



**Draft Highlands Regional Master Plan - November 2006
Comment and Response Document**

Prepared by State of New Jersey Highlands Water Protection and Planning Council in
Support of the Highlands Regional Master Plan

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COMMENT AND RESPONSE DOCUMENT**

GENERAL COMMENTS

COMMENT: Some comments stated that development in the Highlands Region should be restricted to non-sensitive areas with good access to mass transportation, or alternatively, that the Highlands Council prohibit further development from taking place in the Highlands Region altogether.

RESPONSE: It is a stated goal of the Highlands Act, for the planning area, to encourage appropriate patterns of residential, commercial and industrial development and redevelopment consistent with smart growth principles. Given the exemptions in the Highlands Act grant the Highlands Council has limited authority to prohibit development altogether in the Highlands Region.

COMMENT: One comment stated that conformance with the RMP should be required, not voluntary, while another stated that the RMP should be voluntary, not required; (incentive based only).

RESPONSE: The RMP conformance process is outlined in the Highlands Act pursuant to Section 14 N.J.S.A. 13:20-14. This section requires municipalities and counties located wholly or partially within the preservation area to conform to the goals, requirements, and provisions of the RMP. Conformance within the planning area is voluntary.

COMMENT: Several comments held that the RMP should balance issues such as the environment, economy, and society.

RESPONSE: The Highlands Council believes that the RMP does achieve this balance within the requirements of the Highlands Act.

COMMENT: Many comments expressed general support recognizing the hard work and dedication of the Highlands Council and staff, conveying support for the RMP and process, the Highlands Act, the regional approach to planning, and support for the Highlands Region.

RESPONSE: The comment is acknowledged by Highlands Council.

COMMENT: One comment maintained that local inspectors are not familiar with the requirements of the Highlands Act.

RESPONSE: The *Provisions of the Highlands Act* section of the 2006 Draft RMP outlines the major Act requirements in a grid format. The 2007 Draft RMP has a similar section entitled *Matrix of Highlands Act Requirements and RMP Elements*. In addition, the Highlands Council has provided educational information for local officials.

COMMENT: A few comments asked how the Highlands Council and the RMP will work with the State Planning Commission Designated Center Boundaries, State Development and Redevelopment Plan, county planning initiatives, and local planning and development plans and ordinances.

RESPONSE: The *Consistency and Coordination Component* of the 2006 Draft RMP details the Council's role in State agency and local government coordination. The 2007 Draft RMP has a similar section titled *Regional Master Plan Conformance, Consistency and Coordination*.

COMMENT: A large number of comments held that the Draft RMP is not a complete plan, stating that it lacks detail in certain parts and data are missing in the Draft RMP and in supporting technical documents.

COMMENT: Numerous comments stated that the Draft RMP needs a consistent style guide, a summary, vision statement, and/or more images. Many comments suggested changes, additions, and subtractions to the overall

content and text and language edits. Several comments held that the Draft RMP is cumbersome to use, understand, and read and suggested reordering sections and including pertinent information from technical reports in the text of the RMP.

RESPONSE: The 2006 Draft RMP has been modified to include more detail and data, and additional supporting technical reports. The 2007 Draft RMP now includes a summary, vision statement, detailed program descriptions, a reorganized and improved discussion of policies and objectives, and additional images. It has been reorganized and reformatted with the intent of creating a more user-friendly and understandable document.

COMMENT: Several comments maintained that the Highlands Council's primary responsibility is to protect drinking water. One comment held that all water in the Highlands must meet the goals of the Clean Water Act.

RESPONSE: The Clean Water Act is the primary federal law in the United States governing water pollution, which includes the Highlands Region. The Highlands Act, however, is specific to the Highlands Region, and is meant to improve, through planning and policy, water quality and quantity. The Highlands Act also requires that the Council address many additional topics.

COMMENT: Several comments argued that it is necessary to clarify the differences between the Preservation and Planning Areas, and that there should be a clearer distinction of terminology used for referencing similar actions in the two Areas; as well as a separation of the goals and regulatory intent of the RMP by Planning and Preservation Area.

RESPONSE: The fundamental distinction between the Preservation and Planning Areas is that municipal and county conformance with the RMP is required in the Preservation Area and is voluntary in the Planning Area. A separation of the goals of the Act by Planning and Preservation Area can be found in both the 2006 Draft RMP *Section I. C. The Highlands Regional Master Plan* and the 2007 Draft RMP *Chapter III; Part 7. Highlands by Design: A Vision for the Future*.

COMMENT: A few comments expressed concern with the Highlands Council specifically regarding the lack of local representation.

