and responds to the scenic beauty of the Highlands. The Region's scenic resources are clearly noted and recognized in New Jersey's Highlands Act, and in the Regional Master Plan. However, these scenic resources unfortunately have thus far not received - through the DEP Highlands rules, the RMP or Plan Conformance - the level of recognition and protection they richly deserve. This situation must be remedied.

We urge and support inclusion of a Mandatory Scenic Resources Component in the Highlands Land Use Ordinance. Just as we support the Draft MPRR recommendation to make the review of impacts on the Historic, Cultural, and Archaeological resources a required component of Plan Conformance, we urge that the Plan Conformance Program be amended to require identification of scenic resources and review of impacts upon them. Scenic resources education, as described below, including identification and inventory at the local level, would provide the foundation for the review of impacts.

The Monitoring Program Recommendations Report (MPRR) includes two recommendations for scenic resource protection that we support, and one that we do not.

1. **We Support Scenic Resources Education:** We strongly support the MPRR recommendation for “*Scenic Resources Education - the development of a municipally-oriented outreach effort to assist in the identification and nomination of potential Highlands Scenic Resources.*”

Scenic resources should be identified at the municipal level, *as a required component of Plan Conformance*. Identification of these scenic values at the local level could also be expected to eventually lead in some instances to their nomination, designation and inclusion in the Council’s Inventory of Regionally Significant Highlands Scenic Resources.

2. **We support the recommended Highlands Scenic Resources Inventory Update:** Currently, the Inventory consists solely of public lands preserved at the state and county levels. While the inventory should be “monitored and updated... as lands are preserved,” in addition, the definition of scenic resources to be included needs to be updated to incorporate the more complex and inclusive definitions and categories of scenic resources, as described in the 2008 Scenic Resources Procedure document. Scenic Resources comprise a wide spectrum of values beyond preserved lands.

Obvious immediate additions to the Scenic Resources Inventory would include the Appalachian National Scenic Trail, New Jersey’s portion of the multi-state long-distance Highlands Trail, the Musconetcong National Wild, Scenic and Recreational River, the Middle Delaware National Wild and Scenic River; numerous reservoirs, including Wanaque, Monksville, Boonton, Splitrock, Echo Lake, Clinton, Canistear, Oakridge, Spruce Run and Round Valley; the Morris Canal; D.O.T. designated State Scenic Byways, including the Western Highlands Scenic Byway (Rt. 515/94) in Sussex County and the Warren Heritage Scenic Byway (Rt. 57) in Warren County,, and rail-trails, including the Sussex Branch Rail-Trail, Patriot’s Path and the Paulinskill Trail, among many other potential features. It is high time to recognize and seek to protect the Highlands’ treasured viewpoints and views of sweeping valleys and broad scenic vistas; rugged ridges, forested mountain slopes and summits, historic unspoiled villages, stone barns and historic churches, their white steeples creating exclamation points in the rural landscape.

3. **Procedure for Nomination, Evaluation, and Inventory of Highlands Regionally Significant Scenic Resources:** *We do not support the MPRR recommendation that the 2008 Procedures be reviewed at this time to determine if modifications are appropriate.* There has never been a serious or sustained effort to implement these procedures, so there is no way of knowing how well they might work. Instead, the Highlands Scenic Design Advisory Board needs to be appointed, and implementation efforts initiated at last.

4. **We support a RMP amendment for a section on recreation as a major category of interest.** Recreation, when managed properly, can contribute to economic development in the region with minimal environmental impact.

Topic Area: Future Land Use (Pgs. 46 – 53)

Contributors:
Wilma Frey
George Cassa

Land Use Capability Analysis Program (pg. 50)

Wilma Frey

“The Highlands Act requires that the Highlands RMP include a resource assessment that determines the amount and type of human development and activity that the Highlands Region can sustain while still maintaining overall ecological values. Furthermore, the Act requires a Smart Growth component that, based on a resource assessment, plans for appropriate development, redevelopment, and economic growth. Currently, the RMP relies on the Land Use Capability Zone Map to address both of these requirements.”

“MPRR Recommendation: Develop a plan and schedule to update the Land Use Capability Map Series region-wide based on the availability and updates of the base datasets used.”

Comment: We support.

“MPRR Recommendation: Update the LUCZ Map to create a three-map LUCZ set depicting past and present on-the-ground conditions, as well as a map reflecting areas appropriate for future growth.”

Comment: Although we support creating a **two-map** set depicting past and present on-the-ground conditions, **we do NOT support the creation of a regional map reflecting areas appropriate for future growth.** See comment below.

“MPRR Recommendation: Based on the resource assessment conducted under the Land Use Capability Map Series, establish a region-wide Smart Growth Capability Map depicting areas within the region that are appropriate for future development and redevelopment activity, and areas that are more appropriate for conservation and protection.”

Comment: We strongly oppose this recommendation, and urge the Council to continue to rely on the RMP Land Use Capability Zone Map of the Planning Area, plus designation of Highlands Centers in conforming municipalities, and designation of Redevelopment Areas, to address the Act’s Smart Growth component requirement.

The Existing Community Zone, which comprises a significant portion of the Highlands, identifies the Planning Area as the general area where any new development should be directed. The Environmentally Constrained Existing Community Zone, a small subset of the Planning Area, identifies those portions of the Planning Area that are significantly constrained by environmental limitations and that are therefore **not suitable** candidates for Smart Growth Development. By inference, the remainder of the Existing Community Zone holds that possibility. The Highlands Council has already designated 15 Highlands Centers totaling 15,551 acres within the Conforming Planning Area and 11 Redevelopment Areas totaling 179 acres within the Preservation Area, as part of its implementation of Smart Growth in the Highlands.

