

## **PUBLIC COMMENTS FROM THE PUBLIC HEARING 2/6/08**

February 6, 2008  
Morris County Haggerty Education Center  
4pm

**Council members present: Scott Whitenack, Mimi Letts, John Weingart, Kurt Alstede, Jack Schrier, Tracey Carluccio, Janice Kovach**

***John Weingart, Chairman, Opening speech:***

*Good afternoon. My name is John Weingart; I'm the Chairman of the NJ Highlands Water Protection and Planning Council. We don't do everything exactly on time, but I thought we would start this meeting on time. Thank you all for coming. If I could ask that people please sit down.*

*This is the first of the series of 3 public hearings the Highlands Council is holding on the final draft of the RMP. The process that led us to this is that we proposed a draft of a master plan for public comment a little over a year ago. We held a series of 7 public hearings around the Highlands Region and in Trenton on that draft plan. We received a huge volume of comments both at the public hearings and in writing, and then we endeavored over the last year to revise the plan both to reflect new information we have been able to collect and to reflect the suggestions and comments we received from the public and we then proposed, we decided, not to move ahead and just adopt the plan at that time even though we had already sent out the public comment, but rather felt that we had made enough changes that we wanted to have another round of public input before putting it into a final form. So the plan is out for public comment and we encourage your comments both at this hearing and the other two hearings that follow and in writing. We ask that the other members of the council that are here to introduce themselves: Jack Schrier, Morris County Freeholder, Scott Whitenack, Morristown, Mimi Letts, Parsippany, Kurt Alstede, Chester Twp.*

*The Highlands council now is a statutory body of 15 members. We all serve as volunteers. We were nominated by the Governor and confirmed by the State Senate. There is one vacancy at the moment, so there are 14 members. There may be other members that join us or some members who have to leave during the course of this hearing. We are recording the hearing, tape recording the hearings – all of the hearings, and also staff of the Council are taking detailed notes of what is said here so that we will be sure that all members of the Council learn of the comments, all the comments, that are made throughout these hearings and as well as, of course, in seeing the written comments that are submitted. There are a number of people who would like to speak here today. I hope that you all as you came in, filled out the one of these - not sure what this color is - forms and indicated that you wanted to speak. I will call on people to speak in the order that you arrived and signed in. I ask that you try to keep your comments as close to three minutes as you can because there are a lot of people who would like to speak.*

*We will stay as long as necessary to hear everyone who has something to say. You may well have comments that do not fit in that time frame, we ask that you submit them in writing. You can summarize them when you speak here. I will call a couple of*

*people at a time so that you know you are next in line. I ask that when you come up, you come to the microphone at this podium up here and say who you are and where you are from and we will be interested in hearing your comments.*

*The next 2 public hearings, the other 2 public hearings will be next week, next Monday and Wednesday. Next Monday we will start at 6 pm at the Passaic County Community College, and the hearing next Wednesday the 13<sup>th</sup> of Feb will start at 6:30pm at Voorhees High School in Glen Gardner. There is information at the back table with those dates and it is also on the Councils' website. To submit comments you can either send them by mail to the Council at our mailing address, 100 North Rd, Rt. 513, Chester, NJ 07930, you can also send them by email to [RMPcomments@highlands.state.nj.us](mailto:RMPcomments@highlands.state.nj.us). The function of this hearing is for us, members of Council to hear from you; we are not going to be able, in the interest of time, to engage in a dialogue, we are not going to be able to answer questions, or to really be able to respond in any way to the comments you make here today. There may be people here who have specific questions and that is your reason for being here more than or in addition to delivering comments. And if you do have a question we encourage you to talk to the staff that are at the table in the back. I think a little later we may be able to move the table out into the hall. The staff members there will be able to talk to you about questions you have and perhaps be able to provide an answer right away or certainly get your information and get back to you subsequently as soon as possible afterwards. So if you are here with a question, you are welcome to stay, but you don't have to stay for the whole hearing to get to ask that question. So with that, I would like to follow with, thank you again for being here and volunteering your time to talk to us. The first three people or four people I will call in order.*

## **Daryl Goodrich, Washington Twp, Morris**

Mr. Chairman, council members, thank you for this opportunity to share some comments on the regional master plan. I am Daryl Goodrich. I am a resident of Washington Twp, Morris County. We have a 30 1/4 acre parcel that comprises of woodlands, wetlands, potential vernal pool, farmland, stream and residence. We breed alpacas, sell alpaca apparel and house wares, produce alpaca fleece. This fleece is pooled with fleece from other NJ and other US alpaca farms. And the US textile industry makes consumer products from this fleece. An example: Is this 100 % alpaca throw made in Paterson, NJ. We are in the protection zone of the Preservation Area. I believe in preserving nature, open land, and woodland, it is one of the reasons I chose to live in the Highlands. We have lived here for about 27 years. I also believe in the preservation of private property rights and value, and the right to farm.

I compliment the RMP's apparent goal of a harmonious public /private partnership. I have some real concerns however with some of the details. Ch 4 Part 1 subpart B, Highlands open water provides for a 300 ft buffer around streams and wetlands. This takes too much farmland out of service. My farm pickup truck carries a license plate that says NJ Garden State. We cannot have a garden state without farms. A good example: Is my 30 1/4 acre property – if you add the total of the stream buffers, wetland buffers, and wetlands that equals 30 acres. How do I raise 35 alpaca on 1/4 acre? I would be out of business. I respectfully ask that you reduce the 300 ft buffer back to the pre-Highlands 0 -100 ft buffer. Ch 4 part1, subpart d, Critical habitat sets a 1000 ft buffer around vernal pools. I suggest that this is arbitrary and capricious. The DEP doesn't provide for this. And I don't believe there are any detailed studies that support that. The Highlands Council merely determined it appropriate. The area of a 1000 ft radius circle is about 78 acres - that is almost 3 times the size of my property. I am out of business...this consumes my entire farm and farms of my neighbors.

Yes the RMP does offer a right to petition for reduction of that 1000ft buffer but that doesn't save the buffer from being arbitrary and capricious. What do I do with 40 alpacas while I petition for relief? Do they become homeless on the streets in Trenton? How do I get approx \$15,000 to fund environmental studies necessary for my petition for relief? Buffer modification is not a realistic remedy for me. I am out of business. I ask respectfully that you replace the 1000 ft buffer with the lower wetlands buffer. Thank you.

*JOHN WEINGART: I NEED TO INTRODUCE TWO OTHER MEMBERS OF THE COUNCIL: JANICE KOVACH AND TRACY CARLUCCIO I ALSO WANT TO ACKNOWLEDGE ASSEMBLYWOMAN MARCIA KARROW WHO IS HERE.*

## **Jeff Tittel, Sierra Club**

I would like to thank everybody for their work and perseverance on the Highlands. It seems like getting this plan done has taken almost as much time as nature created the mountains up here. Seems like eons. I just wanted to start off and say that the Sierra Club, of which I am director, is deeply concerned with certain parts of this plan and have real concerns as well as are troubled by parts of it. I guess part of it - I just want to start off in saying is that we had hoped that this plan would be a lot clearer and have a lot more standards to it that were much more transparent – it seems to me more like the State Plan and less like the Highlands comprehensive management plan. We are deeply troubled by certain factors and certain areas that we think are in conflict with DEP rules and the law itself. One of the bigger areas is the community development zone and how in the Preservation Area it's going to be addressed since most of these areas are forested and yet the DEP rules have one set of nitrate standards and you have one that's basically 5 times less restrictive.

We are concerned with some of the mapping changes adding more areas, and I will just give one example, the Pondview site which is still mostly wooded in Rockaway, is one of the places changed - that was one of the places that had been kind of gerrymandered out of the original Preservation Area and then put in the protection area and is now in the community development area.

And now going back to the community development area zone, these are the areas that are already showing the most depletion of water and these are the areas that are showing the most impact from development and still these are the areas that are supposed to grow. And yet the Act itself says that you have to look at secondary and cumulative impact. I don't know how you do that.

Another concern which is based on the exemptions from the Act and how it is going to impact the new COAH rules that are out, where towns are going to be building houses that based on the exemptions and then going to be allocated 1 per 5 units affordable housing which I think could set up a constitutional crisis in certain areas, especially in a town like Ringwood where I am from, because the whole town is in the Preservation Area. In the Preservation Area there may be some areas for redevelopment but you are going to have a number assessed to the town and how are they going to meet that number based on these exemptions and I think that it is a real problem that has to be addressed in the plan because the more exemptions that are granted the less housing should be allowed in the plan. When I read the plan I am still not sure how much is allowed for the entire plan, and where, except for the community development zones, but more importantly it is supposed to be about water and that is my real concern – that I don't see the kind of analysis that I wanted to see about how much water is actually available for development in the Highlands and outside of the Highlands.

I am also concerned that areas that are showing depletion of water can continue to develop and can continue to deplete the ground water even though they are already in deficit – that is 60% of the Highlands, HUC 14s. Another area that is troubling and again the law is very specific, that sewers cannot go into the Preservation Area except for public health and safety and a couple of redevelopments, but the concept of clustering can allow both package plant and sewage lines as the plan is currently read that could go

into the Preservation Area. So these are troubling concerns and again, DEP rules were supposed to be the floor and not the ceiling and yet I see this conflict and I am concerned about this concept of harmonization with the DEP rules and that they may get weaker to support the plan and when I look at the nitrate model that you use and the amount of densities, that inside a cluster with a 10mg standard which is going to be picking up nitrates from farming, from non point, and even from rain water, that standard is just too lax – the ground water standard the DEP strives for is 5.5mg, believe it or not, not 10 – I think that there will be people drinking their septic if we develop in that pattern.

Again, I really think that this is supposed to be about protecting water and I really don't see it there. And parts of the Highlands are already in deficit and it takes 50 years time of travel for water to recharge into groundwater and yet the well head areas are only 12. Even on transfer of development rights, one of the things that bothers me is that you can transfer out your development, but still be able to keep an exemption and build one house and I am concerned that we will be creating, instead of having no build areas in the Preservation Areas, we will be creating extremely large lot estate zoning in parts of the Highlands through this.

And so, these are really the concerns that I bring forth, there are many more and they will be in my written comments and many of them are very technical but you know, I want to leave with saying instead of arguing about whether the glass is half empty or half full, the glass should be completely full to the brim with clean pure Highlands water. And please, and I say this to the Governor who is not here, don't monetize the Highlands, don't sell out our water supply, work to protect our water, make sure that this Highlands plan goes forward, and not only protects the water in the Highlands but makes sure we have it for future generations. Thank you.

## **Donald J. Pruden**

Somehow I get the feeling that this and subsequent hearings are going to be another exercise in futility. Last year you had 7 hearings with scientifically competent people and you now have what you call the final draft and it says the same thing as the original draft. The same errors are there. Not one map has a coordinate system; you cannot find point 'a' on a map and that same point 'a' on map 'b' without a coordinate system. You do have a scale, and that helps. I would suggest that you use a universal transverse Mercader system – it is very easy to use and allows you to calculate the distance from point to point easily. Avoid the use of degrees, minutes and seconds – that really complicates the mathematics and gets very cumbersome. If you had wished to hide map information, your Council has done an excellent job. However, I do not believe that this is an intentional act on your part – I believe that the majority of these members don't have that much talent. Most of the maps' digital resolution from the CD is so poor that if you enlarge it to see detail by 4x the maps just get fuzzier. If you enlarge it 16x everything is lost in the pixilated jumble of rectangles of various colors.

I don't understand how these people have these same issues and errors in the original draft and in the final draft they still exist and yet you've increased the final draft from 260 to 400 pages. What's in the extra 150 pages? Probably if you just took and went from a point, a font point of 8 to a font point of 10, you could probably have achieved that and would not have added anything new to it. But, I am not going to waste anyone else's time – I am going to let the scientifically competent people take over. Thank you.