RESPONSE: Local representation is a requirement detailed in Section 5 of the Highlands Act; the Highlands Council is required to consist of eight residents of the counties of Bergen, Hunterdon, Morris, Passaic, Somerset, Sussex and Warren, appointed by the Governor with the advice and consent of the Senate. Five of these representatives must be municipal officials. In addition, at least four other Council members must be property owners, business owners, or farmers in the Highlands Region.

COMMENT: Several comments raised issues regarding the legal authority of the Highlands Council. One comment stated that the Highlands Council was required to adopt the RMP by June 2006 and does not have the authority to extend the time period for action beyond that date, and others held that the Draft RMP ignores the legislative intent of the Highlands Act.

RESPONSE: The Highlands Council acknowledges the date for adoption that is within the Highlands Act, but determined that the development of a completed RMP would require more time. Among other provisions, in section 8 of the Highlands Act, it is stated that the Council "shall not adopt the regional master plan unless it recommends receiving zones in the planning area and capacity therefore for each receiving zone pursuant to the transfer of development rights program authorized in section 13 of this Act." In the Highlands Act, adoption of the RMP serves as the beginning of the period for mandatory plan conformance, and for Council review of certain projects. Release of the 2007 Draft RMP addresses a wide variety of public comments regarding the adequacy of the 2006 Draft RMP.

COMMENT: One comment contended that development pressure persists in the Highlands Region and encouraged an expeditious release of the RMP; while another questioned why the Highlands Council would consider any additional extension of time.

RESPONSE: Many county planners and other interested parties requested more time to review data and submit comments based on that data. The Plan Development Committee and Local Conformance Committee discussed this matter fully and agreed that an extension should be provided and recommended that the Council adopt an extension of the public comment period to May 11, 2007. The large volume and substantive nature of comments received resulted in a decision by the Council to release the 2007 Draft RMP to address comments as appropriate.

COMMENT: A few comments expressed concern with the impact of increased development outside of the Highlands Region.

RESPONSE: The Highlands Act does not grant the Council the ability to affect development which occurs outside of the Highlands Region.

PUBLIC COMMENT PROCESS

COMMENT: Numerous comments requested a comment period extension.

COMMENT: Several comments suggested that the Draft RMP should be withdrawn and completed before a public comment period commences.

RESPONSE: Highlands Council acknowledged requests for a public comment period extension, and an extension was granted that closed on May 11, 2007.

GENERAL MAPPING

The General Mapping category captures comments made in reference to mapping techniques and styles utilized by the Highlands Council.

COMMENT: Several comments critiqued cartographic elements such as interpretative language to be added to the maps and usage of other design elements such as color and legend. Several comments also critiqued the Highlands Council's use of dated (e.g., 2002) information.

RESPONSE: Maps in the 2006 Draft RMP were modified for the 2007 Draft RMP and cartographic elements such as interpretive language, colors and legend items, and updated information was used when appropriate and regionally available. The 2002 Land Use/Land Cover data, and maps derived from it, are the most current regional data available for this purpose.

COMMENT: A few comments added that it would be valuable to show areas outside the Highlands Region, as the Highlands Region itself supplies vast amounts of drinking water to areas outside. It was suggested that a graphic could help reveal the conflict between in-region water demand and external demand. A few comments also noted inaccurate street names and municipal boundaries, resource map conflicts, and questioned the Preservation Area boundaries.

RESPONSE: The map, "Areas Served by Highlands Water" in the 2006 Draft RMP was modified for the 2007 Draft RMP to, "Water Supply to Areas Outside the Highlands Region", to illustrate the dependence on areas outside the Highlands Region for drinking water. Specific issues regarding inaccurate street names, municipal boundaries, resource map conflicts, and Preservation Area Boundaries were addressed as appropriate.

CARTOGRAPHIC ELEMENTS

COMMENT: Several comments remarked on cartographic elements utilized for illustrating elements of the Draft RMP, and in order to better communicate important facts to the reader it was suggested the following be applied to all maps: Additional source data should be added directly to the map or in a separate addendum. Color usage should be intuitive and perhaps a "stop light" scheme, and color separation should be more distinguishable. Legend design should identify all elements on the map. Disclaimers and logos should be visible on all maps,

however, it was added that having a disclaimer undermines the impression that the data used is accurate. Grey scale maps should be rendered to reduce potential download and duplication costs. In addition, feature definitions should be incorporated directly on the maps.

RESPONSE: Maps in the 2006 Draft RMP were modified for the 2007 Draft RMP. Cartographic elements such as additional source data, color usage, legend design, disclaimers and logos were added to all maps and modified where appropriate.

