

Association of New Jersey Environmental Commissions • Burnham Park Association
Citizens for the Preservation of Ogdensburg • Citizens to Save Tewksbury
Concerned Citizens Against Quarry • Environment New Jersey
Eco Action Initiatives of Warren County
Greater Newark Conservancy • Friends of Sparta Mountain
Friends of Holland Highlands • Highlands Coalition
James G. Gilbert • Lake Gerard Fish and Game Club • Hon. Maureen Ogden
Morris County Trust for Historic Preservation • Morris Land Conservancy
Musconetcong Mountain Conservancy • New Jersey Audubon Society
New Jersey Conservation Foundation • New Jersey Environmental Federation
New Jersey Highlands Coalition • New Jersey Sierra Club
New Jersey State Federation of Sportsman Clubs • NY-NJ Trail Conference
P.O.W.W.W. • Preserve Historic Hackettstown • Rahway River Association
Tewksbury Land Trust • Upper Raritan Watershed Association
Weequahic Park Association

July 22, 2008

Honorable Jon S. Corzine
Governor, State of New Jersey
P.O. Box 001
Trenton, NJ 08625

Dear Governor Corzine:

New Jersey's environmental community has a long history of support for strong, effective, implementable protections in the Highlands Region. We write today to express our deepest concerns about the recently adopted Highlands Regional Master Plan. It does not meet the most critical mandates of the 2004 Highlands Water Protection and Planning Act and will threaten public health and safety if implemented according to the policies and programs set forth in the Plan as adopted on July 17.

Because we believe the Council has abdicated its responsibility under the Act to protect Highlands resources, we must urge your veto of the minutes from the July 17, 2008 meeting of the Highlands Water Protection and Planning Council. This will protect state interests and allow you to fulfill your public trust responsibility as guardian of New Jersey's natural resources, which are legally held in trust for the people of the state.

Current economic conditions create a window of opportunity to strengthen the Regional Master Plan. By vetoing the minutes, inappropriate development will not take place, but rather you will allow for future development that will be protective of natural resources.

The following provisions of the Highlands Regional Master Plan are not consistent with the 2004 Highlands Act:

- The exacerbation of existing ground water deficits by allowing new water uses in sub-watersheds determined by the Highlands Council to be experiencing deficit water supply conditions.
- The allowance for clustered residential developments to release up to 10 mg/L of nitrate pollutants into the ground adjacent to drinking water wells serving the clustered development, far in excess of NJDEP's statewide standard for nitrate pollutants of 2 mg/L. In addition, these dangerous thresholds may quickly be exceeded by agricultural uses adjacent to the cluster. The residents who depend upon these groundwater sources will be placed at risk, as will groundwater quality downstream.
- Permitting designated Highlands Redevelopment Areas to encroach on undisturbed C1 and C2 stream buffers in the Preservation Area.

The Regional Master Plan failed to adopt the necessary amendments to adequately protect the resources of the Region in the following ways:

- **Continued Development in Ground Water Deficit Areas** – The Coalition urges the elimination of ground water deficits in sub-watersheds that have been identified by the Council as being in a chronic state of deficit, before expanded water use is permitted to continue. The majority of Highlands residents rely on ground water from public or private wells. Ground water also supplies base flows that maintain streams in periods of drought. Current policies in the Plan to address ground water deficits will allow for site-by-site mitigation of development projects without addressing the deficit condition of the entire sub-watershed. Policies will also allow expanded water use if a municipal Water Use and Conservation Plan has been developed, whether or not it has been demonstrated to resolve the deficit.

This is a serious public health and safety concern, as ground water deficit conditions lead to wells running dry throughout the Region. We have already seen this in communities like Roxbury, West Milford and Ringwood. Effective mitigation for water deficits using current technologies has not been shown to be achievable, thus this is not a scientifically defensible practice. Mitigation must be ecologically based and can only be effective if approached across the entire region of deficit, not left to individual applicants to address on a site-by-site basis. The policy regarding ground water deficits must be simplified to say that water deficits are a serious risk to public health and safety and new water uses will not be permitted until deficit conditions are verifiably resolved.

- **Protection of Highlands Open Waters and Riparian Areas** – Amendments introduced to set clear standards to assure preservation of undisturbed buffers around C1 and C2 open waters failed. Instead of establishing a predictable and scientifically defensible program that protects stream buffers, current policies will allow undisturbed buffers in Redevelopment Areas to be reduced, degrading water quality where it is currently protected. Setting clear standards for protections of the Region's waterways through strict adherence to protective riparian buffer width requirements is the only effective way to protect the water quality of the Region's streams and rivers. A Master Plan that has a goal

of protection and restoration fails if it permits, instead, standards for degradation of water quality. At a minimum, a non-degradation standard must be incorporated into the plan.