*Jack Schrier added to the Council table.*

## **Amy Hansen**

Hi, thank you so much for the opportunity to speak today. My name is Amy Hansen and my husband and I farm 38 acres in Highlands region – in the scenic Musconetcong River Valley. We preserved our farm several years ago and we grow organic fruits and vegetables. We support the Highlands Act and want to see a final RMP that upholds the protection of water and nature mandated by the act. I recognize the time and great effort put into the RMP by the NJ Council and staff and - I thank you for that. I am concerned however that the farmland is not sufficiently protected by the RMP. The Highlands Water Protection and Planning Act emphasizes the economic benefits that agriculture provides the region and includes a concern regarding the loss of farmlands over recent decades. The irreplaceable loss of important farmland soils, and the need to maintain the essential character of the Highlands environment including rural landscapes, needs to be addressed. According to the RMP, the Highlands region has experienced a steady loss of agricultural lands, representing an average rate of loss of 1700 acres per year, a 19% decline between 1986 and 2002 representing over 27,500 acres. Because of these serious and continuing losses of farmland we cannot support the policies in the RMP that encourage more development of agricultural lands even through clustered development. The development on agricultural lands reduces the amount of land available for agriculture, doesn't protect farmlands soils, which is stated as an RMP objective.

I will submit formal comments which further detail my recommendations – I urge the council to only allow a limited amount of agriculturally related development on farmlands. One way to help farmers in the Highlands continue to farm is to aggressively pursue farmland preservation as supported in the RMP. Another way to help landowners is to allow the addition of farmland in the conservation area and elsewhere in the Highlands to be designated as sending areas within the transfer of development rights program. I would hope that the TDR program would be expanded so that receiving areas will be available throughout the whole State of NJ where development infrastructure already exists. We need to support a strong agricultural economy in NJ and the RMP can assist this effort by strictly limiting all development on farmland and taking care of NJ's precious soils. I recently learned that 1 inch of topsoil is made by nature every 500 years – 1 inch every 500 years. That's not easily replaced. We must take care of our garden state and remember that in order to farm we depend on our soil and our water. One more avenue of assistance that can help landowners protect their wetlands and stream buffers and get paid to do so, is through the Natural Resource Conservation Service, and I imagine the Highlands Council staff can give people there contact information. Thank you.

## **Ed Wengryn, NJ Farm Bureau**

I am an employee of the NJ Farm Bureau, but I am here speaking of my experience throughout this whole Highlands process. I live in West Trenton and get my water from the Highlands through the D&R Canal system. I came on board at Farm Bureau after leaving the Department of Agriculture as the Highlands legislative process began. My job was to represent agriculture through that process and address the needs of the agricultural community in the development of the legislation and then following it and the work of the Council afterwards. Again, it has been a long process for all of us - we wish it could have been faster. But from the draft plan that was released to this second ...I think that a lot of progress has been made about addressing the concerns that we have had in agriculture. The equity issue and the funding source for preservation is still out there – it still needs to be done. And we know that can happen.

But an important part of what we sought in the legislation which was to do real regional planning in the Highlands. To actually look at the cross roads of the residential, business economy, the transportation corridors that run through this region and how they all link and fit together. And on some of those components we don't think you guys have gotten there yet – the transportation corridor, the transportation infrastructure study, I don't think covers the complexity of commuters and goods in and out of the region. The – a good thing is the recognition of existing development – that you guys have looked in developing like the lake communities and things, where existing development is and where that development could be creating environmental problems – like failing septic and lack of water – you have recognized these areas as places for future infrastructure investment – that is getting down the smart growth path that everyone envisions. If this is the place where problems are and these are areas where growth is, maybe we need to invest in fixing those problems with infrastructure and doing those tools. Preventing the sprawl patterns that we have now, large lot zoning, building on 15 acre lots, 20 acre lots, and clustering that development on smaller parcels is a smart thing to do – that way you don't divide up large tracks of agriculture land but you reduce those parcels and the impacts of development through a smaller portion of that agriculture land. Agriculture lands are built upon because they are the easy way out – it is easy to do your septic density models. It is easy to do your infrastructure. You build from the land up – it is a lot harder to do redevelopment and your plan needs to address how to redevelop efficiently and effectively in those areas where the environmental impacts have already happened. I think that you have a long way to go in making that part of your plan. The good things are there – the tools are starting to come together, but I don't think that you've gotten that vision of what you want to do in the Highlands Region, explain to us and the public, and those of us who have invested over 3.5 years, 4 years, 5 years to this process. Take the time to do it right – finish it off. Good luck.

**Joan Lisi, Protect our Wetlands, Water, Woods (POWWW)**

We are a not for profit, conservation organization and land trust whose interest is the Beaver Brook Watershed within the Highlands. We have been supporting the concept and reality of Highlands protection for decades and are pleased at the hard work of all parties – has brought us to these final hearings. While we would rather have the Highlands RMP than not, there are some serious flaws that must be corrected if the RMP is to have any actual impact on water protection. We have picked out only 3 issues to comment on and have relied on the numerous discussions within the Highlands Coalition with whom we are long term members to help us to understand this ponderous and lengthy document.

Transfer of development rights is the key to the success of the RMP. Standards need to be clarified and organized. Viable receiving communities must be identified in areas with no water deficit and who have the infrastructure to welcome higher densities. Sewers – extension of sewers into the Preservation Area should be banned – as this encourages higher density in areas already identified as fragile. Higher density would result in even more water deficit and would likely occur in one of the 110 sub-watershed already in deficit.

Mapping – while I have not had the opportunity of checking all of the maps in the RMP – I would like to bring to your attention the one in the land preservation section which deals in large part with forest preservation. The map does not appear to show any forest – perhaps this is a technical difficulty during electronic publication. But one would hope that this map does not stand as a legal document. Thank you for all of your hard work in creating a document which will we hope will help to protect the drinking water for over half of the population of NJ.

## **Doug Tavella, forester, State Forest Service**

Good afternoon Mr. Chairman and Highlands Council members. My name is Doug Tavella - I am a consulting forester, approved for practice in NJ by the State Forest Service. I am here representing the Forest Management Community in NJ as chairman of the NJ Division of the Society of American Foresters, member of the NJ Tree Farm committee, and a member for the NJ Forestry Association. I have been involved with the natural resources aspect of the Highlands regions since the formation NYNJ Highlands Forest Resources working group formation in 1999 – and have helped to provide input from the forest management community from the release of the legislation in 1994 through the current comment period for the final draft of the RMP.

Allow me to commend you on the important changes that were made to the RMP with respect to forestry - the forestry exemption was affirmed in many places in the current document and many inaccurate and false statements regarding forest management were corrected or deleted. The current document recognizes the importance of forest management to the sustainability to the forests in the region. Your recognition of the value of the 100 year old science of forestry is critical to the future health and the productivity of the Highlands forests. There is still work to do. We have concerns about some lingering wording in the RMP that can have a profound effect on landowners' ability to steward their lands. I am mentioning here a few of these concerns – first, forestry is a major land use within the Highlands region and should be addressed as such in the introductory sections of the RMP.

Secondly, currently there are policies in place that would allow the Highlands Council to develop criteria and indicators for sustainable forestry. This should be put in the hands of trained professional foresters of the NJ Forest Service. High sustainability standards have been developed by the USDA Forest Service and by State Forest Services throughout the country. These standards have been established for over 60 years and are continually updated through ongoing research based on current forest conditions.

Thirdly, we continue to have grave concerns regarding policies and regulatory tools that discriminate against early successional habitat that is so critical to the life cycles of a large number of wildlife species. Specifically, the RMP relies on the DEP's Landscape Project to determine the presence of threatened and endangered animals and plants. Incredibly, the database is based upon computerized maps that contain flaws and biases. No one is permitted to see the information upon which these maps are based. And admittedly, the database is data poor on actual animal sightings. The Landscape Project encourages movement towards a climax forest that would lead eventually to the disappearance of the oak dominant forest which is critical to so many wildlife species. This is no way to make forest policy. A balanced approach that includes professionally planned and executed disturbance aimed at forest regeneration will lead to a mosaic of forest types and conditions on the landscape – and therefore habitat for the widest possible range of species.

Lastly, the Highlands Council proposes changes to the Farmland Assessment Act – credit for non-commodity uses and income-averaging are the principle issues here. The forest management community has made suggestions along these lines to the Division of Taxation, when the farmland assessment rules last sunsetted 5 years ago.

There is a time and place for such work and the work should be done by the Department of Agriculture and the Division of Taxation at the appropriate time. The Farmland Assessment Act has been a great success and is the reason why so much land has remained in open space over the last 20 years.

In closing, I would like to say that the forest management community greatly values its relationship with the Highlands science staff, specifically their professionalism and their willingness and interest to hear our input. We appreciate that the Highlands Council recognizes us as representatives of the 100 year science that's based upon research and the lessons of experience. We are stewards of the forest and the job we do to maintain a healthy and sustainable forest defines our careers. The principle purpose of the Highlands Act is to deliver a sustainable supply of high quality of water to the citizens of northern NJ. The forest is what enables that to be accomplished. To quote a colleague, it is about the forest. The health, structure, composition and sustainability of the Highlands forest today is in large part as a result of the stewardship of landowners working with professional foresters for the last 25 years. In the coming weeks and months, we will continue to deliver important annotated technical information to the science staff for their consideration so that the RMP can be further improved. This information can help to improve some of the flaws that still exist in the RMP. Thank you for your time.

## **Stephen Shaw, Mountain Lakes**

Members of the Highlands Water Protection and Planning Council, my name is Steven Shaw from Mountain Lakes. I am a lifelong resident of NJ and consider myself fortunate to have the opportunity to raise my family and operate a family business in NJ – more specifically Morris County. As a responsible citizen, second generation home builder, and local elected official, I have been following the many studies, reports and conservation efforts focused on the area I have called home for over 4 decades.

Today, I am addressing you as a private citizen who would like to have my children who are away at college, be able to come back to the Highlands and make their home there as I did. I am pleased to have the opportunity to appear before you today to share my view regarding the Highlands Regional Master Plan final draft, the RMP for short. Obviously, since I live and work in the Highlands Region, I appreciate the efforts of the Council to protect the Region's water supply. However, the final draft RMP as released is seriously flawed, incomplete at best, and doesn't meet the statutory mandates of the Act and is not ready for an honest public discourse and vetting process.

In the limited time we have today I will focus on a few of the most glaring deficiencies. The final draft RMP still fails to address the economic impact of the implementation of its policies – the statute requires it to do so. The TDR program is not fully developed, let alone in operation, the statute requires it to do so. The Highlands Council has a constitutional obligation to create a realistic opportunity in the RMP for the provision of affordable housing in the Highlands Region; the draft RMP does not do so. These lacking statutory criteria alone, should have prevented the final RMP from even being released – but just as troubling is the fact that the final draft RMP is no plan at all. Let me explain – when you actually take time and the resources to print out the plan in an attempt to read it – you realize it is repetitive and extremely unreadable. The plan is 383 pages of goals, policies and objectives repeated over and over again in each section, with references to thousands of pages of technical documents. Implementation of the goals, policies and objectives is dependent on standards to be contained in reports yet to be prepared. Ch 5 Programs and Ch 6 implementation, purport to be the meat of the plan, however when one reads through those sections, terms such as develop a plan, implement standards, and adopt model ordinances is all one will find. Where's the beef? The draft RMP does not contain the standards and guidelines that are essential to understand the policies and objectives and their impact that they will have on the State and the Region. It is impossible that anybody in the public or municipal officials or landowners will have a real understanding on the impact this plan will have on the community and I think that many people will agree with me on that on both sides.

Additionally, the RMP purports to create a comprehensive scheme to protect and enhance the quality and quantity of the Region's water. However, the RMP does nothing to address existing sources of pollution, reduce inefficient water consumption, especially nonessential uses such as golf courses, or address increasing water needs of the State's population. The Act that created this plan has a preamble that recognizes that economic growth, development and redevelopment in the Highlands is and I quote, “in the best interest of all citizens of the State, providing innumerable social, cultural and economic benefits and opportunities.” The RMP however fails to provide a balanced

framework that will produce those benefits and opportunities. The Act will have an adverse affect on housing affordability and housing choice in the Highlands Region – and prohibit people from living in a home of their choice, in the setting of their choice, at a price they can afford.

