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EILEEN SWAN
Executive Director

January 28, 2008

Ms. Terry Pilawski, Chief
Bureau of Watershed Regulation
New Jersey Department of Environmental Protection
P.O. Box 418
401 E. State St.
Trenton, NJ 08625-0418

Re: Proposed Amendment to the Upper Delaware Water Quality Management Plan (WQMP) - Milford Sewage Treatment Plant Wastewater Management Plan (WMP)
Huntington Knolls - Holland Township, Huntington County

Dear Ms. Pilawski:

On behalf of the Highlands Water Protection and Planning Council (Highlands Council), in accordance with N.J.A.C. 7:38-1.1(k), please accept the following recommendation on the above-referenced proposed amendment to the Upper Delaware Water Quality Management Plan (Proposed Amendment) through the Milford Sewage Treatment Plant Wastewater Management Plan. The Highlands Council approved a resolution on January 17, 2008 to recommend that the New Jersey Department of Environmental Protection (NJDEP) deny the Proposed Amendment due the extensive inconsistencies with the Final Draft Regional Master Plan (Final Draft RMP) as discussed more fully below.

Overview and Procedural History

The Proposed Amendment would allow for the expansion of the sewer service area of the Milford Borough Sewage Treatment Plant to include Block 24, Lots 3 and 13 in Holland Township, Hunterdon County, the site of the proposed Huntington Knolls development. The 84-acre site is located west of County Route 519 (Milford Warren Glen Road) and south of Fox Hill Place. The proposed development includes the construction of 29 residential buildings which will contain 38 one-bedroom units and 78 two-bedroom units, a clubhouse, an assisted living unit with 50 beds, 10,000 square feet of office space, and 17,000 square feet of retail space. The Proposed Amendment was reviewed by NJDEP in accordance with Executive Order No. 109 (2000) and N.J.A.C. 7:15. On

September 4, 2007, the NJDEP provided public notice of the Proposed Amendment in the New Jersey Register (see 39 N.J. R. 3788(a)). The Highlands Council was asked to provide recommendations in accordance with N.J.A.C. 7:38.

The Highlands Council's Natural Resource Committee reviewed the Proposed Amendment at meetings on December 6, 2007 and January 17, 2008. On December 6, 2007, the Natural Resources Committee considered the staff recommendation that the Proposed Amendment was inconsistent with the Final Draft RMP due to the fact that the site contains numerous sensitive environmental resources including Steep Slopes, Highlands Open Waters Protection Areas, Riparian Areas, Critical Habitats, Forests, Prime Ground Water Recharge Areas, Wellhead Protection Areas, and Agricultural Resources. In addition, the HUC14 subwatershed within which the project is located has a deficit of net water availability, and the Final Draft RMP includes a policy that extension of public sewer in the Conservation Zone requires the use of cluster development with 80% preservation of agricultural and open space features and meeting minimum lot densities and floor area ratios. Based on this analysis, the Committee recommended denial of the Proposed Amendment unless the applicant could demonstrate that the project, through a point-by-point analysis, is consistent with the goals, policies, and objectives of the Final Draft RMP.

The Proposed Amendment was scheduled to be considered by the Highlands Council at its regularly scheduled meeting on December 13, 2007. Due to adverse weather conditions, the Chairman deferred consideration of the matter until the January 17, 2008 meeting of the Council. On December 20, 2007, the Highlands Council wrote to the applicant's attorney regarding the deferred consideration and attached the staff recommendation and project review checklist, dated December 2, 2007, along with the Chair Report of the Natural Resources Committee. In response to the opportunity to respond to the staff and Committee recommendations, the applicant submitted a hard copy site plan on January 8, 2008, with no further technical information.

The Highlands Council staff updated its recommendation, based upon the site plan, and reiterated its recommendation that NJDEP not approve the Proposed Amendment. The Natural Resources Committee, on January 17, 2008, reviewed the Proposed Amendment and the staff recommendation and heard testimony from representatives of the applicant, Holland Township, and members of the public. The Committee then referred the matter for consideration by the full Council with a recommendation to deny the Proposed Amendment. On January 17, 2008 after due consideration and public comment, the Highlands Council authorized the issuance of the following findings and recommendations. The Highlands Council determined that the site is highly constrained and that the Proposed Amendment is substantially inconsistent with the Final Draft RMP. For the reasons detailed below, the Highlands Council recommends that NJDEP deny the Proposed Amendment.