Creation of a Smart Growth Capability Map would squander precious and limited Council staff time, and such a map would be almost impossible to create, given the multiplicity of different attributes that might be desired by various businesses or industries.

In addition to the Land Use Capability mapping that already exists and is available on the Council's website, the Council might prepare a **Smart Growth component document** for business and industry that outlines the various land use and functional criteria that should be considered when looking for a development site in the Highlands region and that specifies how to address RMP goals, policies, objectives and requirements, and could also offer individual assistance as possible. Businesses are required to engage with municipalities regarding municipal planning, zoning and building requirements, as well as with counties, regarding issues under county jurisdiction, plus State agencies, including the NJDEP and NJDOT. The Highlands Council is merely another step along the way, and should not be required to provide special services to commercial business or industry.

The Council should not be obligated to propose or locate sites for private business. The overriding purpose of the Highlands Council, and the function of its staff, is to serve the public interest, preserving, protecting and enhancing water quality and supply, forests, farmland, and other natural and cultural resources of the Region critical to the future of the State of New Jersey..

Redevelopment Program (Pg. 50-51)

Contributor: Wilma Frey

“MPRR Recommendation: Develop and adopt procedures for designating Highlands Redevelopment Areas within the Planning Area.”

Comment: We support this recommendation, and urge that the procedures must ensure that the proposed redevelopment conforms to the Goals, Policies and Objectives of the Regional Master Plan.

“MPRR Recommendation: Adopt Highlands Redevelopment Procedures as an addendum to the Regional Master Plan through the established Highlands Regional Master Plan amendment Procedures.”

Comment: We concur with this recommendation.

Low Impact Development (LID) Program (Pg. 51)

Contributor: Wilma Frey

“Incorporating LID strategies, such as pervious pavement, bioretention basins/rain gardens, vegetated swales, green roofs and cisterns into site design should be required for proposed development in the region.”

“Recommendation: Develop and adopt procedures for Highlands Project Review that include an existing features analysis and a site's ability to incorporate LID or mitigate impacts off site.”

Comment: We concur, but urge caution in the evaluation and/or approval of off-site mitigation. The mitigation standards must support a strict interpretation of Highlands RMP goals, policies and objectives. We refer to proposed guidance in the following recommendation, which we support.

Recommendation: Develop guidance for Highlands-specific LID pertaining to site design and stormwater management.

Comment: We support development of a formal project review guidance document to synthesize the Goals, Policies, and Objectives of the RMP for minimum standards required of a project submission for Highlands Council review.

Recommendation: Develop an objective grading or ranking system for the use of LID strategies.

Comment: We support the development of objective standards to assess the extent and effectiveness of proposed LID strategies during project review. Give it a try!

Recommendation: Identify parkland as a vital component of green infrastructure that contributes to the overall health of the region.

Comment: Substitute “Permanently preserved public and nonprofit lands” for the word “parkland” and we will concur.

Recommendation: Coordinate with the Department of Community Affairs and the Residential site Improvement Standards Board for the development of standards specific to the Highlands Region.

Comment: We concur.

Cluster Development Program (Highlands Center Designation) (pg. 51-52)

Contributor: Wilma Frey

“Recommendation: Amend the RMP to incorporate a Highlands Center Designation Program and guidelines adopted in accordance with RMP Amendment Procedures.”

We concur. However, the guidelines must be carefully written to ensure conformance with RMP GPO that seek to protect water, forests, natural and cultural resources.

“MPRR Recommendation: Incorporate procedures for cluster and non-contiguous cluster development within the Highlands Center Designation Program and guidelines, including the use of smart growth principles, and low impact development techniques that consider existing community character with respect to architectural style scale, massing, and arrangement.”

We concur in general with this recommendation, but suggest that it be amended as follows: “...Highlands Center Designation Program and guidelines, including the use of smart growth principles, low impact development techniques, **and design guidelines** that consider existing community character with respect to **the natural and human landscape character**, architectural style, scale, massing, **materials** and arrangement.”

“MPRR Recommendation: Revisit the cluster and non-contiguous cluster development program in the RMP to encourage use.”

We would encourage use of the cluster development program **only after the smart growth principles, low impact development techniques, and design guidelines noted above are in place.**

“MPRR Recommendation: Encourage the use of alternative wastewater treatment systems for cluster development in areas that are not currently served by traditional systems. (Ensure coordination with the NJDEP.)

We oppose this recommendation, except for its use in the Existing Community Zone of the Planning Area, The use of alternative wastewater treatment systems should be neither encouraged nor permitted in the Preservation Area or in the Protection Zone, except in the case of existing small dense developments where septic systems are failing, eg. hamlets, villages, or the Lake Community Zone.

“MPRR Recommendation: Establish guidelines for the designation of core, node, village, freight, and hamlet center typologies, particularly incorporating the potential for smaller scale cluster development and the use of alternative wastewater treatment systems. (Ensure coordination with the NJDEP.)

We oppose this recommendation. Its objective appears to be to designate growth points throughout the entire Highlands Region. Since the overriding objective of the Highlands Act is to protect and preserve the forested watersheds that supply two-thirds of New Jersey’s population, we do not support recommendation that seek to facilitate increases in population and development in the Highlands Region. We particularly oppose any such proposals that would involve the Preservation Area or the Protection Zone.

“MPRR Recommendation: Assess the Highlands Region for State Development and Redevelopment Plan and de-facto centers that may not voluntarily conform to the RMP (i.e. Dover, Morristown, Washington Borough). Establish procedures to recognize the importance of these centers to the region by providing planning assistance grants and conformance incentives.