- **Groundwater Nitrate Dilution Standards** – Minimal presence of nitrates are an indicator of good groundwater quality. Most Highlands residents rely on municipal or private wells for their drinking water. The Council’s policies for residential development clusters, which are mandated in the Conservation Zone, will permit groundwater nitrate pollution at a level of 10 mg/L. This is the maximum permissible level for public health and safety set by the Federal government for clustered developments served by wells and septic systems. New Jersey’s own statewide standard is 2 mg/L. This policy will not only severely degrade water quality in the Region, but will place residents of cluster developments at a serious risk of a public health and safety emergency. The Council must lower the threshold of permitted groundwater pollution to 2 mg/L, the level determined by the NJDEP to be protective of public health and safety as well as a general indicator of safe groundwater quality.
- **Map Adjustments** – The Council failed to adopt an important strengthening amendment that would limit a municipality’s ability to shift lands from more protective zones to less protective zones. Contrary to some misconceptions, these “map adjustments” are not fact-based or on-the-ground corrections to GIS mapping which are to be handled under an entirely separate “map updates” program. These are proposed planning, policy, political or ratable -driven changes that would allow towns to negotiate lands away from the science-based protective zones delineated by the RMP. As written in the RMP, there is no prohibition on shifting environmentally sensitive lands into less restrictive zones, in spite of the verifiable presence of sensitive features. Map Adjustment shifts from environmentally sensitive areas to less restrictive zones should not be permitted. Map adjustments should be limited to conforming municipalities and only during the conformance process. Lastly, there must be a provision for public notice by the municipality petitioning for a map adjustment.

Additional concerns that are not addressed by the RMP:

- **Mandated Cluster Development** – The RMP requires clustered development on agricultural lands in the Agricultural Resource Area of the Planning Area, which encompasses more than 200,000 acres of the Region. Twenty percent of the Region’s farmland will be lost to clustered development and those clusters will be permitted to pollute groundwater at a level of 10 mg/L, the maximum permissible level for public health and safety set by the Federal government, as noted above. In addition, nitrates from agricultural fertilizers continue to be added to groundwater by the farmland remaining with the cluster. The 10 mg/L limit is not a planning standard but rather a public health and safety standard, and is therefore inappropriate and inadequate to protecting the Region’s water resources. A 20% loss of farmland violates the mandate of the Highlands Act to ensure agricultural viability in the Region. The policies in the plan should require farmland protection, not mandate clustering. To do so, RMP policies should allow Planning Area municipalities to designate their farmland as “sending areas” and use the Transfer of Development Rights Program to transfer the development potential of their farmland elsewhere into the Region or outside of the Region, as receiving areas become available.

- **Lack of Funding for Preservation of Open Space** – The lack of funding for Highlands preservation through the Garden State Preservation Trust (GSPT) is a major factor in the Council’s inability to meet the mandates of the Act and adequately protect the Region. With a long-term, adequate, dedicated funding source for the GSPT, the Council would be able to prevent development from carving out 20% of the Region’s farmland through the mandated clustered development. GSPT funds are critical to preserve forests, natural areas, farmland and historic sites throughout the Region. There must be a strong commitment to determining and securing a long-term, adequate, dedicated funding source for the GSPT in order to adequately protect these resources.
- **Unbalanced and Incomplete Council Appointments** – One of the many reasons why the Highlands Council failed to adopt the amendments necessary to strengthen the plan so that it could protect the Region’s resources, is the lack of a full and balanced Council that meets the directives of the Highlands Act. The Act calls for a 15 member Council, but the Somerset County seat has remained empty for over 2 years. The Act calls for eight members of the Council to be local elected officials and seven to be members of the public with experience and expertise in resource management and planning. Currently, only 5 of 15 Council seats are held by non-elected individuals. Only 2 members of the Council (Carluccio and Dillingham) have appropriate backgrounds that equip them to provide meaningful counsel and direction in relation to resource management and regional planning. No members on the Council are environmental leaders in the Highlands Region. Regrettably, the balance of power on the Council is currently held by members whose concerns about their local constituents and re-elections appear to trump their charge to act on behalf of the best interests of the state and the 5.4 million New Jerseyans who rely on clean and plentiful Highlands drinking water. We look to your Administration to address the issue of unbalanced and incomplete Council appointments as soon as possible.
- **Redevelopment Procedures** - The Council’s current Redevelopment Procedures, released on June 16, 2008, are wholly inadequate to meet the requirements of the Act, the RMP and the DEP waiver process. Redevelopment Areas must be consistent with the RMP, but the recently proposed procedures allow for incomplete and inadequate information to be submitted for consideration and do not require input from the public. Application requirements from the 2007 draft of the Redevelopment Procedures are almost entirely omitted from the June 16, 2008 draft procedures, including any independent verification of resources and any proof of municipal or public notification or participation. Substituting the DEP procedures for granting development waivers is not acceptable and does not absolve the Council of its responsibility to adhere to the Goals, Policies and Objectives of the Regional Master Plan. The Highlands Council should adopt the Redevelopment Procedures that accurately reflect the Goals, Policies and Objectives of the RMP, to ensure that Redevelopment Areas are appropriately designated and are consistent with the resource protections of the Highlands Act.
- **No-Build, Special Environmental Zone** - Designation of only 19,000 acres as the Special Environmental Zone, a mere 9% of the unpreserved land in Preservation Area, is totally inadequate. A strong, protective RMP must designate a significantly larger land base than 19,000 acres as a no-build area, if it is to effectively protect the resources of the Region.