NEED MORE UPDATED SLOPES AND SOILS DATA

COMMENT: Several comments remarked on the need for more updated slopes and soils data. It was recommended that the Highlands Council utilize the most current soils data specifically identifying Warren County Soil Survey Geographic Database.

RESPONSE: The Steep Slope Resource Assessment Component (III.C.2.b) of the 2006 Draft RMP addresses the need for more refined information on steep slopes, including use of new LiDAR data and updated soil data.

ADDITIONAL LOCATIONS

COMMENT: Several comments noted that locations are missing from mapped environmental features, such as open waters and critical habitat sites, to aid in understanding the map.

RESPONSE: The comment was considered and no change was made to the 2007 Draft RMP. At a regional scale, cartographic conventions call for suppressing smaller size environmental features for map legibility (i.e. A New York City Subway Map does not show all entryways into a particular subway station)

DATA AVAILABILITY

COMMENT: Several comments remarked on the availability of data, expressing concern that the map's underlying data layers are not available to the public in a useable form or in a format that allows for determining accuracy on the local level.

RESPONSE: Underlying data layers were made public in several formats shortly after the release of the 2006 Draft RMP. The public comment period was ultimately extended to May 11, 2007, to allow sufficient time for review of all data.

LAND USE CAPABILITY MAP DEVELOPMENT

COMMENT: A few comments remarked on the process of developing the Land Use Capability Map (LUCM), and concerns were raised regarding the clarity of how the overlay zones were established. A few comments highlighted inconsistencies in the Highlands Council's zone map and were confused by the development of the Land Use Capability Map (LUCM). It was stated that the uses of a minimum mapping sizes (i.e., 640 acres) were referenced.

RESPONSE: The *Land Use Capability Map Abstract* was developed shortly after the release of the 2006 Draft RMP. The Abstract clarified how overlay zones were established and referenced minimum mapping sizes. A new process was used and a new abstract released to explain the derivation of the Land Use Capability Zone Map for the 2007 Draft RMP.

ZONING MAP UPDATED

COMMENT: A few comments noted that at the time of the release of the Draft RMP, zoning maps were updated and were not reflected in the Highlands Composite Zoning Map.

RESPONSE: Updated zoning data will be collected through future Regional Master Plan programs such as RMP

Updates and Map Adjustments.

UPDATED STREET NAMING

COMMENT: A few comments remarked that street names were updated and the Highlands Council's maps should accurately identify streets by their correct names.

RESPONSE: The comment was considered and no change was made to the 2007 Draft RMP. The Highlands Council used and continues to use the best available NJ Department of Transportation information to identify streets.

RESOURCE MAPS CONFLICT

COMMENT: A few comments noted individual resource map conflicts such as the Forest Resource Map and the Impervious Coverage Map. It was suggested that if an area is forested, it does not have any impervious coverage.

RESPONSE: The *Ecosystem Management* and *Sustainable Forestry Technical Reports* describe the process of the development of the Forest Resource Area and illustrate fragmentation (particularly impervious cover) as a measure of forest quality.

MUNICIPAL BOUNDARY ADJUSTMENT

COMMENT: A few comments recommended that Mount Arlington's municipal boundary line be adjusted.

RESPONSE: Updated municipal data will be collected through future Regional Master Plan programs such as RMP Updates and Map Adjustments. The Highlands Council used available statewide GIS data on municipal boundaries.

LAND EQUITY/COMPENSATION/FUNDING MECHANISM

COMMENT: There were a large number of comments regarding equity and the implications of the Highlands Act, NJDEP Highlands Rules and the RMP. Most of these comments do not provide suggestions for how equity can best be addressed in the RMP. The comments allege that the Highlands Act is unconstitutional and results in a taking. Comments also suggest the State pay full and fair compensation if it wants Preservation Area property.

RESPONSE: The Highlands Council acknowledges the commenters' opinions. It should be kept in mind, however, that the Appellate Division of Superior Court has held that the Highlands Act is constitutional in the case OFP, LLP v. State, decided August 10, 2007.

GENERAL COMMENTS

COMMENT: Several comments suggested that the RMP should not be adopted until the Highlands Council addresses equity concerns.

RESPONSE: Equity concerns are specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278.

COMMENT: One comment argued that the RMP should be optional for the entire Highlands Region.

RESPONSE: The Highlands Council is charged with implementing the Highlands Act as drafted which requires that the standards of the RMP be mandatory in the Preservation Area.

COMMENT: Several comments stated that securing a dedicated funding source should be the Highlands Council's first priority.

COMMENT: Several comments contended that a dedicated funding source, in addition to Garden State

Preservation Trust, is necessary.