We do not support this recommendation. While the idea may be to try to improve planning and programs in these municipalities, implementation of this recommendation would undercut Plan Conformance. It would enable the recipient municipalities to receive Highlands grants and other incentives without conforming to the RMP. Since all such defacto centers would be in the Existing Community Zone, the Goals, Policies and Objectives would be appropriate for them, and not onerous. The proposal is unfair to the municipalities that have already conformed, or that intend to conform, as it would divert limited funding and other resources to non-conforming municipalities.

Housing and Community Facilities Program (pg. 53)

Contributor: George Cassa

“MPRR Recommendation: *Review the authority provided to the Highlands Council by the Fair Housing Act to determine what responsibility the Council has towards the adoption and implementation of standards to regionally provide affordable housing, in line with regional concerns.”*

We support this recommendation.

“Recommendation: *Update the draft Affordable Housing Technical Report of the RMP to provide technical assistance to municipalities, and adopt it through the RMP Amendment Procedures process.”*

We concur with this recommendation.

“Recommendation: *Amend the RMP to incorporate the updated results of the Affordable Housing Technical Report as well as to reflect the changes in affordable housing laws and regulations since RMP adoption.”*

We concur with the above recommendation, subject to our comments below.

“Recommendation: *Work with municipalities to continue to support the implementation of the Fair Housing Act, and incorporate any legislative revisions into the RMP, as appropriate.”*

We do not support this recommendation as stated, Furthermore, the issue of Fair Housing is not currently before the state legislature, but rather is in the Court system. We state our concerns below.

Comment:

In the upcoming months, many Highlands communities will learn the results of a now-pending Fair Share plan certification process taking place in the Superior Court System, which will affect future land use in the Highlands Region. This process is likely to challenge the integrity of sound planning principles, and in particular the principle of affordable housing consistency with the Highlands RMP, even in conformed municipalities, to a significant degree. This challenge arises from the Supreme Court’s March 2015 Affordable Housing decision, which the Council explicitly addressed in August 2015, with a general overview of its Affordable Housing Update grant program and instructions that were distributed to all conforming municipalities. The RMP should be amended to reflect Council’s position on Affordable Housing, as follows:

Proposed New Amendment:

Amend the RMP to Acknowledge Executive Order 114 and Re-Establish A Memorandum of Understanding with An Agency Authorized to Implement the Fair Housing Act.

Comment:

Executive Order 114, adopted in 2008,, directed the Highlands Council and the Council on Affordable Housing (COAH) to "enter into a joint Memorandum of Understanding" to assist COAH in developing third round growth projections within the Highlands Region. Executive Order 114 remains in effect unless it is expressly withdrawn by the current Executive. Although COAH is no

longer a functional State Agency implementing the Fair Housing Act, the MOU remains in place to guide the NJ Superior Courts in their role of implementing the Fair Housing Act.

It is of utmost importance that the MOU be brought to the attention of the Courts, because the document provides guidance to the goals, policies and the objectives of the Highlands Regional Master Plan with their legal weight, as intended by the Highlands Act, in determining the region's capacity for growth and development that is balanced with natural resources protection, including water -- thus supporting the long term sustainability of the Highlands and over two-thirds of the State's population that depends on the Region's critical water supply.

In 2011, the MOU between the Highlands Council and COAH was challenged in the Appellate Division by the Fair Share Housing Center, primarily on the grounds that Executive Order 114, the RMP, and the MOU were each adopted without following the legal processes set forth in the Administrative Procedures Act. The Court subsequently ruled in affirmation of the validity of the Highlands Regional Master Plan, Executive Order 114, and the MOU. Therefore, the MOU remains in effect. To comply with EO 114, an MOU should be re-established between the Highlands Council and an agency having the authority to implement the Fair Housing Act, and the RMP should be amended to reflect this MOU.

Proposed RMP Amendment: The RMP Should Be Amended to Clarify Eligibility Criteria and Procedural Requirements for Legal Representation under the Highlands Act

Discussion:

The Highlands Council's 2008 Plan Conformance Guidelines (excerpt below) identify three (3) criteria that must be met for a municipality to be eligible to request legal representation from the Highlands Council.

“(g) Legal Representation. The Highlands Council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an action or decision of the local government unit taken or made under authority granted pursuant to the Municipal Land Use Law, the State Uniform Construction Code Act, or the Highlands Act, provided that:

- 1. The municipal or county master plan and associated regulations have been approved by the Highlands Council as being in conformance with the Regional Master Plan;*
- 2. The Highlands Council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the Regional Master Plan; and*
- 3. The act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more.”*

Conforming Highlands municipalities will likely have already satisfied the first two criteria as conditions of conformance. However, the third criterion – that the municipality must be subject to a

specific offending application for development – limits conforming municipalities’ access to legal assistance from the Highlands Council to only relatively narrow, case-by-case situations, such as a builder’s remedy lawsuit, in which a conforming municipality is compelled to defend its conformed planning and land use decisions in the face of a specific Highlands development application.

We recommend that the 2008 Conformance Guidance should be updated to clarify and expand the definition of an “... act or decision of the local government unit that is the subject of the cause of action” to include NJ court directives that do not arise from individual applications for development, but instead occur as a result of a broad challenge [by development or other interests] to the validity of all Highlands Housing Element/Fair Share Plans that have been developed in accordance with Highlands Council guidance and that have been deemed consistent with the RMP by the Highlands Council. This new guidance should be incorporated into any revision of the Regional Master Plan.

The RMP should be amended to clarify that an “application for development” is not limited to the strict definition of that language as applies to municipal actions under the MLUL, but it can also include NJ Superior and Supreme Court actions that in effect support open-ended applications for region-wide development. A conforming municipality should not have to wait until a developer brings a specific challenge to avail itself of legal assistance from the Highlands Council. If the affordable housing proposal brought by or on behalf of development interests indicate the potential for significant inconsistency with the goals, policies, and objectives of the RMP, a conforming community should be able to pre-emptively request legal assistance.