- **Standards and Guidance Documents** – Many standards and guidance documents to accompany the RMP remain unfinished. Much of the work municipalities will be expected to undertake during the conformance period will be shaped by these documents. As an example, Water Use and Conservation Plans must be developed by all 52 conforming municipalities. These Plans will be of special importance in ground water deficit sub-watersheds, where the plans are required to be implemented before certain land use activities can continue. Without clear guidance and standards for these plans, it remains uncertain if municipalities will be able to eliminate ground water deficit conditions before ground water is further depleted and public health is threatened. All standards and guidance documents should be completed and incorporated as part of the RMP, not released after the Plan's adoption. This will provide for a clear, straightforward conformance process.

Given these concerns, the undersigned organizations request a veto of the minutes from the July 17, 2008 Highlands Council meeting. We also ask for significant leadership from your office to:

- work to meet the mandates of the Highlands Act;
- protect public health and safety for the residents of New Jersey, both inside and outside of the Highlands Region;
- ensure a socially and environmentally just Highlands Plan and to provide a long-term, adequate, stable funding source for the Garden State Preservation Trust;
- make immediate, appropriate appointments to the Highlands Council of fully qualified individuals who support and understand the most significant goals of the Highlands Act; both to fill the long-vacant Somerset County seat and to resolve the current imbalance in Council membership between elected officials and public members;
- include a simple non-degradation standard in the Plan that will ensure the health of the residents of our State and the economic vitality of our business community can continue to rely on a clean and plentiful supply of drinking water; and
- direct inter-agency coordination such that the Highlands Council and the RMP will be incorporated into relevant state policies and programs. For example, a memorandum of understanding with the Council on Affordable Housing will ease concerns raised by planning area municipalities regarding the RMP voluntary opt-in process and their mandated affordable housing requirements.

We respectfully request a meeting with your office to discuss these concerns at your earliest convenience. We thank you for addressing this very important matter. As you know, there is nothing more important to the health of the residents of our State and the economic vitality of our business community, than a clean and reliable supply of drinking water.

Sincerely,

New Jersey Highlands Coalition, Julia Somers, Executive Director
 Association of New Jersey Environmental Commissions, Sandy Batty, Executive Director
 Burnham Park Association, Dr. Lynn Siebert, President
 Citizens for the Preservation of Ogdensburg, Andrew Bickerton, President
 Citizens to Save Tewksbury, Basil Hone, President
 Concerned Citizens against Quarry, Bob Belknap

Eco Action Initiatives of Warren County, Laura Oltman, Executive Director
Environment New Jersey, Dena Mottola, Executive Director
Friends of Holland Highlands, Michael Keady, President
Friends of Sparta Mountain, Phil Bishop, President
Greater Newark Conservancy, Robin Doherty, Executive Director
Highlands Coalition, Jon Meade, Executive Director
James G. Gilbert, first Chairman, NJ State Planning Commission
Lake Gerard Fish and Game Club, William Barrett, President
Maureen Ogden, Former State Assemblywoman
Morris County Trust for Historic Preservation, Marion O. Harris, Chairman
Morris Land Conservancy, David Epstein, President
Musconetcong Mountain Conservancy, Suzanne Wilder, President
New Jersey Audubon Society, Eric Stiles, Vice President for Conservation and Stewardship
New Jersey Conservation Foundation, Michelle S. Byers, Executive Director
New Jersey Environmental Federation, Dave Pringle, Campaign Director
New Jersey Sierra Club, Jeff Tittel, Executive Director
New Jersey State Federation of Sportsman Clubs, Ed Markowski, President
NY-NJ Trail Conference, Brenda Holzinger, NJ Regional Representative
P.O.W.W.W. (Protect Our Wetlands, Water, and Woods), Joan Lisi, President
Preserve Historic Hackettstown, Lynn Halberkern, President
Rahway River Association, Dennis O. Miranda, Executive Director
Tewksbury Land Trust, Ted Koven, President
Upper Raritan Watershed Association, Cindy Ehrenclou, Executive Director
Weequahic Park Association, Wilber J. McNeil, President