RESPONSE: The Highlands Council acknowledges the comments, and continues to work to secure a dedicated funding source to assist in implementing the RMP. To that end, the Highlands Council persists in advocating for the imposition of a water user fee as set forth on pages 119, 179, 185, 301, and 340 of the 2007 Draft RMP.

COMMENT: One comment contended that the Highlands Council should perform an economic impact analysis to understand the magnitude of the cost of the Highlands Act on property owners and municipalities before the Highlands Act is implemented.

RESPONSE: The Highlands Council is charged with preparing a cash flow timetable as part of the fiscal component of the RMP. Information regarding the cash flow timetable is provided at pages 85-88, 167, and 282-283 of the 2007 Draft RMP.

SHARING THE BURDEN OF THE HIGHLANDS ACT

COMMENT: Several comments held that it is unfair to burden people in the Highlands Region to protect water when those using the water outside of the Highlands Region are not burdened at all. Several comments argued that no limitations should be placed on property owners until people outside of the Highlands Region are subject to mandatory water conservation measures.

RESPONSE: The Highlands Council agrees that there must be an equitable distribution of the benefits and burdens of implementing the RMP. One such way would be to require that all users of Highlands waters be subject to mandatory water conservation measures. Such measures would require enacting new legislation.

COMMENT: As a means to address sharing the burden of water protection, a large number of comments contended that the State must enact a water fee/tax on those who use Highlands waters, including water purveyors that draw from Highlands Region.

RESPONSE: The Highlands Council acknowledges the comments, and continues to work to secure a dedicated funding source to assist in implementing the RMP. To that end, the Highlands Council persists in advocating for the imposition of a water user fee as set forth on pages 119, 179, 185, 301, and 340 of the 2007 Draft RMP.

COMMENT: A few comments suggested that a means to relieve the burden on Highlands Preservation Area property owners would be for the State to eliminate the sales tax or to abolish estate taxes for Highlands property owners.

COMMENT: One comment stated that a provision should be included in the Highlands Act that allows heirs to have the same exemptions as the owners of record on the date of enactment.

COMMENT: One comment argued that the State should pay rent for using Highlands property as watershed lands in exchange for denying the right to build.

COMMENT: One comment contended that the State should exempt from the Highlands regulations all parcels that are less than 11 acres in size.

COMMENT: A few comments suggested imposing fees on all new development to generate funds to secure Preservation Area properties.

RESPONSE: The Highlands Council acknowledges the comments, but states that any other measures to adjust the benefits and burdens of implementing the RMP will require legislative action.

COMMENT: Several comments recommended extending the dual appraisal method beyond the Highlands Act's 2009 sunset date.

RESPONSE: The Highlands Council specifically advocates for extending the dual appraisal method in the 2007 Draft RMP at pages 120, 180, and 302.

COMMENT: Several comments argued that the Highlands Council must push the State to renew the Garden

State Preservation Trust.

RESPONSE: The Highlands Council specifically advocates for extending the Garden State Preservation Trust in the 2007 Draft RMP at pages 119, 179, 185, and 301.

HIGHLANDS WATER PROTECTION AND PLANNING ACT

LEGISLATIVE BOUNDARY

COMMENT: Several comments expressed concern that the legislative boundary placed lands in the Preservation Area, subject to stringent standards, and that similar lands and water resources were located across the street in the Planning Area.

RESPONSE: The Legislature, through the passage of the Highlands Act, established the specific boundaries of the Preservation Area in order subject these lands to immediately effective protection standards. The Legislature recognized the fact that there are lands in the Planning Area that have similar resource value and directed the Highlands Council to develop the Regional Master Plan and assess these lands through the Resource Assessment.

COMMENT: Several comments sought to include municipalities in the Highlands Region that are presently not in the Highlands Region but that either share many of the same features or were previously examined as part of the Highlands.

RESPONSE: The Highlands Act delineated the Highlands Region to include the full extent of eighty-eight municipalities. While there may be municipalities adjacent to the Highlands Region that have similar land features, the Highlands Council was given the charge to prepare a Regional Master Plan only for the eighty-eight municipalities in the Highlands Region.

COMMENT: Numerous comments claimed that the legislative boundaries within the Highlands Region, namely the Preservation Area and Planning Area, were drawn based on boundaries such as roads, rail lines, and lot lines and were not related specifically to water resources or other natural resources.

RESPONSE: The Legislature's delineation of the Preservation Area and Planning Area boundary was based upon the need to identify the most important resource lands. As specified in Section 2 of the Highlands Act – "the State should take action to delineate within the New Jersey Highlands a preservation area of exceptional natural resource value that includes watershed protection and other environmentally sensitive lands where stringent protection policies should be implemented." After identifying these lands, the Legislature used identifiable demarcations such as roads, water bodies, municipal boundaries and certain institutional property boundaries (such as State Parks) to establish a clear boundary for the Preservation Area.