In order to comply with the Council’s review requirements for changes to local enabling ordinances, the RMP should be amended to include a schedule for revising a municipality’s Highlands Housing Element/Fair Share Plan (**HE/FSP**) to reflect any changes arising as a result of a court-approved Affordable Housing Obligation (AHO), which must be submitted to the Council for a determination of consistency with the RMP. The RMP should also be amended to specify the procedure necessary for a municipality to request legal assistance from the Council if the Council determines that the court-approved AHO in a revised FSP is not consistent with the RMP because it does not reflect the Council’s build-out analysis, mapping data, or any other data or assumptions.

Finally, the RMP should be further amended to identify and specify the actions that must be taken by a conforming municipality if its approved Highlands HE/FSP, which has been suitably updated with changes as necessary to Plan Conformance Planning Modules 2, 3, and 7, and which has been found by the Highlands Council to be consistent with the RMP, does not reflect the final AHO established by settlement or court decision. **It should be made clear in the RMP that any HE/FSP with an Affordable Housing Obligation that cannot be implemented under current conformed zoning will be deemed inconsistent with the RMP.**

Further, we note that COAH has previously estimated affordable housing demand on East-West regions made up of multi-county units. For example, affordable housing demand in Hunterdon County is based upon population growth and job growth in Hunterdon, Somerset, and Middlesex counties. If job growth occurs in New Brunswick, affordable housing requirements for all

municipalities in Hunterdon, Somerset, and Middlesex counties increase. This creates development pressure that otherwise would not be driven by housing demand (New Jersey’s westernmost counties of Warren and Hunterdon are experiencing population decreases) and thus undermines the intent of the Highlands Act. The Highlands Council should work to revise this multi-county approach to affordable housing allocation to more accurately reflect the decreased development potential of the Highlands region. Affordable housing need should be based upon the local municipality’s population growth and job growth. If required by law to have a multi-county region, the Highlands Council should advocate for a Sussex-Warren-Hunterdon affordable housing region.

Proposed Recommended Amendment re DEP Permits: All DEP Permits for Development in Conforming Municipalities Must Be Consistent With the Validity Period of the Underlying Municipal Approvals.

Comment: The DEP has recently demonstrated a willingness to renew permits for expired and undefined projects. We urge that the Highlands Council be willing to stand in court with conforming Highlands municipalities and defend the premise that no permit for any undefined or lapsed project associated with an expired development application will be deemed consistent with the RMP. The RMP should be amended to reflect this policy.

Topic Area: Landowner Equity (Pgs. 54 – 59)

Contributor:

Mark Lohbauer

“Recommendation: Guidelines for monitoring Highlands Council preserved lands:”

We concur that the development of guidelines would enhance long-term stewardship of conservation easements. We would further propose that there should be a dedicated source of funding to pay for the monitoring of those easements. Without a source of funding for the monitoring system, the reliability of the monitoring program would be poor, leading to the likelihood that the easement terms would be violated.

“MPRR Recommendation: Expand incentives for TDR receiving zones: (Alternate avenues of credit use, and increased financial incentives.

While we concur with the recommendation to expand incentives in order to create more TDR receiving zones, we disagree with the proposed alternate avenues of credit use. The concept of giving Highlands Development Credits to municipalities for them to distribute to developers is problematic, because it would eliminate the revolving nature of that credit. Payment made by a developer under that circumstance would be made to the municipality, rather than to the HDC Bank. The value of those credits would thus be lost to the local municipal budget, rather than becoming available for re-use in the HDC Bank. We believe that a better approach would seek ways for the State of New Jersey to offer incentives to eligible municipalities to establish TDR receiving zones. The State would have

the ability to offer towns that establish TDR receiving zones such incentives as an increase in municipal aid, or allowance of higher priority ranking to such municipalities making competitive applications to the State for grant funding. Finally, we would also suggest that if the community seeking the incentive is within the Highlands Region, it must be compliant with the RMP in order to qualify for incentives.

“MPRR Recommendation: HDC purchase program (amend the RMP to reflect the adoption of the HDC Purchase Program):”

We concur with this recommendation.

“MRPP recommendation: Expand landowner equity topic area to include land preservation.”

While it is practical to combine the subjects of land preservation and land acquisition together, we believe that the emphasis of this recommendation is misplaced. Preservation of land is a primary goal of the Highlands Act [Section 10. b. (2)], second only to protection of water resources. Landowner equity is not expressed as a goal of the Act under Section 10; in fact, the term “landowner equity” is not expressed at all within the Act. To place the priority goal of land preservation within a topic area of landowner equity would re-order the importance of these subjects. We see the accomplishment of landowner equity as an important tool among many to achieve land preservation. We also recognize that all parties are entitled to equity, including the present and future citizenry of the State, for whom the land is being preserved. In order to remain consistent with the Highlands Act, we would recommend that this topic area be renamed “Preservation and Equity,” a title that recognizes that preservation is the Council’s goal, and the means to achieve it must be equitable for all, landowners and citizens alike.

“MPRR Recommendation: HDC Purchase Program (amend the RMP to reflect its adoption)”

We concur with this recommendation.

“MPRR Recommendation: Support dual appraisal methodology indefinitely.”

We recognize that the dual appraisal method has been an effective device to preserve open space, as it permits higher purchase offers to be made for the land sought to be preserved than would otherwise be allowed if only one appraisal were available. We support the goal of preservation of open space, and agree that the extension of this methodology would facilitate more preservation.

“MPRR Recommendation: Update preservation priority RMP datasets.”

We concur with this recommendation.

“MPRR Recommendation: Reevaluate monetary value of the Highlands Development Credit”.

We concur with this recommendation.

“MPRR Recommendation: Interagency Coordination-TDR.”

We concur with this recommendation.