Finally, the Highlands regional study, the foundation for the task force and the Act, and this RMP, ask the questions, what do people who live in and use the Highlands want it to look like for their children and grandchildren – unless we balance the proposed Highlands RMP, with a plan that includes people – the question will be academic. My children, the ones that I spoke about at the beginning of my remarks, and my grandchildren will be forced to relocate to another area and look at the Highlands from afar. I am afraid that the RMP spells RIP for the Region’s economy and the working families that need a home. Thank you for this opportunity to share my views.

## **Ross Kushner, Pequannock River Coalition**

My group has been an outspoken critic of this master plan and I believe for good reasons. One problem facing the general public, as the gentleman pointed out before, is that the meat of the plan is contained in the maps and when you look at the plan in PDF format you can't get the level of detail in the maps that you really need to say what is this going to do in my own backyard. Your other option is to use the GIS mapping layers, but unless you have invested in thousands of dollars in software and have training that is an impossibility for you. Thankfully, my group has the software and the training, and that's an ability that has allowed us to create maps like this one – I wish I could show everyone the detail, but they can ask me about it later. This is a neighborhood in the Oak Ridge section of West Milford, surrounded by Newark's watershed property. It is mapped by the Council as an existing community zone because according to the RMP, and I quote, "it has limited environmental constraints." The Council seems not to notice that this area sits on the banks of the Pequannock River, which is a Category 1 trout production waterway and in this area carries water between two of Newark's reservoirs. It is also in a known water deficit area; in fact the Pequannock River a few miles down goes completely bone dry in the summer. I can't think of land that is more environmentally sensitive, although the new version of the RMP simply doesn't recognize that.

To make matters worse, the Council has mapped undeveloped parcels in this same area, including one right on the river bank, as Tier 1 TDR receiving areas, that is the yellow on this map. Meaning that this is a suitable area to direct development from elsewhere in the Highlands, so you will take development of supposedly environmentally sensitive sites and direct it to the banks of the Pequannock River. How you arrived at this, I don't know. I know this area intimately. There is a beaver lodge immediately adjacent to this area; maybe you mistook that for existing high density development.

More subtle, but perhaps more troubling in this TDR is the TDR receiving area that sits in the center of this neighborhood. It is a wooded area of about 2 acres. You don't have to be a wiz kid or hydro geologist to recognize that this area probably provides the ground water recharge for the wells surrounding – all of these homes are on individual wells. What happens to these people and their wells when we slap more high density housing right in the middle of their neighborhood? Don't you consider that? And that is just one example – there are scores of others, in the Pequannock river watershed alone where high density growth are being promoted over wetlands, river corridors, municipal well fields and other features that are critical to water supply and there are thousands more spread across the Highlands. I was just speaking with Ella Filippone about a property that she worked with Morris County to preserve last year, the Truinsky tract, steeply sloped, a lot of wetlands, and sits right on the banks of the Pequannock, and they paid 1.4 million dollars for it with the help of Morris County – applause for Jack Schrier. You made that area a Tier 1 TDR Receiving area. Is that a stroke of genius or what? The reason for this is obvious, rather than a plan to protect water, this has become a blueprint about how to stuff as much development as possible in the Highlands Region. You have bent the Highlands Act to the limit in promoting growth and where bending wasn't sufficient you have simply broken the rules.

Within the Preservation Area, and this is in the Preservation Area, you are supposed to have 70 % impervious, existing impervious cover, before an area can be used to development or redevelopment. This area has 30% impervious cover – how is it that you map it as a Tier 1 receiving area? How is it that you are showing it as a good area for growth when it doesn't meet the requirements of the Highlands Act? It is just a slap in the face to the Highland Act. I suggest that the council stop worrying so much about the rights of real estate speculation big developers, and start worrying about the thousands of citizens like the ones in this neighborhood who are headed for a fall because the Highlands Council is giving their water away with both hands. What makes this so disturbing is that many Council members are elected officials that are supposed to be representing their interests. It is high time that they did.

Tomorrow in West Milford we are hosting a press conference at 11 am, following that press conference will be a tour of areas like this one, so that the press can get an actual idea of what this RMP means on the ground. We are inviting the full Highlands Council members to attend that. Come out and see what this RMP means on the ground – because I don't think that most of you have a clue.

**Dennis Galway, Consulting Forester in NJ, Co chair of NJ Tree Farm Program,  
past chair of the Division of the Society of American foresters, and  
certified sited American Foresters Forester**

I would like to take a slightly different tactic, comment on concerns I and other professional foresters and our clients, private landowners have with the process of not only developing the RMP in the Highlands but the preservation effort in NJ in general. A little background information – today's forests cover more than 45% of NJ. Over 62% is in private land and 38% in public land – these are statistics from 1999 and my experience working in the forests would lead me to believe that there will be an increase in the next inventory.

NJ is the national leader in protecting land by regulatory legislation, albeit, the benefit of some of this legislation is arguable. We all know that clean water is associated with a healthy forest. Generally, hardwood or deciduous trees, trees that lose their leaves have greater nutrient demands than conifers and therefore are better at the job of filtering. In the Highlands, hardwood forests are what we have. Overall, we may consider the forests' health good – I don't know if that is good enough. We have realized an increase in tree volume in the last 50 years. The concerns are many, as the State government, local government and non government organizations continue to buy large tracts of forests and farmland with the only goal, preservation; we lose sight of why we wanted to protect this land. To protect our water supply, to protect unique or rare habitats and threatened, endangered or special concern plants and animal species, to provide areas to recreate and to enjoy the aesthetics and to maintain areas to provide wood products, lest we forget that trees are a renewable resource. With the problem of deer, invasive exotic plants, insects and disease and overstocked forests, we have reached the critical point in NJ. Many of our forests are not regenerating themselves, and in many areas are not healthy and are not diverse in plant and animal species. On many of the preserved lands, the growth is stagnant and overrun with non-native species. The abandoned fields, a potential source of income, are growing invasive exotic species and will require much more work in the future to get them back to productive open space. They are not healthy or usable in their current state.

Many people think that we have a lack of mature forests, but the opposite is true, the mature forests have continued to increase over the last 50 years, contributing to increase in turkey, pileated woodpecker and black bear. However, the sapling seedling class has decreased significantly since 1972, 54% to about 13% in 1999. Decline of this early successional stage has seen a corresponding decline in wildlife species such as grouse, woodcock, quail, and songbirds such as warblers and sparrows that depend on this habitat. A healthy forest has all stand classes and is resistant to the outbreaks of insects and disease.

The burden of sustaining the natural resources of the forest has been put on the private land owner. Yet everyday regulations and ordinances are established to prevent these woodland owners from conserving these resources and sustaining the health and forests and biodiversity for the future. Groups such as the Garden State Preservation Trust, Keep it Green, NJ Conservancy, NJ Audubon, have been lobbying for public funds and purchasing or helping to purchase land for years, with the objective of protecting

wildlife habitat but with little thought of active management occurring to provide for the threatened or endangered species utilizing this habitat, to reduce the deer herd, to reduce the exotic, invasive species, or address regeneration. The State is equally culpable, of a lack of forest management occurring on State land and a lack of cooperation between agencies within the DEP or partnership with the professional foresters trying to manage the pride of forests. The success stories and projects are way too few.

NJ has some of the best timberland in the country, and most of it on public land is going to waste. Income to pay for management projects can be realized from harvesting of trees – it is done by every state forest service that surrounds NJ. Implementation of NJ Forest Service Management plans that had been in existence for years needs to be a priority. The DEP agencies need to work together in a timely manner to conserve our resources while ensuring the continued delivery of the many goods and services provided by state forest land. The State has to lead by example - it has to be actively involved and bear the burden of responsibility of conserving and protecting the natural resources of the public forests and by doing so will ease the burden of the private land owner. Today we cannot achieve our goals of natural resource management by doing nothing or very little – the action of purchasing land and setting aside, doesn't achieve the goals of ensuring forest resources for the future – it will take active hands on management.

I have heard recently that the NGOs believe that more time and finances should be devoted to the implementation of management of these resources that have been purchased and set aside. It seems that they realize that forests are dynamic and not static and change over time. It seems they realize the pressures of natural and artificial environmental factors dictate the urgency of managing these forest resources now. I hope that what I heard is true. The focus has to start shifting from purchasing and setting aside to management and maintenance. We need to take care of these woods and the species of concern now, make no mistake about it – man influenced the woods present today and we need to continue our influence to conserve them for tomorrow. To maintain rare and unique habitat, protect threatened, endangered and special concern plant and animal species, control the deer population and thereby aid in the reduction of exotic and invasive plant species and help establish natural regeneration, monitor & treat insect and disease attacks, create and provide recreational opportunities, sustain and ameliorate aesthetic attributes, are some of the natural resources that foresters can manipulate to achieve the desired result.

The forestry profession is growing very concerned with the trend to purchase and preserve land with no thought to managing its resources in the near future. This policy of set aside and non management is not supported by the forestry profession.

Lastly, I would like to remind the council that we have long time leaders in the profession of forestry, here in NJ these include, Chrissy Harrigan, Heather Bracy-Petty, and previous speaker Doug Tavella. And they are members of your forestry technical advisory committee – the goal of the TAC was to assemble technical and industry experts to provide input and aid in the development of the RMP. You have achieved one goal – you have secured these experts – and now I hope that you achieve the most important goal – to listen to these wonderful people with no political agenda who really care about the forests of NJ and use the scientific based recommendations they provide. If you do, I can assure the Forest resources of NJ will be here for many future generations to enjoy.

## **Jay Grant, Mendham**

I am a citizen of Mendham, NJ. I was born and raised in NJ – I am a business man. I used to call myself a developer – I don't think that is a possibility anymore. I am still a builder, but I am not developing any new land because the rules are too tight to do so. Thanks for your support, too. The Council has been given a monumental task to address the needs of a very vast region. The first dozen or so speakers who have addressed you today have, I believe, implored you to not act hastily in the effort to complete the plan and approve it and roll it out before it is done. You have heard from environmentalists, builders, and others who represent the forestry and the farmers, I think that there is a common theme you are hearing today and that I believe you will hear again and again in these public hearings, and I believe that their message is and what I would like you to consider, and that is that the plan is not ready to be adopted. The plan is statutorily or constitutionally noncompliant – it needs to be improved.

Last year the NJBA, the NJ Builders Assoc filed comments with you detailing deficiencies with the plan – unfortunately, in our rereading of the 400 page document that has been released, those deficiencies remain, in fact, the readability of the plan has declined. It is both repetitive and crucial information is lacking. The draft RMP doesn't contain the standards and guidelines that are essential to understand and implement the policies and objectives that you are working to implement. The plan references a wide array of reports and documents that the Council intends to prepare sometime in the future. Quoting page 256 – “the Highlands Council will provide site development standards for all projects including redevelopment.” Where is it stated when these will be provided and when can we expect them? – This is a huge void in the plan that needs to be addressed.

The plan states further that housing is a major component of land use patterns in the Highlands Region. The goals and policies of the plan seek to address a full range of housing needs for the region. The draft plan is completely unsuccessful in determining how the full range of housing needs should be met. Suggested minimum densities of 3 dwelling units per acre in the exiting community zone are much lower than the densities required to provide work force housing, rental housing, and the smaller housing units needed by single people and small households. Five dwelling units per acres in the TDR receiving zones, which would have substantial, added development right cost, are inadequate to meet the housing needs. That is important because the region does have at this time a deficiency of rentals and smaller homes affordable to the general public. The draft RMP doesn't contain standards or guidelines to correct these imbalances and meet the full housing needs of the Highlands Region. These are some of the reasons why you should revisit the plan before adoption.

