



NEW JERSEY HIGHLANDS COALITION

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The Honorable Chris Christie
Office of the Governor
PO Box 001
Trenton, NJ 08625

February 23, 2010

Dear Governor Christie,

I am writing on behalf of the 44 member organizations of the New Jersey Highlands Coalition to ask that you immediately clarify your position on the New Jersey Highlands Protection and Planning Act, your plans for the New Jersey Highlands Council and its tremendous work, and your support and proposal for protecting New Jersey's Highlands. It has become clear that your silence on this issue has the potential to seriously damage the years of work and tremendous investment of public funds in the region made by the State to protect the state's water supply and water-dependent economy.

The Highlands Water Protection and Planning Act was landmark legislation that made New Jersey a national leader in balancing resource conservation, regional land use planning and economic development. The Act was passed because the legislature recognized that a plentiful supply of clean water is and will continue to be the state's most precious resource, for the 5.4 million residents and for the major economic sectors that both depend on it. Highlands water users can be found throughout the state, in fifteen counties from Bergen to Gloucester, totaling 64% of the population. Three of the state's largest industries, food processing, pharmaceuticals, and recreation-fishing-tourism, all rely on the ecosystem health of the Highlands region.

The Highlands Council was established by the Act to create a Regional Master Plan that would guide capacity-based growth in the Highlands region. So far the Council has been very successful, despite budget constraints and thanks to a dedicated and responsive staff under the leadership of Eileen Swan. As of the December 8, 2009 deadline for mandatory conformance in the Preservation Area, 95% of the Preservation Area and 35% of the Planning Area has indicated that they will "conform" to the RMP; in the Planning Area, conformance is optional.

To ensure the continued momentum of the Highlands Council, as Governor please consider the following recommendations.

Make timely and appropriate appointments to the Highlands Council. At this time, only five of the fifteen seats are occupied by current members. The remaining seats are vacant or held over from expired terms. The 15-member Council is to consist of eight elected officials from the region, five municipal and three county, and seven members of the public. The Highlands Act calls for the public members to have “to the maximum extent practicable, expertise, knowledge, or experience in water quality protection, natural resources protection, environmental protection, agriculture, forestry, land use or economic development.”¹ The public spots on the Council should no longer be dominated by politicians but rather occupied by experienced individuals with the appropriate background *as called for by the Highlands Act*. We ask that you fill the vacant and held-over seats and appoint to the public slots individuals who meet the statutory criteria. Appropriate appointments are necessary if the Highlands Council is to be effective in carrying out its mandated mission.

Protect the operating budget of the Highlands Council and the Highlands Protection Fund. The effectiveness of the Highlands Council depends in a large part on its operating budget and its ability to continue to provide planning and conformance grants to municipalities through the non-lapsing Highlands Protection Fund. The recent cutbacks you made, especially the \$18.5 million to the Highlands Protection Fund impacting municipal grants, will severely affect the ability of the Council to continue its work on natural resource protection through regional planning. Grants to municipalities are critical to keep the burden off municipal tax payers and to equitably share the cost of Highlands water protection among all its New Jersey water consumers. Grants are necessary for municipalities to obtain the professional planning input required in the process of conforming their master plans and zoning ordinances to the Regional Master Plan and without them it appears to municipalities that an unfunded mandate has been created by your administration.

An adequate budget must be contemplated to provide planning assistance to potentially 88 highlands municipalities and to municipalities outside of the Highlands that are now considering becoming Receiving Areas for the Highlands Transfer of Development Rights program. Despite being severely understaffed, the Highlands Council has successfully engaged in conformance to the Regional Master Plan 95% of the Protection Area, which must conform, and 35% of the Planning Area, which may conform, has launched the Transfer of Development Rights Bank, and has collected and maintained environmental data on the entire region. When the Highlands Act was implemented, OLS projected for the Council a \$3 – 4 million annual budget, plus additional funds for start up, development of the Regional Master Plan, and establishing a TDR program. Today they operate on a \$2.2 million budget, but continued operating budget cuts, including the \$88,000 taken this month, threaten this effectiveness and success. Monetary constraints have prevented the Council from hiring an economist to determine the Act’s economic impact on the region. Pinelands economic studies have demonstrated that through regional planning municipal tax rates have stabilized and property values increased when compared to comparable properties outside the Pinelands region. Similar studies should be necessary for the Highlands.

The Highlands Council’s Office must remain in the Highlands Region to best serve residents and municipal officials. Keeping the Highlands Council in the Highlands Region is best for the business owners and land owners that must work with the Council. Any thought of moving the Council away from Chester is unwise and would make it inaccessible to many of the Highlands landowners and other

¹ NJAC. 13:20-5.a.(2)

stakeholders who regularly attend the meetings, and thus jeopardize a transparent and public process. The Highlands Act requires that the Highlands Council maintain an office in the Highlands Region²

Provide funding for acquisitions in the Highlands to ensure landowner equity is achieved. New Jersey voters passed the ballot question on November 3, 2009, to bond \$400 million dollars for open space acquisition despite economically difficult times and the current state deficit. Please issue these bonds. Land in the Highlands must be preserved if our supply of water is to be maintained. Farmland preservation is consistent with the Regional Master Plan, ensures that New Jersey continues to be the “Garden State” and is necessary if we want farming to remain an economically viable industry in the region.

Support and expand the Transfer of Development Rights program to achieve landowner equity. The Supreme Court recognized the importance of TDR programs to “mitigate whatever financial burdens the law has imposed on appellants and... are to be taken into account in considering the impact of regulation”³. The TDR program developed by the Highlands Council has strived to provide landowners compensation for lost developmental potential. The state has granted the Highlands Development Credit Bank ten million dollars to begin purchasing development credits as early as May of this year and the Bank has already begun receiving applications from interested parties. In order for this program to be successful, the market for TDR receiving zones must be expanded to all areas of the state that utilize Highlands’ water. As development in these areas results in increased demand for water, the Highlands region must be compensated for its ability to protect these resources and ecosystem services. Opening receiving zones to the fifteen counties that use Highlands water, if not the whole state, will result in a more competitive market for Highlands Development Credits.

New Jersey needs a stable source of funding for the Garden State Preservation Trust and open space acquisition. Please uphold your campaign promise to dedicate a stable source of funding for the GSPT. In the most densely populated state in the country, open space is diminishing in the face of development pressure. In the Highlands region a stable source of funding will allow necessary resource protection to be achieved while compensating affected landowners.

It is vital that you continue the strong protection afforded by the Highlands Regional Master Plan for this significant natural resource area, because the effects of its degradation will result in grave consequences for the state. The Highlands is a natural system that purifies water for 64% of the people in New Jersey – and does it with no “operating costs.” If we let this natural system become degraded, future taxpayers will pay billions of dollars to build water treatment plants to do the job nature does now at no charge.

Sincerely,

Julia Somers,
Executive Director

² Sect. 6, Highlands Water Protection and Planning Act

³ *Penn Central Transportation Co. v. City of New York*