“MPRR Recommendation: LEED certification.”

We concur that there would be greater incentive to take advantage of Highlands TDR programs if they were given a value that applies to LEED certification.

“MPRR Recommendation: Review and update non-residential HDC allocation methodology.”

We concur that non-residential properties require an improved HDC allocation methodology that would be more equitable; currently non-residential properties receive allocations that are several times greater than residential properties, without justification for the extreme differential. We encourage the Council to collaborate with the State Agricultural Development Committee in seeking more equitable solutions for the compensation of non-residential property owners.

Beyond the stated recommendations of the MPRR on Landowner Equity, we would encourage your consideration of these additional recommendations:

Proposed Recommendation: Dedicated sources of funding for land preservation and stewardship:

This concept was expressed in the text of the topic of Landowner Equity, but not offered in terms of specific recommendation. We urge that each of the items listed on page 56 (a Highlands water user fee; a reserve fund; a program to secure significant federal funding; a program to seek unique funding sources; a rate surcharge on public water systems using Highlands water; and a Highlands Conservation Trust) be included among your specific recommendations. We would go further to argue that the causes of land preservation and stewardship are so important to the people of New Jersey that the Highlands Development Credit Bank, and the proposed “reserve fund” and “Highlands Conservation Trust” should all be funded by appropriation from the State’s General Fund. In fact, we would encourage the initiation of a statewide referendum question to authorize such a dedication of funds.

Proposed Recommendation: Secure significant federal funding.

With regard to the program to secure significant federal funding, we would encourage the Council to specify that several federal funds (the Land and Water Conservation Fund; the Forest Legacy Program; the Highlands Conservation Act Program; the Department of Agriculture Environmental Quality Incentives Program, and the Agricultural Conservation Easement Program) are currently available to support Highlands projects, and should be utilized.

Topic Area: Sustainable Economic Development (Pgs. 60 – 63)

Contributors:

Mark Lohbauer

Wilma Frey

Highlands Act Goals

*“The Highlands Act charges the Highlands Council with the following goals related to **sustainable economic development** in the implementation of the Highlands RMP...”*

WF Comment: We note that the seven bullet points listed as goals relevant to sustainable development do not include among them the protection of the region’s water supply. We question – how one can have **sustainable** development without a reliable water supply? And how one can have a reliable water supply without protecting the source of that water - the forested watersheds and underground aquifers of the Highlands? It is clear that the meaning of the word “sustainable” needs to be very carefully considered in the MPRR, and any proposed changes to the RMP. The word sustainable also needs to be considered in another context – that of “smart growth.” Sustainability need not involve actual **growth**, whether smart or not. Sustainability should mean the ability of the established population of the region to be able to sustain themselves and, to the extent that their children wish to remain in the Region, their families, while the resources of the Region that are essential to the State - most particularly water quality/supply - are similarly sustained.

Highlands Regional Master Plan

WF Comment: We agree with the statement that *“the RMP’s approach to sustainable economic development in the Highlands Region is focused on fitting economic activity within the unique places that comprise the Highlands Region. The goals enumerated in the RMP call for public investment in facilities and institutions, pursuit of agriculture, tourism, and recreation as economic drivers, expansion of innovative technologies, and support for local development initiatives, such as downtown revitalization.”*

We note that Highlands tourism has been specifically identified to include ecotourism, agritourism, historic and cultural tourism (including eg. museums, public gardens), and scenic tourism.

“MPRR Recommendation: Highlands focused tourism program; coordinate with the NJ Division of Travel and Tourism to establish a Highlands-focused tourism program”

We concur with this recommendation, and encourage the Council’s collaboration to extend also with the federal National Park Service, the NJ Department of Environmental Protections Division of State Parks, and with private commercial entities in the Highlands that stimulate destination visits. As we note, below, the State Parks are at the heart of Highlands-based tourism, and they already maintain useful data on their visitors that the Highlands Council could use to target audiences for marketing campaigns.

A collective campaign featuring federal, state, county and privately-owned profit and non-profit attractions and destinations throughout the Highlands would be an effective way to communicate with returning and potential new visitors; to raise their awareness of historic, recreational, entertainment, lodging, shopping and dining opportunities in the region; and to stimulate longer and more frequent visits.

The Highlands Council would be the best entity to bring all these government and private entities together in a common tourism marketing effort, and by doing so, maximum marketing impact could be achieved with a minimal cost to participating entities. Key to such an effort would be to build a clear brand that ties all of these destinations together, and we believe the brand should be based on the “Highlands” name. This would require coordination with other parties now using other names for all or parts of the region (“Skylands” and “Gateway”) to adopt the common brand of the tourism program.

“MPRR Recommendation: Economic coordination: expand upon Highlands Council efforts to partner with other entities in support of sustainable economic development in the region.”

We concur with this recommendation. We believe that the Council’s funding of municipal sustainable economic development plans and agricultural grants are both effective ways to partner with municipalities to foster planned economic development that is consistent with the Highlands Act and the RMP. We would encourage more such grants. As mentioned above, we would urge a coordinated partnership with pertinent federal, state, county and municipal agencies, as well as destination-based private commercial and non-commercial entities, to achieve common branding and better marketing of tourism in the region. We believe that economic development should have specific goals of providing local employment opportunity for residents, and fostering planned recreational/entertainment/historic/retail commerce that both meets the needs of local residents, and creates effective destinations that attract tourism visitors.