Findings and Recommendations

1. Critical Habitat: The Proposed Amendment proposes to disturb areas identified by Highlands Council staff as Critical Habitat for Cooper's Hawk, a state-threatened species (Rank 3) using NJDEP's Landscape Project data version 3. The proposed disturbance of Critical Habitat is inconsistent with the Final Draft RMP. NJDEP's public notice indicated no conflict with threatened and endangered species habitat using Landscape Project data version 2, which does not include Cooper's Hawk habitat. The Highlands Council recommends that NJDEP review the Proposed Amendment utilizing the most current version of the Landscape Project data to protect Critical Habitat.

2. Highlands Open Waters and Riparian Areas: The Proposed Amendment would result in extensive disturbance of Highlands Open Water protection areas and Riparian Areas, and such activities are inconsistent with the Final Draft RMP. Wetlands, classified as Highlands Special Waters, exist on the site. Spring Mills Brook, a C-1 tributary of Hakikokake Creek and the Delaware River exists on the northern portion of the site. Highlands Open Water protection areas for on-site wetlands and streams are present on-site. The proposed development footprint encroaches upon the Highlands Open Water protection 300-foot buffers, riparian areas, specifically flood prone areas, wetlands and hydric soil complexes that exist throughout the site. The Highlands Council recognizes that NJDEP would protect a smaller buffer along the C-1 stream through the project's Stream Encroachment Permit; however, that permit is conditioned in part on the WQMP amendment (Condition #25). The Highlands Council recommends full protection of the Highlands Open Water protection 300-foot buffers through the WQMP process, consistent with the Final Draft RMP.
3. Steep Slopes: The Proposed Amendment includes disturbance of steep slopes which is inconsistent with the Final Draft RMP. The site contains Severely Constrained Slopes (i.e., slopes of 20% or greater and lands within the riparian areas with slopes of 10% and greater) and Moderately Constrained Slopes (i.e., slopes between 15%-20% that are forested).
4. Forests: The Proposed Amendment includes disturbance of forest resources. Consistency with the Final Draft RMP would require that the project implement very low impact design Best Management Practices (BMPs).
5. Net Water Availability deficits: The Proposed Amendment would exacerbate the deficit of net water availability in a HUC14 subwatershed through additional consumptive uses, which is inconsistent with the Final Draft RMP. The project includes a proposed water main extension from the adjacent Aqua New Jersey systems. Source wells are located within the project site's HUC14 subwatershed. Water diversions are not transferred outside of the subwatershed, so they result only in consumptive uses, not depletive uses. The subwatershed currently has a deficit of net water availability. Any additional consumptive uses in the subwatershed would be allowable to a maximum of 28,900 gpd, upon the condition of satisfying the 125% deficit mitigation requirement. Based on the proposed wastewater demands, consumptive uses from this project area likely to be somewhat less than 12,000 gpd, but this value has not been verified. No information was provided from the applicant on potential mitigation. The proposed consumptive water demand should be calculated by the applicant, not to exceed a pro rata share of the subwatershed conditional water availability. The additional consumptive water use should be allowed only under the requirements of providing 125% mitigation of the additional consumptive use using water conservation techniques and enhanced recharge, with the latter occurring on-site to the maximum extent practicable.
6. Clustering and Agricultural Protection: The wastewater and water policies of the Final Draft RMP regarding extension of utility services and residential development in the Agricultural Resource Area and the Conservation Zone require clustering of development such that 80% of the site is preserved for agriculture or natural resource open space. The site is entirely within the Agricultural Resource Area and portions of the site have agricultural uses and important farmland soils. Other non-agricultural development must avoid conflicts with agricultural activities, protect agricultural production, and protect farmland and sensitive environmental resources. Future increases in

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impervious cover on the preserved site trigger requirements for a farm conservation plan or resource management system plan at 3% and 9% respectively.

7. Water Quality: The Proposed Amendment includes development activities in the wellhead protection areas (WHPA) on-site. Development activities should not contribute to ground water quality degradation, reflecting Final Draft RMP policies relating to the three WHPA tiers.

If you have any questions or comments regarding this matter, please feel free to contact me at (908) 879-6737.

Very truly yours,



Eileen Swan
Executive Director

Enc.: Project Review, Checklist, Maps
cc: Attached Service List