The plan doesn't address the need for affordable housing, the Council is a State planning agency with a regional planning responsibility – therefore it has a constitutional obligation in the RMP to create a realistic opportunity for affordable housing. This hasn't been met and I implore you to revisit it. I thank you – you are effectively volunteers; your work is done in earnest for this generation and future generations. My father was a builder and developer and I have children that may follow me into this industry – I don't think that is a terrible thing. Everyone in this room lives in a home

built by a builder. Your goals, I understand, and I support balance and opportunity for both preservation and growth – but please let's work together to make that happen.

## **Robert Bracken, former mayor in Sussex County**

I am a resident of NJ all of my life – I am a former mayor of a town in Sussex County and as my colleague before me, I think that we are moving a little fast even though you are past your statutory guideline for the RMP. It needs some more review and information so that the general public, the taxpayers, can understand what we are all buying into.

There's a lot of concern with the opt-in/opt-out program aspect. 88 towns in the Region – if they all opt in, where are the tax-based dollars going to come from? The state is in deplorable financial condition – we are going to sell assets, lease assets. What are we going to do in five years, what are 88 towns going to do without new revenue coming in? As a former mayor trying to balance a budget – these are important concerns for everyone sitting in this room – on either side of the aisle. There isn't a builder that I know of that is against promoting proper development – but it has to be done. The plan as it is written today isn't adequate or sufficient to tell us all what direction in 5 or 10 years we are going to be standing. Are we going to have towns going bankrupt? If you seal off their flow of potentially new income – the plan needs to be more fully laid out so that we all understand it. Then maybe we could all get on it. I have children – I don't want to pollute the water for them – I don't think that anyone wants to pollute or use up the water.

I read the Star Ledger this weekend – the NJ business section – a developer is going to put up 14 glass towers with something like 9,000 or 13,000 units in them – where is that water coming from? From the Highlands Region – there is no thought to the using of water – only the conserving – and I'm not sure that the RMP takes a lot of thought into conserving water use. There have been states doing the same program that have gone to the city and provided free gallon and a half toilets to take out the 3 - 5 gallon toilets. The State of NJ is just trying to make a land grab here, in my opinion, without giving us the proper information, so 5 or 10 years from now we aren't selling the State capital house to pay for what we are doing here today. Think it through – make it complete – let us all know where we are all going 5 or 10 years down the road. Again, not one of us wants to pollute water.

## **Walter Krich, Director of Planning and Development for Morris County**

I want to spend one minute to thank you for the time you have spent and will spend on this issue – what you do today really does matter not only to the Highlands area, but all of the residents of the Highlands area. I know at times some comments can be a bit caustic – I hope that those remarks shouldn't become personal, they shouldn't – it doesn't aid this process. Recognizing the importance of the quality of life to our residents and the economy - Morris County has been the leader in preservation of 17,000 acres of farmland, open space and watershed lands and shares your goals of protecting these resources. We are concerned, though, with some of the methods that the Council is using to achieve these goals and hope that the Council will work earnestly with the county and its municipalities in a collaborative effort to advance these goals in a manner that respects public and private concerns and the rights of local citizens and governments. Morris County will submit some detailed written comments – I would like to highlight some of our major concerns and these are all very general in nature, but I hope that you keep these in mind as you go through this process.

The first is flexibility – the plan allows the consideration of locally initiated changes to the RMP but only under the most restrictive conditions and with final authority of the Council. We thank the Council for acknowledging that we are allies in this process and the current RMP is not without error – nor can address every unique local planning situation. Despite this, many no growth critics decry the smallest attempt of the Council to provide balance in the RMP, consider the impacts on private property rights, and acknowledge corrected information or real world conditions. The plan is supposed to be about protecting water resources and promoting smart growth – not stopping all development. More flexibility is needed – not less.

Second is plan conformance. The details of conformance of required conformance activities are currently not fully known. What will conformance mean? We hope that the Council will allow some latitude in meeting common goals and work with local governments as partners. We expect the Council to make this process clear, direct and to avoid unnecessary or redundant requirements for plan and development regulation amendments. Council must provide detailed directions, local governments should not have to guess at what will be found acceptable.

Third is consistency – in the Preservation Area and in all conforming municipalities, the Council will be reviewing projects and waste water plans as to their consistency with the RMP. The term consistency has not been fully defined –but based upon Council's prior discussions regarding wastewater plans, we know that some of the members believe that anything that doesn't comply 100% with the RMP is inconsistent. This approach is unrealistic and unnecessarily narrow – with 7 counties and 88 municipalities – we hope that the council will recognize that cooperation is needed to address varying local conditions and concerns. There will be few, if any projects or plans 100% consistent with the RMP. Fair consideration of individual situations will be needed – not rigid compliances to a set of one-size-fits-all requirements and checklists. Fourth, MOU's and primacy – while the Highlands Act requires coordination between the Council and various State agencies, there still is some uncertainty as to how all of these entities' plans and programs will interact. After more than 3 years, the Council has

approved a memorandum of understanding with the Office of Smart Growth; which addresses process but not primacy. What happens when there is a conflict between State agencies and the Council – who wins? There are already conflicts and duplicative processes affecting local governments –for instance there are differences between the DEP wastewater plan analysis and that of the Council. We do not intend to develop 2 WIMPS or go through 2 reviews because the NJDEP and the Highlands Council have different requirements. The County doesn't want to waste time and money and other resources to conduct the same studies multiple times for different agencies. Detailed memorandums of understanding on programmatic policies with the NJDEP, NJDOT, OSG, and COAH are necessary to address potential conflicts and understand the relationships between the agencies. The full implications of the RMP cannot be known without these agreements and these agreements should make it very clear as to primacy.

Finally, voluntary opt-in. The Highlands staff has been meeting with Highland area communities, touting the benefits of opting into the plan, which is voluntary for the Planning Area communities. While staff speaks a great deal about potential benefits we haven't heard a frank discussion on the impacts to local control of the master plan regulatory and approval decisions. The municipalities may not realize that the Council has the final say on development approvals through Council provisions should that town opt-in. What if the municipality decides later to opt-out – will that even be allowed? Will the same exemptions exist in the Planning Area as in the Preservation Area? We ask that the staff offer both pros and cons when relating the issues of opting into the planning communities – after all you need to know the entire story. Finally, there are many other issues that we will be addressing in a formal comment document by the planning board. I end this observation with the words of your own planning consultant, Charlie Siemon, who stated: the long term success of the RMP cannot be accomplished from the top down. The success hinges on cooperation not imposition. Thank you.

## **Joe Attamante**

The fundamental goal of the Water Protection Act is to protect water - allowing growth consistent with that goal for public interest of all NJ citizens. The goal is good and correct - the need compelling. The legislature said they had to stop the imminent peril of losing thousands of acres of watershed land a year and that the existing land use system, the untouchable god of home rule, couldn't protect water and natural resources. A regional approach is needed. But details of how to implement that plan falls short of the goal.

In my township, 1/3 of Washington Valley which is on the National Historic Register with category 1 trout streams, endangered species was moved from protection to existing community. This will bring potential development – lowering water quality. Why and how does this preserve? Why does the plan not explicitly prevent sewers and infrastructure into the Preservation Area, when sprawl and degradation of resources will follow? Also, why does the plan allow development in areas with water deficit? We need clear developed water protection standards and programs that preserve water quality and prevent water pollution, rather than after the fact mandated mitigation. The plan must emphasize enforceable standards.

And to those who oppose limits on their land use – I should remind them that none of us want the government telling us what to do. But we accept limits just by living in a society – we know none of us can do exactly what we want on our property. For instance, zoning says that I can't build condos on mine, as much as I might like to. We give local and state government power to say and limit what can be built or how property can be used. With strict enforceable standards, and limits in the Preservation Area, we will have plentiful pure water - without them; we and our children will pay huge costs in taxes to treat water or import it – but from where? If we go along as we always have, some speculators and developers will get rich and move on, while our taxes increase because of the added cost of infrastructure services and yes there will be more jobs for awhile. Some will say or act as they always have and say that I'm getting mine and to hell with everyone else – or we could act in this manner, as the preamble to our constitution says – we could promote the general welfare. Let's think long term for a change – and for all of our children and let's get this right.

## **Ella Filippone, NJ Chair of the Greenwood Lake Commission**

The Greenwood Lake Commission was forgotten by the Highlands Council. This Commission was established by the NJ and NY legislatures and governors of both states. We have gotten substantial support from the Department of Environmental Protection, even when the legislature established us, they gave us no resources. We have no money. We receive grants from the DEP and the Congress to do the work we have done. We are currently developing a master plan that should serve as the template for this effort in the Highlands. It is very important in my opinion that you know your turf. That you know what is going on in the local area.

And when we began our effort at Greenwood Lake, the first thing we did was look at the data collection systems that are there are for this lake – and there is only one gauge that measures the flow at this dam that is really of service for the NJ District Water Supply Commission and not the lake. We investigated with the USGS how much it would cost to put in a water quality monitoring station – we found this was somewhat prohibitive for this Commission with no money and that we would eventually have to delay that decision. Our work with the Highlands, we know that you do not have a comprehensive data collection system. So it is one of our goals to have the kind of mechanical aids to tell us what is going on in the ecosystems of this little watershed.

In the winter of 2006-7, we had a draw down. We had some problems with process, we bounced all over the place when the citizenry tried to get waivers to repair their docks and do some of the things they would do to maintain their property. We were told we couldn't go to the DEP, but had to get a waiver from the Council – we never got a response. I believe that this is poor communication with an agency, the Greenwood Lake Commission that is mandated by the legislation, to cooperate on a two way street with the Highlands Council. I think that it is important that we begin to communicate a lot more and understand what some of the problems are with lake management as it is laid out in the current plan. We haven't had any meeting with the Council on the plan because we are busy working at the lake.

We had 100,000 dollars to pay for a stump removal project. The southern part of the lake is manmade. Those stumps have been a major safety hazard and we were finally able to get them removed – and the change in water quality was unreal. I couldn't believe it. The turbidity was gone, safety was better, and we had our first sailing regatta in 12 years. So as we look at our goals at the Commission and we look at yours, we have to see is there compatibility. And the first thing that bothered me, and bothers our Commission is the effort to put in additional housing at some of the worst places in our little watershed above the lake. We have problems at that lake, because for 100 years, nothing has been done to manage it. In some places, it is so shallow that none of us would have trouble walking because it is only a foot deep. We have to dredge. Please don't make it so difficult for us to maintain this lake and bring it back to what it should be. We have the existing community zones that are right at the area where Belcher's Creek comes into Greenwood Lake – that is a mistake of the past. You should identify those development communities in a watershed that were mistakes. And you should help us find ways in which to correct it.

One of the first things Green Acres said to me was find an access point for us. There is none. It is fully developed. There is no vacant land on the NJ section. There is some in NY, but that doesn't count. These existing community zones which you have put into the HUCs of the Greenwood Lake watershed are in water deficit areas. In those last two major developments that were propagated by development companies, the State has not provided a water allocation for either one of them. So we are saying that there is not enough water to go around for these increased development themes. So perhaps we should put a hold on some of that, until we recover some of the deficit. That may not be too hard if we get people involved in working with the Commission and the Council. The lake management tiers that are part of the lake program – have not been clearly defined.

In looking at the technical agenda – the addenda – there is an attempt to clarify it, but it points to things in Minnesota and Wisconsin that aren't as secure as you would like it to be – and even this document questions the validity of some of these tiers that you are talking about. In that document, in the technical document, there is discussion of time of travel. Now, you are scientists, we have worked together for many years on ground water. We understand the time of travel concept. It is well explained in the technical document – but that explanation isn't reflected in the plan. There has to be some of reference in the plan as to how you plan to do some of the things you are talking about.

(John Weingart interrupts) I am trying to get to the highlights, John. Ok, I will submit this. I hope that my final word is there are a lot of things in here that can be improved. It isn't a criticism – it needs improvement. The time has come for us to sit down and talk about lake management. It is time to recognize that in your legislation you are supposed to do that. We are all ready to meet with you – to duke it out.