COMMENT: Several comments maintained that the Preservation Area boundary includes lands that are already extensively developed.

RESPONSE: The Legislature clearly recognized that there are lands within the Preservation Area that have already been developed and specifically authorized the Highlands Council to identify areas for possible redevelopment in the Preservation Area such as Grayfields and Brownfields. Specifically, Section 9.b of the Highlands Act authorizes the Council to "in conjunction with municipalities in the preservation area, identify areas in which redevelopment shall be encouraged in order to promote the economic well-being of the municipality, provided that the redevelopment conforms with the goals of the preservation area and this act, with the standards prescribed pursuant to section 32 of this act, and with the rules and regulations adopted by the Department of Environmental Protection pursuant to sections 33 and 34 of this act. Any areas identified for possible redevelopment pursuant to this subsection shall be either a brownfield site designated by the Department of Environmental Protection or a site at which at least 70% of the area thereof is covered with impervious surface."

COMMENT: Numerous comments maintained that the original legislative delineation of the Preservation Area was altered by political influence.

RESPONSE: The Legislature's delineation of the lands within the Preservation Area was designed to include lands of "exceptional natural resource value that includes watershed protection and other environmentally sensitive lands." (Section 2, Highlands Act). A recent Superior Court decision issued by the Honorable Victor Ashrafi in the matter of ABD Liberty, Inc. v. The State of New Jersey, Docket No. SOM-557-06 specifically rejected the claim that the Highlands Act was unconstitutional due to allegations of political influence in the delineation of the Preservation Area. The ABD Liberty decision concluded that "[t]he Highlands Act as a whole has a legitimate purpose and rational means of achieving that purpose, even if some additional properties should have been included in the preservation area."

COMMENT: A few comments expressed the concern that the effect of the Highlands Act and the Highlands Region Master Plan will be felt by all municipalities in the Highlands Region, whether they or not they choose to conform. What happens in one municipality will affect what happens in all municipalities in the Highlands Region. It was suggested that provisions for tax stabilization are inadequate and questioned how the Highlands Council will support communities that can no longer support themselves.

RESPONSE: The Highlands Act, in Section 2, specifically recognized that "a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system." Municipalities with land in the Preservation Area are required, for those lands, to conform to the Regional Master Plan and thus a coordinated planning process can be achieved for that portion of the Highlands Region. For the Planning Area, the Highlands Act created a voluntary conformance structure where incentives were put in place to achieve a coordinated regional approach.

COMMENT: A few comments suggested that provisions for tax stabilization are inadequate and questioned how the Highlands Council will support communities that can no longer support themselves.

RESPONSE: The Highlands Act created the Highlands Protection Fund in order to provide planning and financial assistance to municipalities and counties in the Highlands Region. Of the annual appropriation of \$12,000,000, funding for Highland Property Tax Stabilization Aid includes an annual allocation of \$3,600,000. These funds are distributed by the Highlands Property Tax Stabilization Board, which is in, but not of, the New Jersey Department of Treasury.

SUPPORT AND OPPOSITION TO THE HIGHLANDS ACT

COMMENT: Numerous comments support the need for the Highlands Act to protect the sensitive nature of the region.

RESPONSE: The Highlands Council appreciates the support for the need for the Highlands Act.

COMMENT: Numerous comments argued that there is no need for the Highlands Act or the creation of an additional level of bureaucracy in the form of the Highlands Council.

RESPONSE: The Highlands Act, in Section 2, specifically recognized that "a regional approach to land use planning in the preservation area should be established to replace the existing uncoordinated system." The Highlands Council's development of a Regional Master Plan will ensure a more coordinated system for land use planning. Implementation is primarily through the actions of existing governments and agencies, through the Plan Conformance process.

COMMENT: Several comments support the premise of the Highlands Act to move away from developer directed planning to sustainable planning.

COMMENT: Several comments expressed support and recognized the need for the Highlands Act, particularly to protect water quality and water supply for the State.

RESPONSE: The Highlands Council appreciates the support for the need for sustainable planning and the protection of the State's water supply.

COMMENT: Numerous comments sought the repeal of the Highlands Act and proffered alternative methods to deal with the future of the Highland Region. One suggestion was to operate under a voluntary act where funds were made available to purchase important watershed lands. Another suggestion was for a mechanism whereby existing local government units provide for the planning of the future of the Highlands Region.

RESPONSE: The Highlands Council appreciates the support for the need for sustainable planning. The Highlands Act was approved by the Legislature in recognition of this need, and reflects the Legislature's determination that a more comprehensive approach was required.