“MPRR Recommendation: Pursue legislation to modify the NJEDA Grow NJ Assistance Program in the Economic Opportunity Act of 2014 to include Highlands redevelopment areas, and Highlands Designated Centers.”:

While we concur that appropriate development and redevelopment areas within the Highlands Planning Area should be eligible for State development incentives, we do not agree that the Grow NJ Assistance Program is appropriate for the Highlands. Grow NJ promotes the development of particular commercial uses: logistics, manufacturing, energy, defense, maritime businesses in a port district, or aviation businesses in an aviation district. Availability of funds for smaller enterprises, such as business incubators, is limited. It is intended to promote development of large-scale employers that require access to multiple forms of commercial transportation. This sort of development would be difficult to accommodate in the Highlands, and is unlikely to be consistent with Highlands Act and RMP goals. We believe that State programs that incentivize downtown commercial district enhancement would be more appropriate for the Highlands.

“MPRR Recommendation: RMP amendment: add a section to the Regional Master Plan to address recreation as a major category of interest.”

We concur with this recommendation. It is not, however, clear where exactly a recreation element should be placed in the RMP. The RMP contains Programs for Historic, Cultural and Archaeological Resources Protection and Scenic Resources Protection. Both Tourism and

Recreation are clearly tied to these two programs. Active and passive outdoor recreation – camping, hiking, rock climbing, hunting and fishing, bicycling (road and mountain biking), canoeing/kayaking/boating – are closely tied to protection of the natural environment of the region – its forests, waters, and landscapes – as are, to an even greater extent, wildlife viewing, nature study and nature photography. It is these outdoor pursuits that the New Jersey Highlands is uniquely positioned to offer to both residents of other parts of New Jersey and the greater New York metropolitan area. Any Economic Development Plan must give full consideration to these outdoor recreational pursuits.

“MPRR Recommendation: Smart Growth Map-Future Economic Development: establish a region-wide Smart Growth Capability Map depicting areas within the region that are appropriate for future economic development and redevelopment activity.

Comment: Any map that is developed should be the **end result** of municipal, regional, and region-wide economic planning that is proposed in the next two recommendations; it should not precede that planning. Such a map should be evaluated for its consistency with the Highlands Act and Regional Master Plan, and be vetted with a series of public hearings, prior to adoption by the Council.

“MPRR Recommendation: Regional Economic Plan Development: coordinate with Highlands counties and destination marketing organizations (DMOs) to develop regional economic plans.”

Comment: We concur with this recommendation, although we believe that a critical partner in such an effort would be Highlands municipalities; they must participate in such a planning process. Non-profit organizations, such as land trusts that open lands to the public, museums, arts organizations, recreational and trail groups, etc. should be involved as well. As we have stated above, we believe that the Council’s funding of municipal sustainable economic development plans is essential, and would be a key component of any broader regional plan. Any municipal or regional plans should be evaluated for their consistency with the Highlands Act and Regional Master Plan, and vetted with public hearings prior to adoption by the Council.

“MPRR Recommendation: Develop a Comprehensive Economic Development Plan for the Highlands region:”

We concur with this recommendation. Thoughtfully planned development is always preferable to random development, and with the restrictions that the Highlands Act imposes on development in the region, it becomes even more important that the limited development that is allowable be sustainable, consistent with planning goals, and not redundant. We think that any identification of “economic development potential” needs to be carefully framed in terms that are consistent with the goals of the Highlands Act, which serve to restrict most development.

We urge that any proposed development must be “Highlands-appropriate,” particularly in the matter of scale. The Highlands is not a large region: its entire 860,000 acres, including all its towns and subdivisions, is barely larger than the more than 800,000 acres of federally preserved (and

undeveloped) land in the White Mountain National Forest in NH and ME. Our Highlands “mountains” are small ones – barely reaching 1400 feet. This landscape, beautiful as it is, can easily be overwhelmed with large structures and facilities, and its character totally lost. This has already occurred in the case of recent recreational development in Sussex County, as well as other commercial development. Every effort must be made to not permit development that degrades or destroys important Highlands resource values, including scenic values.

We note that the Council proposes to include the Fiscal Impact Assessment (FIA) within the economic profile of this Comprehensive Economic Development Plan; we emphasize that the FIA relies exclusively on the measurement of components with a dollar value, and does not measure the social value of preservation, or its avoided costs. No comprehensive plan should ignore the value of these social impacts, which form the basis for the Highlands Act. Finally, we urge that the comprehensive plan should be evaluated for its consistency with the Highlands Act and Regional Master Plan, and receive public hearings, prior to adoption by the Council.

“MPRR Recommendation: Tourism data collection:”

We concur with this recommendation, and encourage the Council to take advantage of existing data already captured by other agencies that may be pertinent. We note that the several State Parks within the Highlands all maintain data on their visitors, including number of annual visits, home zip code of visitor, and in some cases, tourism/recreational activity preferences of the visitor. This existing database would be highly relevant to the goals of a focused tourism program in the RMP.

“MPRR Recommendation: Regional economic monitoring: establish a protocol to monitor data in the FIA, including total employment, building permits, housing sale values, commercial sales, vacant land sales, household income, equalized property values, assessed property values, and property tax revenues.”

We concur with this recommendation. We would add that the protocol should also monitor:

- The amount of Highlands water distributed by public and private water purveyors to NJ residents and businesses each year;
- The avoided costs of water treatment, determined by comparison of water treatment costs for Highlands water, versus non-Highlands water produced in NJ;
- The number of tourism visits to the Highlands per year;
- The average spending per tourist visit for that year;
- The estimate of total tourism spending in the Highlands per year.

“MPRR Recommendation: Cost-benefit analysis:”

We concur, although we would urge that traditional cost/benefit analysis will be inadequate to determine the social benefits (and avoidance of detriments) associated with preservation. As Albert Einstein famously said: ***“Everything that can be counted does not necessarily count; everything***

that counts cannot necessarily be counted.” A callous measure of developed value of land versus undeveloped might ignore the extraordinary value of clean, potable water that is treated for free by our forests, rather than at great expense. Water utilities spend 19 times more money on water treatment chemicals alone than the federal government invests in protecting source watersheds. We believe that the value of a plentiful supply of clean, safe drinking water is incalculable to New Jersey society. The Highlands is capable of providing that invaluable resource only by preserving the natural systems that produce it. We urge that any analysis evaluate the social profit of preservation that inures to our region, to the people of the entire state of New Jersey, and to future generations in perpetuity that must be acknowledged within a fair and appropriate measure of cost and benefit of preservation.