## **Robert Matarazzo, State Board of Agriculture**

I am representing the State Board of Agriculture. The State Board of Agriculture offers the following comments: The Board is an 8 member body that sets policies that direct the Secretary and the Department of Agriculture in carrying out its responsibilities.

We believe that the successful implementation of the plan requires a number of critical components: first, a sufficient, dedicated funding source for land and easement acquisition in the Highlands – separate and apart from the funding mechanism which succeeds the Garden State Preservation Trust but containing parallel equity protection components to permanently protect these lands while compensating property owners. Identifying a funding source prior to adoption would assure property owners that their financial interests are being respected and would lead to a more productive and collaborative process. We urge the Council to petition the legislature to condition plan adoption on this fundamental issue being addressed. I am a 3<sup>rd</sup> generation farmer – I can't say it strongly enough, that if this plan goes through without funding, it is going to be like a stock market crash for the rest of the farmers in the State of NJ. Why should we stick our neck out if this is how we are going to be treated? I think it is a reasonable fund – be sure you have your funding. Then you can purchase the rights – keep the farmers going, this is their equity, it is all they have. We don't have 401Ks. This is what we have.

Second, a viable private sector driven TDR Program that aids in preserving our important resources while promoting growth in appropriate areas - including the identification of receiving areas in and out of the Highlands. We are encouraged to see some potential areas identified within the Region in this draft of the plan. And before I go on, I just spent 25 years on the planning board in White Township; half of the Township is in the Highlands. We have worked with TDR – we have worked with clustering. It is a challenge. We tried to do this. We tried to take all of our farmland in White and either TDR it or cluster it – we didn't get any buyers. I encourage that whatever way you do it – do it strong and effectively.

Third, is funding for conservation planning to assist with the implementation of soil, water and natural resources conservation practices on our agricultural land – to ensure proper stewardship of this land into the future. It is discouraging to hear from the Governor's office all of these cuts and how it is going to affect soil conservation. This is a key element in what you are trying to do. That funding has to be maintained – everyone in this room needs to support that when it gets to the Governor's desk.

We believe it is important to allow for a well constructed cluster ordinance that protects land owner equity and results in the preservation of agricultural lands. Therefore we fully support the policy that mandates clustering for residential development in agricultural resource areas with 80% set aside for continued agricultural use. I would love to see out of every 100 acres, 80 acres are farm and 20 are development in the State of NJ – if we had started that policy 20 years ago, we wouldn't be having this conversation.

We also support the refinement of the agricultural preservation priorities mapping which focuses on prime soils, farm size and proximity to preserved farms. We believe that this draft is a step in the right direction. It provides a more realistic picture of

current land use and begins to frame direction of future land use. However, much work remains – for instance the amount and type of development the Region can sustain, a cost analysis showing the cost of implementation and a transportation strategy that shows specific projects that link land use with transportation systems. We urge you to continue working with local farmers, the Dept of Agriculture, the county agricultural development board, the NJ Farm Bureau and other agricultural representatives to develop programs that will support and enhance agriculture in this region and allow expansion of these operations as new agricultural techniques become available. We will be providing more detailed and specific comments. Thank you.

## **Julie Somers, NJ Highlands Coalition**

Thank you so much for conducting this second round of public hearings even though you were not mandated to do so. I am Julia Somers, Executive Director of the NJ Highlands Coalition – a diverse network of organizations small and large, local, regional, statewide, and national as well as individuals. We represent the common goal to protect, enhance and restore the NJ Highlands. The Coalition’s review of the final draft RMP has identified important changes that are necessary to ensure compliance – both to the Highlands Act and with the imperative to protect the Highlands now and in the long term. We will be submitting extensive written comments and more than I will touch on today.

Our greatest concerns are regarding the deficiencies in the area of water supply and quality, wastewater treatment and infrastructure, natural resources and the relationship between the plan’s objectives and policies and their implementation. For water, we are concerned that development and increased water use may continue to be permitted in designated water deficit areas – thereby exacerbating an existing problem. This problem today has already risen to become a public health emergency. Of the 183 HUC 14s, by your own testimony, over 120 are already in deficit. Additional growth in the Highlands shouldn’t be promoted in areas of water deficit – as defined in the original master plan’s net water availability by HUC 14 until after those deficits are remedied.

Further, in general, the 300 ft water buffer in the Planning Area is a welcome addition. Nevertheless, exemptions to the buffer requirements are overly broad and inconsistent in the various sections of the RMP and are weaker than the recent storm water management rules. At a minimum the RMP should reflect that protection. For wastewater treatment and infrastructure, extension of sewers in the Preservation Area or the development of onsite systems, I recognized that you are going to clarify this language – but we feel we must mention that this should be banned, unless explicitly mentioned in the Act for health and safety. This should not include serving new cluster development.

For natural resources, the RMP has extensive language about protecting natural resources, but there are inconsistencies in the various discussions of the exemptions through these protections. The RMP must state clearly and unequivocally the hierarchy of natural resource protection: 1.) avoidance 2.) minimization 3.) mitigation. Further to protect forests and intrinsic and economic value, it is critical that a state certified forester approve a forest stewardship or management plan prior to the purchasing of an easement.

In addition, the recent edition of the RMP allows municipalities and counties to request changes in the land use mapping, moving land from restricted zones to redevelopment zones without sufficient criteria to ensure that vital resources will not be degraded. It is important to have clear language about no loss of resources and that that be achieved in this program. In the relationship between policies and objectives and implementation, the policies and objectives listed are important statements for the future of the Highlands – nevertheless, the plan doesn’t clearly state how they will be implemented. The project review and other implementation sections must identify clearly that the achievement of the objectives will be the bar that must be met. Without clear means and rigorous standards in the implementation, the policies and objectives are

simply aspirational. Thank you for the opportunity to comment- we will deliver our complete comments shortly.

## **Ted Maglione**

My first comment is with the Act itself. I have heard a lot of dialogue here and there seems to be a common thread between some of those for the Act and those opposed to it. That is it is shortcoming because it's not a comprehensive plan – it falls short in that it doesn't cover the entire State. There has been some discussion of the failures of home rule, which I am in full accord with, and this Act is an improvement upon that but it isn't a resolution because maybe if the provisions or expectations that are contained within the Act set certain expectations for entities that are outside of the Highlands Region and what happens if those entities don't follow through? What impact will that have? It's just not a smooth comprehensive plan. Regardless, I believe that whether you are for or against it, the shortcomings should be addressed. I know that it isn't your charge, but maybe you can bring this up to the powers that be, to truly make this into a progressive plan for the State of NJ not just one portion with expectations that the improvements within this Region are going to transcend throughout.

Secondly, some of the environmental standards that are contemplated in the Act – it sort of ties into my first comment – again it isn't comprehensive. Many state that these regulations are insufficient – I would just ask those people to look at where you live now and impose those restrictions on your farm or lot. If you couldn't comply with those restrictions, are you ready to vacate and sell your plot to the State? It seems disingenuous to set a higher bar for someone else than what you would do for yourself. Again it is a matter of equity.

**Lois Drysdale, Chester Twp**

My husband and I own 16.5 acres in the Preservation Area of the Highlands. It is all that remains of property owned by my husband's grandfather. We thought that farming this land would provide money for our retirement – if the State hadn't interfered, we would already be retired. The land value was already there. If the water and endangered species, etc. are so vital to our State, why are the landowners not being compensated for the loss of land value? We are in our 70s and have worked so hard -- for what? Aren't we as important as the bog turtles? Does anyone care?

## **Andrew Drysdale, Chester Twp**

My wife Lois and I own 16.5 acres in the Preservation Area in Chester, NJ. The land is the remainder of grandfather's dairy farm purchased in 1926. I have been self employed since 1969. The land was a major part of our retirement plan – our plan to subdivide the property was environmentally friendly. The Highlands Act stopped that. Water that now runs off the tract and out to sea would have been put back into the ground. Many trees would have been planted where now none exist. A very dangerous draining situation that exists on the public road would have been corrected by the improvements. The Highlands Act, as nice as it is because it has been taken care of by the people– it would have been even better if the State hadn't intervened in such things as the Mt. Laurel decision and forced high density growth on municipality. The majority of the Highlands Council and staff have worked to make something good out of something bad – a bad and unnecessary law. Tell the Governor and legislature to abolish this law and many others that are costing the taxpayer too much money.

Finally, I was pleased to see much of the Declaration of Independence read prior to the Super bowl and would like to quote some of it: governments are initiated among men, deriving their just powers of the government...whenever any form of the government becomes destructive of these ends, it is the right of the people to alter or abolish it. To put this statement into concept – please read the entire document, paying attention to the 9<sup>th</sup> reason beginning with the word He which referred to King George III.

**Jean Rich, Washington Valley Community Association, Morris Twp**

I am here to speak for the Washington Valley Community Association of Morris Township. The Washington Valley Historic District is on both the State and National Historic Registers – we believe it all belongs in the preservation zone and should not be designated PA1. We have worked for years to protect the valley. And have fought off development and inappropriate proposals. We have succeeded because much of the area is part of the county parks system and Patriots Path traverses the valley, because of its rural character and the environmental sensitive areas within it. The valley is part of an uninterrupted greenbelt that reaches all the way to the NJ Audubon's Sherman Hoffman Wildlife Sanctuary in Bernardsville. The greenbelt makes it possible to shelter threatened and endangered species and head waters of the Whippany River are within the Washington Valley. The attempt by the Township government to remove any protection from this area is unacceptable - the area is too important to citizens of the county and should all be PA5. We also support the protection of Jones Woods – it has mature woods, vernal pools, threatened and endangered species, and historic structures – it should also be no less than PA5. Please help us to protect these important and beautiful areas – all of our children and grandchildren will be the beneficiaries.

## **Elliot Ruga, NJ Highlands Coalition**

In June 2004 when the NJ legislature passed the Highlands Act, they had found that “the existing land use and environmental regulation system cannot protect the water and natural resources of the NJ Highlands against the environmental impacts of sprawl development” and that the protection of the Highlands because of its vital link to NJ drinking water and other key resources, is an issue of state importance and cannot be left to the uncoordinated land use decisions of 88 municipalities, 7 counties and a myriad of private land owners. These findings are chilling and they demand bold action to answer them. Will the Highlands RMP address the concerns addressed in the Act? Only then will you have done your job – the mission to protect our water is important. It isn’t about what is mine or yours – it is about a vital resource that must be protected to the benefit of all of us.

It is difficult to remember the fear and uncertainty and the economic cost of a long, prolonged drought. In the early 1960s we experienced a critical drought – to the extent that businesses relying on water were shut down. In the 1980s we faced another drought; I recall my community was 5 days away from our local fire department declaring they would no longer put out house fires because they couldn’t use the last of the precious water resource. Grasses were dried up – the land was seared. In September, leaves just turned brown, shriveled and fell. Then we were hit with a hurricane which saved us – we will not always get a hurricane. Since then the population has almost doubled. Water usage has risen accordingly and the availability of water has diminished; significantly due to piecemeal development and fragmentation of the Highlands. At least 110 of the watersheds in the Highlands draw more water than can be replenished. How will the Highlands water be protected if development can continue in water deficit areas? When exemptions to the 300 ft open water buffer are weakly defined, when extensions of sewers are allowed in the Preservation Area, and a regional master plan that outlines some important policies and programs, but lacks a clearly defined manner in how they will be implemented. When the day comes, again when we find ourselves in a critical drought – it will be a level of severity that we have not yet experienced. I will remember this day when the public asked the Highlands Council if they had done their job to the fullest extent as mandated by the Act.