COMMENT: Several comments support the Highlands Act but are concerned that the Highlands Act itself and the Draft RMP are not protective enough.

RESPONSE: The Highlands Council revised the Regional Master Plan in November of 2007 to be responsive to the numerous comments received and is confident that the final adopted version of the Plan will be protective of the Highlands Region.

HIGHLANDS ACT EXEMPTIONS

COMMENT: Numerous comments lodged complaints regarding the fees, studies, time, and paperwork required to obtain an exemption where the exemptions should be available by right. Several comments argued that exemptions should be given out in limited circumstances and the exemption language should be narrowly construed.

RESPONSE: The Highlands Council does not process or issue exemption determinations in the Preservation Area as these matters are presently being addressed by the New Jersey Department of Environmental Protection.

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S HIGHLANDS RULES

RELATIONSHIP OF THE NJDEP RULES TO THE RMP

COMMENT: Several comments suggested that the RMP should be augmented to include an annotated table or summary of the NJDEP rules for the Highlands.

RESPONSE: The Highlands Council's Regional Master Plan is designed to be coordinated with NJDEP's rules for the Preservation Area and the Council will over time provide additional guidance and summaries in cooperation with NJDEP.

COMMENT: A few comments questioned whether the NJDEP rules will be applicable once the RMP is completed or whether the NJDEP will have more authority, and were concerned about the excessive permit requirements for areas designated as Planned Community Zone.

RESPONSE: The Highlands Act provides NJDEP with regulatory authority over major Highlands development in the Preservation Area. The Highlands Act does not, however, include a provision that NJDEP's authority will no longer apply once the Regional Master Plan is adopted and instead requires a coordinated planning and permitting process by the Council and NJDEP. Regarding the Planned Community Zone within the Preservation Area (presently called the Existing Community Zone), the Highlands Act does include provisions for the Highlands Council and NJDEP to cooperate in the review of possible areas for redevelopment within the Preservation Area that have already been disturbed.

COMMENT: A few comments suggested that the relationship between the RMP and the NJDEP's Rules must be explicit. It was suggested that the RMP should list all permit application requirements in one place so it is

clear what is required to have an application declared complete.

RESPONSE: The Highlands Act provides for a coordinated planning and permitting process by the Council and NJDEP in the Preservation Area and thus applicants must examine the Regional Master Plan as well as NJDEP's regulations at N.J.A.C. 7:38-1.1 et seq. The Highlands Council will over time provide additional guidance and summaries in cooperation with NJDEP.

COMMENT: A few comments suggested that activities that are not "Major Highlands Development" are exempted by the Highlands Act and that there are also 17 additional specified exemptions from the Highlands Act.

RESPONSE: The Highlands Act, in Section 30, does provide 17 specific exemptions which provides for an exemption from "the provisions of this act, the regional master plan, any rules or regulations adopted by the Department of Environmental Protection pursuant to this act, or any amendments to a master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them with the regional master plan." However, if a project does not constitute "Major Highlands Development" as defined by Section 2 of the Highlands Act, it simply means that a Highlands Preservation Area Approval is not required from NJDEP. Activities which do not constitute "Major Highlands Development" are not exempt from the Highlands Act and, where applicable, are subject to the requirements of the Regional Master Plan and conforming local development regulations.

COMMENT: A few comments suggested that municipalities will be required to maintain their non-Highlands standards for development not affected by the Highlands Act, and maintain a second set of standards for those developments that are affected.

RESPONSE: The 17 exemptions set forth in the Highlands Act, in Section 30, specifically do not alter local development requirements. Specifically, Section 30.b states: "[t]he exemptions provided in subsection a. of this section shall not be construed to alter or obviate the requirements of any other applicable State or local laws, rules, regulations, development regulations, or ordinances." Accordingly, a development activity that qualifies under one of the 17 Highlands Act exemptions must still conform to underlying State and local requirements. The Highlands Council will work with conforming municipalities to ensure that it is clear which standards apply to exempt development activities.

COMMENT: A few comments suggested the Highlands Council should propose changes to the NJDEP rules in its RMP based on their more comprehensive review of conditions in the Highlands and what it has learned through interaction with the public.

RESPONSE: The Highlands Council's development of the Regional Master Plan Act provides an opportunity for NJDEP and other State agencies to examine and utilize the results of the Council's planning efforts. The NJDEP anticipated utilization of the Regional Master Plan through its rules at N.J.A.C. 7:38-1.1 and specifically incorporate the Regional Master Plan by reference such that the NJDEP could utilize the Plan in NJDEP approvals in both the Preservation Area and the Planning Area.