Implementation (Pgs. 64 - 69)

Contributor:
Julia Somers

Indicators (Pages 65 – 66)

Indicator: Municipal and County Plan Conformance

Comment – It is dismaying that more conformance petitions have not been approved, given the amount of time that has passed since adoption of the RMP. The statement is made in the Report that, “To date monitoring results indicate *significant progress* [emphasis added] on municipal Plan Conformance, with 61 petitions submitted and 50 approved. ...“ Given that there are 88 towns in the Highlands, every one of which theoretically could be actively engaged in the conformance process, and given that the RMP was adopted in 2008 (9 years ago), this is a slow pace of adoption indeed, and it is the opinion of the NJ Highlands Coalition that the Council should not congratulate itself for this meager result. Full conformance is an absolute priority for successfully fulfilling the goals of the RMP.

The Report goes on to state, “For the few municipalities remaining outside of Plan Conformance, the full conformance process is less applicable and should be streamlined accordingly.” First, by the Report’s calculation, 27 is the number of municipalities not engaged in the conformance process, and that cannot be considered “few.” That is nearly ¼ of all Highlands municipalities are not engaged at all in the conformance process, nor is it apparent to the public that a concerted and strategic attempt has been made over the past seven years to engage these communities; in fact, observation suggests the reverse. The report goes on to suggest that for these 27 municipalities, “the full conformance process is less applicable and should be streamlined accordingly.” There has been no public discussion of this position, nor agreement by the full Council that a streamlined process should be applied to these communities.

The Report then states, “County Plan Conformance has seen mixed participation and limited results thus far, and should be altered to more directly address the legal authority and capabilities of counties

and particularly county planning agencies.” The Coalition agrees that this might be partly appropriate.

Indicator Public Participation, Outreach, Interagency Coordination

Comment – “It is apparent that efforts are needed to significantly expand the outreach and education component of the Highlands Council mission.” The Coalition strongly agrees with this statement.

Indicator RMP Implementation Funding

Comment – the NJ Highlands Coalition strongly encourages the Highlands Council to include non-profit 501c3 organizations among those it will provide funding through grants to help fully and more efficaciously achieve RMP goals. Limiting all Highlands Council grants (except for open space acquisition) to only county and/or municipal grantees ensures many opportunities are lost for implementation of the RMP. There are many successful examples of government grants being made available to 501c3 organizations.

Recommendations (Pages 66 – 69)

Municipal Plan Conformance

Implementation Activity

Comment – Again, we are dismayed by the slow rate of municipal conformance. While at first, conformance seemed to be actively pursued by Highlands municipalities, the rate startlingly dropped off several years ago.

Summary of findings of related indicators:

Municipal Plan Conformance:

Comment - We are pleased that at least 7 municipalities have adopted the Highlands Land Use Ordinance, but this number should be much higher.

Program Issues

Comment - Because there has not been a comprehensive public discussion by the Council about the 2008 Plan Conformance Guidelines and why the Council staff thinks that, as adopted, they are not suited to the municipalities that have not yet conformed (but are suited to the towns that are engaged in conformance,) it is impossible to agree with this statement. Without such public discussion and agreement, we disagree that “certain aspects of the 2008 requirements have also been found unnecessary and should be removed to ease the process of developing a complete Petition for Plan Conformance.”

Recommendation

Comment: Because we think the Council should undertake a concerted, strategic and planned effort to engage unconformed Planning Area communities in conformance, we disagree with your recommendation, which seems to “give up” on such conformance in the Planning Area and take the position that future development potential in the Preservation Area of towns that have not yet conformed is so “deminimus” that the Council should adopt “an approach by which a municipality could adopt a land use ordinance that would refer development applications to the Highlands Council, ...” Such an approach completely abrogates the Council’s responsibilities under the Highlands Act and is strongly discouraged by the NJ Highlands Coalition.

County Plan Conformance

Implementation Activity

Comment – the fact that five of seven (71%) counties have submitted petitions for Plan Conformance indicates there is some value to the process, even if it is to be streamlined.

Recommendations

Comment – While it is correct to state that counties do not regulate land uses in the same way as municipalities, counties do have a considerable impact on county and municipal planning for roads and bridges, stormwater management in rows and on county owned property, open space acquisition including farmland preservation, management/design of county land holdings, including parks, among other things. While we can agree that a planning-based approach might be more effective in some cases, a regulatory-based approach is also appropriate to ensure some county-led land use management decisions meet RMP expectations.

Further if, as recommended, expansion of the county Plan Conformance grant program to specifically address county-wide economic development, stormwater management, resource management and agricultural development issues takes place, there will suddenly be tremendous competition for grant funds that have been limited to municipal grants to date; the Highlands Council should require more “bang for its buck” from the Counties in meeting Highlands goals/protections in return for receiving these grants.

Preservation Area Conformance

Summary findings of related indicator

Municipal Plan Conformance

Comment – it is DEEPLY troubling that a Preservation Area municipality (Mansfield) has not petitioned for Plan Conformance. How does the Council propose to address this illegal situation? At a minimum, the Council must engage in its binding call-up authority over all local land-use government approvals in Mansfield until such time as the municipality addresses conformance.