**Stephen Gruber, volunteer**

I call myself a professional volunteer – I work for a lot of environmental groups. Since the impetus for saving the Highlands was to protect the water supply of NJ, should be to totally stop all building. If you are removing more water than you are putting in, then you will run out – the only way to prevent this is to stop building. I have heard that 110 of the 183 watersheds are in deficit, yet the RMP doesn't stop building in these deficient areas. The other number I heard from the Passaic River Coalition was the 47 million gallon per day deficit in the Passaic water basin – the State is mandated to balance the budget every year, so the water should have to be budgeted the same way. You should have to put back what you take out. The only way to do this is to stop building. The driving force for this problem is also that we are overpopulated. We are the most populated state. This is responsible for the worn out highways, high taxes, and other problems. Allowing more growth will only increase these problems. Make the conservation part of the plan stronger by not allowing growth in areas of water deficiency.

**Thomas Koven, Hunterdon County**

I am a long term resident of Hunterdon County, 35 years. I have been watching this board try to put together a plan for a long time – thank you very much for your diligent work. The Council has been charged with forming a plan to protect the water resources in the Highlands for the State of NJ. The plan uses novel metrics, low flow and recently collected data to base its decisions on. These decisions should be predicated on the mandate to protect, enhance, and restore the resources of the Highlands. However, when an area is in water deficit, it defies all logic to allow development to proceed until the deficit has been alleviated. For any development to continue in water deficit is needlessly gambling with our lives and our water. The purpose of the Council is to reduce the risk to resources, not to gamble with them. Please make it clearer.

## **Mervyn Haines**

I would like to start off with a positive section – it is something that I couldn't find in the new RMP, so I had to go back to the old one. It was under forestry – it is the disturbance to the **Oakland** forest is limited to - 20 feet next to a lawfully constructed structure with a perimeter of septic disposal bed – however, maybe that has been changed. But if not, the NJ Forestry Fire Service says that the minimum in that area should be 30 ft. So, I think that in the interest of safety it should be extended.

Now for the other part – maybe not so positive; I want to touch on the potential of restrictions for the amount of acres in the area. I just want to throw out a few figures – with a 600 ft buffer on the stream, 300 ft on either side, it takes 73 linear feet in order to restrict one acre of land. In one mile, you restrict 72 acres of land. In the new RMP, with their 3,600 miles of streams we come up with 259,568 acres – which is 30% of that area. You come down to a forested area – in the RMP, you add 54% so you have restricted that area also. Open space you have 32% already, which is restricted. Now, that all comes up to 116% - that doesn't include wetlands, vernal pools, or even some of the lakes. So, what I am getting at is I don't think that it is a real brain strain to say that this is an unrestrained exercise of power. Now an unrestrained exercise of power is the dictionary definition of tyranny. Make no mistake about it – I believe that the DEP has become a tyrannical branch of our government. Unfortunately, I think that the Council also has. I think that that is a terrible way in the United States of America to reach the goals you are after. Especially because you haven't tried to go to the public and put some confidence in the public to do something and what I am going to refer to is the laws put out by New Hampshire – which the Council knows about. Which was brought up at the very beginning when this all started – I am sorry you didn't look into that. Thank you.

**Christine Hepburn, resident Madison, & owns farmland in western Warren County**

I love the Highlands. I am here tonight because I was born a worrier and I am worried about our water supply in NJ. I have been supporting with donations the Highlands Coalition – they are my professional worriers. People in NJ have been worried about the sensitive Highlands Region and the protection of our water supply for decades, including the government. Then when there was an obvious threat to our water supply, we did get the Highlands Act, and you and your staff have been working hard for years and I appreciate that. I think that the RMP is coming along.

I just wanted to say that I am distressed when I read in the paper – there were 10 amendments aimed at strengthening the regulations to protect natural resources, and they were voted on by 3 of the Council members but not by the others. I just wanted to urge you to take this opportunity to act to protect the long term benefit for people as a whole – it is a hard thing to do. I think that a change is required. I urge you to take on that difficult task, push forward and strengthen the RMP even further. When 10, 20, 30, 40 environmental groups say there is a concern; something needs to be fixed in the plan in order to ensure a large and healthy water supply. I would urge you to do that. I personally will write my concerns, but one thing I want to say is that with the single home exemptions there will be plenty of building going on in the Preservation and Planning Area, 21,000 homes, so the concern is the standards in place to prevent natural resource damage from that building.

## **Dave Pringle, Campaign director of NJ Environmental Federation, Cranford**

We have 70,000 members in the State and an additional 100 member groups. Most of them consume Highlands drinking water and even more benefit from the economy that the Highlands water provides as well as the recreational enjoyment of the area. I live in Cranford and my family consumes Highlands water. Over the last 10 years, we have had tri-halomethanes in our water due to over development – so while my wife was pregnant she had increased chances of birth defects and miscarriage. It didn't happen, but it has happened in the State according to the CDC. The Highlands Act is supposed to protect the Highlands natural resources – especially the drinking water – which is the source for more than half of the State's drinking water. This is not only a mandate in the Act itself – but an environmental, economic and moral imperative. In this regard, the Council has failed to do the due diligence as charged by the Act. I won't get into details – we will provide written comments.

Our biggest concerns have already been raised tonight by Ross Kushner, Julia Somers, etc; I do want to point out a few issues. The draft RMP fails to provide adequate protection for the Highlands. We are already months if not years behind schedule in getting this done. We are minimally months away from adoption – you will probably make the argument that you cannot make major changes because it will delay things more, but you cannot afford not to make changes and you cannot afford to not provide adequate protection in the mean time by ensuring no adverse impacts to the authorities already invested in you as well as urging the Governor to provide additional authority through the executive order – you already have a letter regarding that from 50 groups. The Highlands is so important that groups that are doing do not do active work in the area, Clean Ocean Action, Pinelands Preservation Alliance, Great Egg Harbor, Watershed Associations, Stonybrook Millstone Watershed Association, even a tiny group in southern NJ - Concerned citizens of Pilesgrove, understand better than the Council's action today, how important this is. We urge you to revisit the issues that were referenced.

The three points I want to highlight is that there is no strategic decision making in this plan – how much water is to be used within the Highlands rather than reserves and other areas that rely on Highlands. Even within the highlands - where will the water go? Your own science dictates that you are already in water deficit and yet your plan suggests that we continue business as usual with some promises that somehow you will make it a little less bad in the future – this doesn't make sense. People say that there isn't going to be building in the Highlands – baloney! Read the Act – your own cites have suggested that there are over 20,000 single exemptions – that is plenty of building. If your Council didn't put any more promoting of building where you have control – there will still be plenty of building and we already don't have enough water. You need to do more.

We hear about taking landowners rights away – all of that development will occur, and you will be compensated if your land is taken. But you don't have the right to do whatever you want on your property – you don't have the right to flood my property or pollute my water. If the people who are saying that we are taking away their properties, which you aren't – the legislature who passed the Act – if these people petitioned to their legislators to stop cutting open space taxes (as in Morris and Sussex) –

then if they start funding open space, we wouldn't be here today. We talked about that you aren't listening to the public – well this has to be at least the 20<sup>th</sup> hearing not counting all of the Council meetings. Let's make the time spent on this worth it – let's make the plan so it does the job that is your legal mandate.

## **David Arthur, Madison**

I am a lifetime resident of NJ. In trying to read the Act my eyes glazed over and I got a headache. I am not a good one for going through volumes of information – what I have experienced here today has been educational. Water issues are something Madison has been dealing with for quite some time – we have worked hard to promote conscientious development -it doesn't always work out - it is give and take. A lot of the information that I have gotten today is helping me to realize something – that there are several inconsistencies. I think that is a strong call to action – to make sure there aren't a lot of loopholes and wiggles where there are differences between the Act and the State in regards to tools to measure things. The inconsistencies and unanswered questions need to be addressed – get it right the first time, you will not be able to go back. Do those things that make sense. To hear the areas with water deficiencies have been designated for development just doesn't make any sense. That is the kind of inconsistency I am talking about – close the loopholes. Your ability to measure – it was okay years ago when we didn't know what we were doing with our oceans – I am hoping that you will take action to do it sooner than later. There seems to be a pattern, not just in the State, where we don't wake up and face realities – you have got to do it and got to do it now. Part of the problem is that you are working in an area where people don't have a great deal of trust in. I am reminded of Ronald Reagan – that the scariest thing you can hear is I am from government and I am here to help you. I urge you to simplify it – don't complicate it any more. Fix the inconsistencies and close the loopholes – it is complicated. The first thing I should have done is thank you for your time. I hope that you continue to work hard – continue to push forward, do what is right. There are few precious things, the water and our farmlands – that quite frankly supersedes just about everything.

## **Michael Natale**

I am Michael Natale and I am a custom home builder. Quickly, about the RMP as well as the legislators who enacted this law – still haven't addressed matters to builders like myself. Here we are about 4 years after the Act – where are we now – we are still getting burnt with the financial burden with owning the land and paying taxes on something that is virtually weak in value and useless until matters can be resolved. The people who support this law keep picking on the overdevelopment in the Highlands area – however, I can see positive and negative points on both sides of the fence. I can appreciate the beauty of the Highlands – I am not an anti-environmentalist and not a greedy builder. I agree with a balance between preservation and development. If preserving the land for better future water quality is the main point then the funds should have been set aside prior to the passing of this law, not afterwards. The State is going bankrupt and the Governor is having trouble with raising tolls. How does he plan on resolving this nightmare? Some discuss a proposed water usage tax – this should have been used years ago so the funds would already have been in place for purposes of getting land for preservation. Instead, the government went shopping for land before having the funds. They put the cart before the horse.

Our family purchased 112 acres of land – unfortunately, my father passed away one week after the purchase and then our land was affected by the Highlands Act – we had no clue what was coming down the pike. Why would anyone purchase 112 acres knowing it would become useless for working purposes? If the law originally proposed to reimburse landowners – what is taking so long? I just want to be paid for what I put into it. No one from the State has come forward to offer us a full reimbursement for all of the money we are out. Since we have purchased the property, we have paid to maintain it with loans – should we have to go bankrupt to help support someone else's decisions? How many more hardships must we endure to run a business? The economy went sour and our life savings has been getting confiscated. This law has been pushing us to be victimized for trying to stimulate the economy - now there is no relief in sight. This State is no longer affordable to do business with – again, where is the fairness. This Act is a good friend on one hand and legalized robbery on the other.

## **Bill Wolfe**

I am a resident of West Amwell, not in the Highlands, but I am here to touch on some areas that you have gone off of the rails so to speak, where you didn't use the powers appropriately (that were delegated by the Act) or misinterpreted them in some fashion. I think there is systematic bias, unfortunately which contradicts the Act. First let me compliment that Act – it is a beautiful document. I compliment your photography and graphics. With that said I would like to take the approach that Ross Kushner did – with interrogating the maps and the details, and where the on-the-ground reality is connected to the plan and implementation. The rhetoric of the plan meets the reality. I think that he showed what your policies, or lack there of, really mean.

I want to touch on the statutory interpretations, policies and standards which I believe are flawed. I want to address the issue of balance – I think that you badly misconstrued the balance. The word balance is used in the Act once – in respect to a balanced transportation system. The word balance is used in the Planning Act – it sets forth a balance of economic development and preservation. However, the Act clearly didn't embrace balance – it rejected balance – where it states that the current framework will not protect the water and natural resources against the environmental impacts of development. It is not just home rule and municipal zoning – it is what the DEP does with regulations, etc. You were supposed to take that charge from the legislature to recognize what is wrong with the current framework to protect the water – you haven't done that.

Also, the notion as you look at 10A and 10B – the objectives for the Preservation and Planning Area in respect to water resources, it is an identical legislative structure. It has no bearing on the physical scientific nature of the water resources. You were to protect, enhance and restore the water equally in the Preservation and Planning Area. I don't understand how you can have the DEP restrictions but that the plan would allow sewers and clustering in the Preservation Area – and different nitrate standards. I think you have completely misconstrued the Act. The Act mandates that you map preservation zones – plural – more than one. Again, words mean things – I don't see those words in the map or plan at all. You didn't even fulfill the statutory mandate.