COMMENT: A few comments raised concerns that the Draft RMP may conflict with NJDEP Rules in areas such as the use of dual water supply systems, wastewater systems that include the use of non-potable water for toilet flushing and the use of greywater for irrigation of landscaping.

RESPONSE: The Regional Master Plan is intended to coordinate with the existing regulatory structure of NJDEP. However, the Plan does include provisions which encourage alternative systems or revisions to regulations of sister agencies to address particular situations. The Highlands Council will work with these agencies to advance potential improvements to the existing regulatory structure where such improvements would advance the goals of the Regional Master Plan.

COMMENT: Several comments sought clarification on NJDEP's deference to the policies in the RMP in

N.J.A.C. 7:38-1.1 when Section 11.b. of the Highlands Act specifies that the components of the RMP “shall be used only for advisory purposes in the planning area and shall have no binding or regulatory effect therein.” Recent correspondence issued by the NJDEP stated that: “there are provisions included in the NJDEP’s Highlands Preservation Area rules that provide some recognition to the resource protection goals of the RMP in the Highlands planning area. However, this recognition applies only when determinations are consistent with the statutory and regulatory authority of the DEP. We will also consider the RMP when considering hardship requests in conjunction with other types of applications in the Highlands planning area. Finally, the Department shall approve an amendment to a Water Quality Management Plan only after receiving from the Highlands Council a determination of consistency with the RMP.”

RESPONSE: The NJDEP’s regulations at N.J.A.C. 7:38-1.1 are primarily associated with the establishment of environmental standards in the Preservation Area. However, the rules at N.J.A.C. 7:38-1.1(g) through (l) are specifically designed to address agency coordination in both the Preservation Area and the Planning Area. While the Highlands Act clearly states that municipal conformance with the Regional Master Plan is voluntary for those lands within the Planning Area, the Highlands Act also mandates that certain State agencies utilize the Plan in reviewing matters within their respective jurisdiction. For example, Section 74 of the Highlands Act amended the Water Supply Planning Act to require that “no action taken by the department pursuant to the provisions of P.L.1981, c. 262 (C.58:1A-1 et al.) or P.L.1993, c. 202 (C.58:1A-7.3 et al.) shall be inconsistent with the provisions of the” Highlands Act or the Highlands Regional Master Plan. Accordingly, NJDEP recognized the need to utilize the Regional Master Plan for the Planning Area and adopted the following provision at N.J.A.C. 7:38-1.1(h): “[f]or the planning area, when consistent with its statutory and regulatory authority, the Department shall not issue any approval, authorization or permit that the Department determines, in consultation with the Highlands Council, to be incompatible with the resource protection goals in the RMP to be incorporated by reference in (l) below, when adopted by the Highlands Council.”

COMMENT: Several comments questioned the NJDEP’s scientific basis for the establishment of septic densities of 25 and 88 acres in the Preservation Area, the protection of wetlands, and the 300 foot buffer from Highlands Open Waters.

RESPONSE: The Highlands Act, in Section 34.a, specifically required NJDEP to adopt rules that provide for a prohibition on development with 300 foot of all Highlands Open Waters which includes wetlands. In addition, Section 34.e. required NJDEP to adopt rules establishing a septic system density standard to prevent the degradation of water quality. NJDEP adopted rules at N.J.A.C. 7:38-1.1 and the technical basis for these rules is a part of the rulemaking record.

LAND USE CAPABILITY MAP

This category captures comments that relate to the Land Use Capability Map. Specific block and lot or project zone modifications were to be captured in Category 8; however, due to the nature and complexity of the comments, numerous zone modifications suggestions were also captured in this category.

In general the comments reflected five major issues regarding the Land Use Capability Map. The following were highlighted: the Land Use Capability Map development process, zone modifications, the need for a lake management zone, clarification between the policies of the RMP and how they relate to the Land Use Capability Map, and the use or need for additional data. Due to the nature of the comments, overlap exists between consolidated comment categories in various areas. These and other major issues will be described in more detail below; comments are ordered from most frequently received to least:

LAND USE CAPABILITY MAP (LUCM) DEVELOPMENT PROCESS

COMMENT: A large number of comments questioned the process through which the Land Use Capability Map was developed.

COMMENT: Some comments cited a number of indicators which are supported by individual technical reports and technical disciplines and questioned why these indicators appear not to be used as indicators for the Land Use Capability Map.

RESPONSE: The *Land Use Capability Map Abstract* was released shortly after the release of the 2006 Draft RMP. The Abstract detailed the development process. A new abstract has been released to describe the development process for the Land Use Capability Zone Map in the 2007 Draft RMP. More detailed information for the Land Use Capability Zone Map development can be found in the *Draft Technical Report Addenda, November 2007*.