Program Issues

Comment – there are **eight** [bold emphasis added] municipalities that have not met the requirement to bring their master plan and regulations into conformance with the RMP. Again, how does the Council propose to address this situation? The NJ Highlands Coalition **STRONGLY** supports the Council applying its binding authority over local government approvals in the Preservation Area as “required under the Highlands Act.” You state that such action would be “neither desirable, nor particularly practical.” The Council does not have the authority to ignore this requirement of the Act. The Coalition disagrees with this recommendation. The Council will only need to take appropriate action once or twice for these communities to be reminded of the requirement and fulfil their obligation.

The Coalition also takes the position that a much more rigorous outreach program to municipalities is needed on the Council’s part to engage communities in the conformance process, including at least annual, targeted presentations to update municipal governing bodies on their conformance advancement and other Highlands activities.

RMP Monitory Program

Implementation Activity

No comment.

Program Issues

No comment.

Recommendations

Comment – the New Jersey Highlands Coalition agrees with these recommendations.

RMP GIS Data Updates

Implementation Activity

No comment.

Program Issues

No comment.

Recommendations

Comment – the NJ Highlands Coalition recommends there should be an ongoing archive to store any old or replaced GIS files and all meta data. This archive should always be available to the public.

Climate Change Impacts on the Highlands (Additional Section)

Contributors:
Doug O'Malley
Amy Hansen

The Draft RMP-MPRR must, to a greater extent, acknowledge and address in its planning and policy recommendations the challenges the Highlands region – both its natural ecosystems and human communities – will face from the long-term impacts of climate change. Clearly, New Jersey's climate is changing. The state-wide temperature in New Jersey in 2012 was the highest in 118 years of records, while five of the warmest years have occurred since 1998, and nine of the ten warmest calendar years on record have occurred since 1990. Extreme weather rain events have been increasing, as well as overall precipitation levels. The number of hot and extremely hot days has continued to rise and they are projected to steadily increase over the course of the century. (Note: data citations are from the National Climate Assessment and Rutgers University). Planning for the Highlands must both incorporate the best available science regarding the anticipated impacts of climate change on the Region, and the Highlands Council must take an active role in developing and implementing programs to mitigate its worst effects.

Proposed Recommendations:

- 1) There is currently no evaluation of the positive effects the large tracts of forested lands in the Highlands can have on reducing the impacts of climate change. The importance of carbon sequestration by Highlands forested lands should be quantified and valued, especially because of the directly proportional relationship between carbon sequestration and forest acreage, as well as the size of the trees themselves.
Therefore, we support the proposed Science and Research Agenda item for “Forest Sustainability: Develop models to evaluate and determine the value of carbon sequestration.”
- 2) The carbon value of Highlands forests, especially if left intact, should be included and utilized in all Regional Master Plan evaluations and consistency determinations of forested land preservation, all development projects and forestry plans. See item 1 above.
- 3) Any energy project proposed for the Highlands should receive a complete carbon analysis that employs a methodology similar to the one created by the Council on Environmental Quality during the Obama administration. The CEQ worked for years to create a systematic analysis of the carbon impacts of proposed energy projects, including “upstream” and “downstream” effects. This analytical model was recently used in court to successfully challenge FERC approval of a natural gas pipeline, when the court ruled that FERC had failed to fully account for the carbon impacts of the project. We recommend that a similar analysis model should be incorporated into Highlands decision-making and consistency determinations for any proposed energy projects.
- 4) We recommend that broader state energy goals, especially those created through revisions of the state Energy Master Plan, should be incorporated into Highlands Regional Master Plan Goals,

Policies and Objectives. Especially important would be reducing overall energy consumption by employing all energy-efficiency measures possible, as well as expanding the use of renewable technologies, including but not limited to solar, wind, geothermal and possibly small scale hydropower installations, in an environmentally responsible and sensitive manner that considers both ecological and cultural values. All such efforts should be consistent with RMP Goals, Policies and Objectives, as well as comply with Highlands Preservation Area DEP regulations, **5.**

- 5) **Air Quality Program:** The RMP-MPRR states that “Clean air is a defining characteristic of the Highlands Region.” However, it also notes that “*The RMP defers to meeting NAAQS and State Energy Master Plan Goals, without defining specific practices or standards to go above and beyond state and federal guidelines.*”

The MPRR Proposed Recommendation is: “Coordinate with NJDEP and USEPA to identify specific causes of air quality pollution in the Highlands Region and specific activities the Highlands Council can take to work toward alleviating these problems, including air quality monitoring.”

The second MPRR Air Quality Proposed Recommendation is “Coordinate with NJDEP and USEPA on ‘raising the bar’ in the Highlands Region and create additional guidelines within the Region.”

Comment: We concur and recommend that as part of any analysis of the Highlands viewsheds or scenic values, that efforts should be made to categorize the impact of smog – especially on hot summer days – on the air quality and visibility in the Highlands Region, as well as attainment levels for ozone of the Highlands counties and the direct relationship of ozone formation and burning fossil fuels.

- 6) **Flooding:** We recommend that all development proposals should address the potential impacts of small and large scale flooding, to be anticipated from climate change. Waterway buffer protections and mitigation properties should be properly valued and designed to reduce flooding impacts. The Highlands region is naturally pre-disposed to more rain and thunderstorm events than coastal areas of the state. New Jersey has mirrored data showing the Northeast with the highest increase in precipitation events in the US, with expected intensification of these extreme precipitation events over the course of this coming century.

7)

- 8) **Water Supply:** All Highlands aquifer water supply analyses should incorporate climate change predictions to include wider swings of extreme weather, incorporating both increased precipitation events and longer periods of mild and even extreme drought. Recent droughts and their impact on Highlands reservoirs, as well as the precarious current state of many Highlands aquifers, should be strong reminders that climate modeling should be incorporated into Highlands aquifer modeling and DEP permitting, which must take account of these analyses.