The word cumulative impact is used 24 times with respect to every resource – that is the tool given to the Council by the legislature to plug loopholes in all of the concessions of where the boundary lines were drawn and all of the 17 exemptions, you were then supposed to use the tools to mediate and fix the damage the legislature did for political reasons and use good science – you haven't stepped up and done that. The exemptions – there is a provision that states exempt projects should be priorities for acquisition. If very bad projects have been permitted in the past, and there isn't enough water, then you should put it on the list for acquisition. I don't see that.

All of the opt-in provisions, section 15, talks about the opt-in. It talks about the framework – the regional management plan with uniform standards to protect water so towns should be opting into the same densities to protect water in both the Preservation and Planning Areas. If you read the plan, the framework in which you are opting into – is explicitly linked to 14A – talking about the Preservation Area.

(John interrupts) I understand. I want to educate the Council; frankly I was involved in the early development of the plan. I was involved in drafting the Act – I think that I bring an informed perspective that the Council may want to hear. The other point is that the word voluntary – that notion, voluntary or mandatory doesn't mean strong and weak – you have misconstrued the voluntary nature of the Planning Area and made them weaker than in the Preservation Area. You need to break out the difference between water protection, resource protection, and growth management – they are different tools. These things are clashing in this plan. The conformance model – the Act was structured in a way that if you read the legislative findings and deficiency in home rule – individual home owners causing problems and municipal governments not coordinating – all that says is that the Council will set up a template to make it as easy as possible for them to opt into. Right now there is so much ambiguity; towns will be reluctant to opt-in. If it was clear to residents, towns would be willing to opt-in – especially if they knew the benefits.

Lastly is the deficit – people have spoken about that in detail. The detail set you have used for your analysis – given the global warming science we now know – the patterns of the past will not be the patterns of the future. The plan needs to anticipate change. Particularly change you have no control over. You need another degree of conservancy in methodology in regards to whether the data set is valid. The Act reserves the final say for the Governor's hands – he did that for a reason – if the Council was a renegade council and violated the premises of the Act, then the Governor could veto the minutes and protect State interests. There is a strong State interest in the water in the Highlands – if the people living in this area don't want to protect the water than the Governor needs to step up and veto the plan and set direction.

## **Wilma Frey, NJ Conservation Foundation**

NJ Conservation Foundation is a statewide member supported nonprofit, land trust and conservation organization whose mission is preservation of land and natural resources for all. Thank you for holding these public hearings. NJCF has been working on NJ Highlands over 20 years and formed the NJ Highlands Coalition. Highlands protection was first recognized to protect NJ primary sources of water over 100 years ago. In 1907 it was stated that the Highlands water supply was the best in the State and needed to be protected. There had been too much laxness in this protection and has not improved much in the past years. We do now have the opportunity to set things on the right course.

The Highlands Act recognized irreplaceable resources of the region – its water, forests, farmland, and habitat, its recreational, historic cultural, archaeological and scenic resources – its essential character. The Act was passed to protect these resources – it wasn't passed to endorse business as usual – which when the Act was passed and still consists of the uncoordinated land use decisions of 88 municipalities and 7 counties and private land owners based on their own interests alone. The Highlands Act called for regional planning – which is one of the few plans that can protect the water and other resources like stream corridors, mountain ridgelines, etc., but doesn't recognize local political boundaries and cannot be protected on a purely local basis.

We have before us the draft of the RMP – it is based on the most up to date information. It is the product of the dedicated effort of a hardworking staff and consultants – it is a product of much agony among Council members. Nevertheless, the RMP doesn't yet provide adequate protection for the water and other critical resources. I offer four examples. Although the Council's own scientific analysis shows over 60% of the watersheds are already in deficit – it has nevertheless allowed development to continue, making an already existing problem worse. Prior mitigation of anticipated impacts is not currently required by the plan – this perpetuates a myth of unlimited water supply. The plan needs to acknowledge and enforce the real need to limit growth in these deficit areas. We have an impending water crisis in the making – which must be firmly addressed. This plan cannot support business as usual or it will not have done its job.

Secondly, the plan leaves too much uncertain as it lacks clear standards to implement the goals and objectives. These standards must be developed immediately and adopted along with the plan, so it is clear that they are a part of the plan.

Thirdly, the plan would allow local officials to negotiate land use boundaries and potentially add more unwise growth. Fourth, the Act was passed to halt suburban sprawl that was and still is destroying Highlands forests and farmlands. But the plan would still allow nonfarm residential development in agricultural areas. Nonfarm development even if it is clustered, doesn't preserve farming, farmland, or agriculture.

To sum up – the Highlands Council was established to oversee the protection of the Region and its resources for the benefit of not only the residents but the entire State. We urge you to ensure that this plan is based on perspectives that are both broad and long term. And that you do your job of protecting the Highlands resources and its critical resources. NJCF will provide detailed written comments. Thank you.

## **Marion Harris, Chairman Morris County Trust for Historic Preservation**

I am making sure that cultural resources are mentioned at least once. We would like to support this plan, and we believe that it will be strengthened to the point that we can support it. The Highlands Act offers one of the best opportunities to protect cultural and natural resources. We have made a number of comments over the years on the proposed processes in the RMP. I can summarize those comments by saying that we see the present language as providing more potential than protection. It would be encouraging to see more of those comments incorporated into the plan.

There is a different point that needs to be made clear to the public and for your sake it needs to be said here. This plan isn't a land grab. It doesn't prevent a farmer from continuing to farm, or from building a farmhouse for his farm family. It doesn't prevent a landowner from building an addition. It does try to prevent development that would affect and destroy the character of the State on all sides. Development of that kind and on that scale doesn't benefit anyone except for the speculative developers – it doesn't lower taxes, it doesn't solve the affordable housing crisis, and doesn't increase the quality of life. Land and natural and cultural resources are community assets, not private investments. Private owners have no guarantee of value when you buy stock, or a house, or land. You know the value may go up or down and the risk is yours. The Highlands plan offers unprecedented protection from such losses – we believe that when more citizens become more aware of these unusual protections, they may well consider them grounds for legal action.

## **Allen Richardi**

Unfortunately this is only the second meeting that I have attended and the only other information I have gotten has been from the newspapers. I want to speak to you on three things. One is as a father, second as a master plumber for thirty years and also as a part time farmer.

1. I live in Washington Twp, I have 40 acres. I bought a farm 30 years ago. It was in disrepair; I fixed the land and built a farmhouse. I have 3 daughters with the intention of giving them some of the lot to build a house on. The Township went from 2 to 3 to 5 acres – I said, no sweat I have 40. Now this is a dead issue. My children can no longer live on my land. Plus the value of my land has dropped to nil. From what I understand there is no set policy, no money available to people who are losing their property value.
2. I want to retire soon. I just bought new farm equipment. I have 18 tillable acres probably to 30 – I want to take hedgerows out. I want to irrigate if I have to. I am not going to invest in a new tractor, which is on order, and not be able to do the things I want to do. That may be arrogant, but I have waited for 30 years to retire. I am 61.
3. I am a licensed plumber – I don't do residential work, I work on large union jobs. I put the water mains into this town. I have seen bad water turned to good water – I have worked in carwashes and watched gray water turned to good water. I hear people talk about conserving water - ask them how to reclaim their gray water and how they reuse their water. If you did you would have a very small amount who do. Again, I live up on Schooleys Mountain and I have watched the rivers overflow to extremes every year – the Musconetcong, South Branch. If you are going to conserve water – put in these rivers, repair the dam in Hackettstown. My father was a well driller for thirty years - I helped him several times. I understand – he worked in the hardest area up in the Kinnelon area – with rock and the wells are 300 -400 ft deep. I helped him to drill the wells – some went dry as the years went on. The plumbing industry has to look at their requirements for deeper wells. Also, the National Plumbing code – the new toilets are low flush toilets. If every house upgraded their plumbing fixtures, and look at saving water. I think that they best leave us alone.

**Barbara Sachau**

I oppose the profit making actions by developers and agribusiness designed to hurt the clean water resources needed for NJ residents. Any sound government must take prudent action to be sure ample water is available for the entire population. Some sections in this area are already water deficient. We cannot have development if there is no water. I do not want water regulations downgraded to meet the needs of others who only think of private benefit. I support putting this plan into effect and taking steps to protect the people and their water needs. Overdevelopment has been rampant in NJ – we need to stop and evaluate and protect. I have heard much whining by developers and agribusiness about not being able to make a financial killing on their property. The fact is that profits from a protected home business location will in fact prevent stable, attractive living for ourselves, our children and grandchildren. We need to protect the Highlands. I agree with promoting the general welfare for all. We must have water for all.

## **David Peifer, Director Association of NJ Environmental Commissions (ANJEC)**

Our comments will also be submitted in writing. I wanted to touch on a couple of issues that are interesting to us at ANJEC. ANJEC works closely with municipalities to try to improve the protection of natural resources. In looking at the RMP we look at it in those eyes- if I was a local environmental commissioner what would I see? Most of our environmental commissioners are pretty plugged in to what is going on in the universe. The first thing they see is that there is no section on energy and no section dealing with the potential impacts or responses to climate change. Those impacts are going to be very different than the impacts of the past but will still be important. Keep in mind monitoring of the plan's progress over time.

The next thing we observed is that there is a real tough problem with trying to keep your mind logically flowing as you read this plan – it is very difficult read and there is a jerky progression through the plan, which makes it hard to say that there is the beginning, middle, and end, and now I know what I must do - very tough to see. When we look at the programs offered, many of them are partially developed, which is understandable given the time pressures, but I think that you could do better in making those programs a little more specific, so that if a municipality was considering opting in, they would know what was going to be expected of them during that process. To assist that, the development of more bright line standards – we have a lovely scientific process that was used. One of the values of science is that it can give you numbers, and standards. So, working on the subject of standards is really something to think about.

Finally, when we get to conformance – both municipalities and the Council should have access to something that defines what their responsibilities are before, during and after conformance. The Council's responsibilities are also very important for the Council and future Councils to remember. We are going to be looking at an extended process here. I have prepared written comments on a number of specific sections of the plan. I'll not go through them in detail, I will just give you the written comments. I did want to touch on the importance of adding a section on perhaps in Subpart B about trust resources and the public trust doctrine. What we are dealing with through the Act is an exercise to protect the public trust. What we have heard repeatedly have been a collection of private interests looking at the plan. It is important that not only the Council but the reader understand why public trust doctrine, particularly in water, differs in NJ than it does in most of the US, particularly west of the Mississippi. There are important differences that need explanation.

Another concept that you use often is the use of HUC 14 units as planning areas or as focus for analysis – no one on the street knows what a HUC 14 is. Get a lay explanation of HUC 14 in there. Then explain to the municipalities that they probably won't control any HUC 14 exclusively when they are planning. When you get to classifying your watersheds and your riparian areas, as to value, try to make some put back into that equation for cultural resources. Right now we are evaluating our watersheds and our riparian areas as if people could do no right to those watersheds. We have an awful lot of cultural resource material right in the riparian zones. Many of those things are very valuable – scenically, ecologically, and historically. So think about some give back – why should a riparian zone be downgraded because it has a historic crossing.

And the more it has the lower its ranking would be. Think about those kinds of interactions in the plan. I'm not going to take anymore of your time. I will submit our comments.

## **Cindy Ehrenclou, Upper Raritan Watershed Association**

The Association is looking forward to supporting the RMP with changes that will be articulated in written comments that we will submit. Today we will touch on our chief concerns we have regarding water supply. We need our points to be constructive. Our watersheds are in trouble – and they need the protection promised in the plan.

We are concerned that assigning conditional water availability to deficient HUC 14s before comprehensive mitigation programs are implemented is inconsistent with the Act. We encourage the Council to ensure that mitigation plans and implementation will occur before additional consumptive, depletive uses will be allowed in deficit areas. Furthermore, there are numerous assumptions in the mitigation techniques – we will not know what effect they are until we are able to evaluate their impacts of mitigation on water availability.

To further reduce deficits in water use in constrained areas, we ask the Council to develop Highlands-specific criteria that would warrant the designation of water supply critical areas since NJ DEP water allocations cannot legally be reduced without declaring the source a water supply critical area. Reduced allocation permits will provide incentives for increasing conservation and efficiency. Considering water utilities, we believe that improvement to affirm capacity should be addressed in the RMP because improvements in infrastructure efficiency could eventually augment the water available and reduce deficits. While many utilities serve non-Highlands users – it is unclear how much non-Highlands users are affecting the Highlands. The maps could be updated to clarify which users are currently supplied by constrained or deficit HUC 14s.

Also we suggest that no net change to reservoir safe yields be allowed – we would like a better definition for the meaning of no significant safe yield reduction in objectives referencing water allocation permits and ensure that this doesn't have negative impact during droughts. Since ground water capacity includes a calculation to represent safe yields for reservoirs, ecological integrity will suffer when the original safe yield volume is employed. We will expand on these and other points in written comments.

**David Epstein, Morris Land Conservancy**

Thank you for your work and I salute your stamina. A lot of the points we want to make have been made so I will be brief. The Morris Land Conservancy supports the Act and asks to keep your focus on protecting drinking water – it is the most important element. We request a few changes in the plan specifically. We ask that you prohibit development in sub-watershed where the water supplies are already being outstripped by over demand. We also ask that you do not allow any sewage lines or plants in the Preservation Area except under the limited exceptions in the Highlands Act. We ask that you keep the exemptions for the 300 ft buffer requirements around important waters. And we ask that in the RMP you protect and enhance forest resources by implementing forest stewardship plans by state certified foresters and not weaker forest management plans. We ask that in the RMP you establish clear protective standards for the map adjustments to be sure that they can be evaluated upon their impact on natural resources. We also ask that you designate no development zones - we didn't see that in the plan – but the Act requires that. We ask that you keep your focus on protecting the drinking water. Thank you for your time.

## **Emile DeVito, ecologist, NJ Conservation Foundation**

Thank you for the opportunity to speak. I just want to briefly touch on a few points regarding some of the natural resource issues in the plan where we would like to see some specific strengthening of the RMP. First, there is a great deal of language regarding mitigation – when an applicant is going to proceed with development and recognizing that there may be some loss of a natural resource value in regards to that and how to mitigate that impact. It needs to be clearly stated that there needs to be an alternative analysis and method for first avoiding those impacts and second minimizing those impacts. And only apply mitigation as a last resort. The quality of the mitigation plan should have nothing to do with whether or not someone gets a permit – that should only come up after someone has gotten a permit. All mitigation plans should be high quality. People shouldn't "shop" a good mitigation plan to get a permit to do something. The standard for mitigation, once it is decided someone deserves a development permit, should be one of no net loss. There should be a no net loss of the quantity of the habitat, the quality of habitat, rare habitat types (like scrub shrubs), or critical threatened or endangered species habitat. There need to be a variety of parameters in terms of no net loss. Then it is important that the mitigation plans be based on existing demonstrated science – not some armchair science put forth by consultants. (Example in the pinelands – endangered species were compromised for water quality – 100 threatened snakes were relocated and within 1 ½ years first a massive flood flooded the pens, then a number of hawks starting eating all of the snakes, and this year the pens burnt down – so this multimillion dollar proposal which "couldn't go wrong" is going to be a failure because it was all pie in the sky and unproven). You can't have mitigation projects which utilize unproven concepts. This no net loss – trading habitat for some pie in the sky manipulation should not be something they are depending upon.

There is a great deal of discussion about forest stewardship and the protection of existing forest resources – but not enough about deer overabundance and invasive species. The deer overabundance is destroying their reproductive capacity and as a result, what we need are forest stewardship plans – the highest standard of forest management. When you get federal money – you have to have a forest stewardship plan which takes into account things like regeneration, endangered species, and all sorts of successional concepts. Currently, the State has been relying on woodland management plans and they lack standards that take into account these issues, and for the most part those plans are failing miserably. I can show you dozens of properties where these wooded areas are falling apart and losing species – because they do not meet modern standards.

Finally, if public money is spent to purchase forest protection easements under some sort of forest protection program or preservation easement program we hope that that would not be run by the State Department of Agriculture. The State Department of Agriculture has no ability to monitor conservation easements, especially forest easements so that program should be run by the Green Acres program. No one should be able to get public dollars without having a forest stewardship plan or woodland management plan.

## Deborah Post

Before I begin, I would like to note the egregious double standard noted today. For years you have cut off the landowners mid sentence – but those who agree with you can go on forever. A well financed campaign was launched by the environmentalists' lobby when the newest incarnation of the RMP was introduced – the environmentalist negative public relation blitz has been mighty. The dissemination of incorrect information has sought to smear the helpless farmer and landowners who have lost land value. To tell the public that there are a lot of options for just compensation of landowners – the Council knows that this is not true but does nothing to set the record straight. Lies and support of this master plan which fails in every way to meet the mandates of the Highlands Act – where environmentalists state the landowners are just whining, could easily recoup their losses through the TDR program and the easement sales to the State. Where is the TDR program that you tell the public about? This Council knows that a TDR program doesn't exist because the Council has failed to establish a TDR program per the directions of the legislature. This Council has failed to implement section 8A as you were charged with doing. Where is the opportunity to sell easements to the State of NJ? The Council knows that the State is broke and that the Garden State Preservation Trust is empty as I believe all have noticed. The miniscule millions that were allocated are now to be spent on urban parks – as supported by the paid environmentalists – who state that this is so the landowners can be paid.

I own a pick your own apple farm. Although there are accusations that I am a greedy would be developer. The environmentalists lack of respect for the truth – and respect for the junk science behind this plan. This is all about lies, lies, lies and corruption. This council argues that the phantom exemptions provide just compensation for landowners -- another fantasy. Section 6N of the Highlands Act orders this Council to identify lands in the Preservation Area where development shall not occur and to recognize the need for just compensation. For Mr. Borden's edification – the compensation of just compensation comes from the Constitution. Federal courts have long held that just compensation means fair market value – full fair market value. Not minimal use or 10%. But full market value. Even the courts of New Jersey have embraced just compensation as meaning fair market value. Nowhere in the plan has the Council identified the lands due just compensation per section 6N – you have finessed the most important of your duties.

Awhile back, I called on all of those big green circles, to share the pain of the Highlands Act, by donating their 401Ks and pensions to this cause that they so passionately support. Please note that not one has stepped forward. Their convictions are sincere only when it personally costs them not a penny. The environmentalists refer to community assets – only when they belong to someone else. It has been not 3 years since Mr. Weingart bet Senator Smith a cup of coffee that he could stuff the master plan down the throats of the landowners without a whimper – I ask the members of the Council to ensure that the chairman never gets his cup of coffee. And don't go forward with these plans until all mandates are met and funding is available.

**Mark Zakutansky, Flanders**

You can lead a horse to the river, but if you have 5.4 million horses and you continue to allow development in deficit areas, there will be no water to drink. At Council meetings I have heard this final draft master plan considered balanced. I hope that you will balance the mandate to protect, restore and enhance Highlands resources with the 5.4 million people outside the Highlands Region who depend on clean and plentiful water. The Highlands water also serves: pharmaceuticals, food processing, and tourism. These are products we use everyday. It is critical for the continued solvency and success of the State's economy that much stronger protections are incorporated into the plan before adoption – including preventing development in water deficit areas. I urge you to strengthen the plan before adoption and live up to your legislative mandate to protect, enhance and restore water quantity and quality and natural resources. To preserve our State's economy and public health, and vital industries as well as the others who rely on clean Highlands drinking water.

**Dr. Lynn Siebert, President of Burnham Parks Association, SW Morris County**

I have been president for over 20 years and have never received a penny – our total budget is maybe 5000 dollars. Many of us are dedicated and have no other motivation except to really be concerned with the public interest in the most broad and general sense. I wanted to mention that Jean Rich made a number of points about the preservation of the resources in the Washington Valley and Jones Woods – I know that they are local areas but have regional impacts. They have exceptional resource value. I think to decrease any protection for that area is a mistake – they deserve the highest level of protection. As far as the RMP – I am extremely much in favor of a very strong regional planning impetus. I think that we have seen time and again how fragmented and problematic it is when local home rule is operative, because we all know that streams and natural resources don't respect local boundaries.

It was a revelation to me at a recent meeting, that the studies done in the Pinelands show that the regional planning in that area – I think at the time that they were first proposed – that people were worried about losing land value, etc, but they all turned out not to really bear fruit. In fact, that area had lower taxes and higher property values and was increasingly so. I think that we can learn a lesson from that in regional planning.

As far as your final stage of perfecting and trying to put together the last part of the RMP for the Highlands – I strongly urge you on behalf of our Association and on behalf of many concerned citizens – please strengthen it. Don't allow development in water deficit areas – don't allow sewer extensions in resource areas. Don't water down the standards to accommodate the political agenda of officials – I think that what we lose in that is the long term capability to meet public needs. The strict standards that you have been working on, there is a lot of very good science. I urge you to not allow a scattershot enforcement to take place. I am concerned that if the standards are loosely defined and if you allow case by case decision making – you will be set up as a super board of adjustment. You will be doomed forever to be reevaluating each case. If you don't have strict and well articulated standards – you don't want to be open to challenges. Please make sure that they are clear, use this as an opportunity to really get it right. We are counting on you to do that.

## **Victor Lagomarsino**

I am a lifelong resident of NJ. If you support the Highlands bill in any way – you are collaborating in the largest white collar theft in NJ. Only with a State with pay to play – legalized bribery, would have the audacity to steal land from its landowners. You can environmentally sugar coat it but it is still stealing. The Council says it doesn't have the ability to tax the water users and use that money to compensate landowners. Have you looked into it – are you pushing for it? It is the fair thing to do – after all, most water users are in the democratic area of the State, while the republican areas are mostly in the Preservation Area of the State. This is a perfect power play – stifling the republican areas. I realize that the Council is not part of that original plan. I have heard many people complaining about sprawl. Remember that they cut down trees to build your house. Doesn't matter whether you have lived there for 50 years or 50 days – you are sprawl. Which leads me to the sewer situation in the Preservation Area – people say please no sewers. I truly don't understand why – sewers remove human waste from the delicate aquifer, treat it with modern systems before releasing it back into use – what could be better for the Preservation Area than to properly treat human waste? Thank you.

## **Terry Baird, Whippany**

My family goes back several hundred years in the area. I live on a small farm it belonged to my family 150 years ago. From my stand point, a farmer is the best steward of the land that we have. Who else would want to ruin the viable resource that they have in order to make a living? I raise meat goats – mostly boars. The bottom of my property is 150 ft from a pond – yes it is in a wetland area. The goats don't go into the wetland because they don't like to get their feet wet. But they don't understand the 300ft. The 300 ft puts them basically in my back yard. And I don't think the Township would appreciate me fencing in my front yard. Realistically, 300 ft is an extremely huge amount of space.

I am also a teacher and I am also heavily involved in the Morris County 4H. I deal with youngsters all of the time. I don't see anyone educating our young people. There is no education section in the plan. If they don't learn from a young age the importance of what we do and what we don't do – then where is our country going to be? No education factor. We are all just supposed to know? I work in Newark. Do you think that the people that I work with that live in Newark, understand that their water comes from a beautiful place? Do you think that they understand the importance of conserving that very viable resource? It isn't in their backyard. It is in someone else's - our backyard. Everyone who is in the Highlands Region – it is in our backyard. We have become the stewards for them. I don't think that we should have to suffer for them. But I also think that we need to develop some education, otherwise where are we going to go. We are putting a band-aid on. The children need to know. Please, if it is not in your realm, please pass it on to our beloved Governor. Thank you very much.

*John Weingart: That concludes this hearing – to reiterate – all Council members will receive a written record of what is said here. We encourage you to submit your written comments. The next hearings are Monday and Wednesday. Thank you for all of your comments.*