COMMENT: Some comments stated that environmental features such as steep slopes, floodplains, wetlands, C1 streams, and river and stream buffers should not be “put at risk” and removed from “growth” areas which make them vulnerable to the poor land use decisions of the past. Some comments raised concerns that the Land Use Capability Map development process did not adequately address Specially Planned Areas to help meet affordable housing elements, farmland preservation exemption areas, existing development, and potential infill areas.

RESPONSE: Protection of environmental features within “growth” areas was addressed in the 2006 Draft RMP. Protections for environmental features in “growth” areas such as steep slopes, floodplains, wetlands, streams and rivers are addressed individually through site specific standards. In addition, the Future Land Use Section (Chapter IV, Part 6) of the 2007 Draft RMP was modified from the 2006 Draft RMP to more adequately address affordable housing elements, potential infill areas, farmland preservation and exemptions.

COMMENT: Comments questioned the rationale for selecting 6 protection zone indicators, 3 planned community zone indicators, and 3 conservation zone indicators. It was argued that the mapping unit should also be the same for each zone while individual indicators for urban areas should be smaller to capture smaller, more fragmented land use variations.

COMMENT: Some comments suggested that the Highlands Council clearly lay out the criteria used during development of the Land Use Capability Map (LUCM), and this should include how the criteria are applied, how layers are created, and the policies and standards that are applicable to a particular zone.

COMMENT: Some comments held that the indicators and criteria used to develop the Land Use Capability Map zones are duplicative and overly complicated.

COMMENT: Some comments expressed interest in adding to the indicators list. Some suggestions include town centers as identified by municipalities and/or the State Plan, future or “planned” utility service areas, golf courses as constrained areas, carbonate rock areas, and water supply areas which would include water quality and quantity. It was suggested that agricultural soils be further broken out to address soils with extreme sensitivity, especially when it relates to water quality and quantity.

COMMENT: Some comments were troubled that the Land Use Capability Map looks like a gerrymandered legislative map where one side of a river is in the protection zone, and the other side of the river is not. Or one side of a road is protected and the other side of the road is not, even though they are in the same watershed.

RESPONSE: The 2006 Draft RMP relied on a scoring system where the presence of a specific number of indicators helped drive the zone in which an area was placed. This system was significantly modified through the use of the LANDS model which has the capability of discerning the quality of individual indicators rather than collective quality. In addition, the minimum mapping unit was modified to smaller units to capture smaller, more fragmented land use variations. More detailed information for the Land Use Capability Zone Map development can be found in the *Draft Technical Report Addenda, November 2007*. Additional indicators such as State Planning Centers, future or “planned” utility service areas, golf courses as constrained areas, carbonate rock areas, and water supply areas which would include water quality and quantity were and will continue to be developed to be used in implementing appropriate programs.

COMMENT: Some comments questioned the thresholds for density, specifically 8 persons per acre. It was stated that the unique nature and development patterns of the Highlands Region do not necessarily fit into the density threshold of a State Planning “center” as prescribed by the State Plan.

COMMENT: Some comments suggested that the three zones do not accurately capture the range of conditions and constraints within the Highlands Region. It was stated that the nature of the zones should reflect areas which have no substantial development/redevelopment potential versus existing development and significant development/redevelopment potential.

RESPONSE: The 2006 Draft RMP was modified through the use of the LANDS model which better addressed the unique nature and development patterns of the Highlands Region. More detailed information for the Land Use Capability Zone Map development can be found in the *Draft Technical Report Addenda, November 2007*.

COMMENT: Some comments also claimed that the Planned Community Zone should be removed in its entirety because it is contrary to the environmental protection required by the Highlands Act. Maintaining the Planned Community Zone to appease large land owners and developers will result in exorbitant surcharges and too much density.

RESPONSE: The provisions of the *Highlands Act* declares that the Highlands Region, in addition to providing clean and plentiful drinking water, ensures the economic viability of communities throughout the New Jersey Highlands and that residential, commercial, and industrial development, redevelopment and economic growth in certain appropriate areas of the New Jersey Highlands. The Planned Community Zone largely reflects existing patterns of growth.

COMMENT: Some comments recognized the Preservation Area boundaries were established in the enabling legislation for the Highlands Act, but questioned whether there is a mechanism to change these boundaries where they do not make sense.

RESPONSE: The 2006 Draft RMP states that in the Highlands Act, the Legislature designated specific boundaries of the Preservation Area. Any changes would require a Legislative change.

ZONE MODIFICATION

COMMENT: A large number of comments requested zone modifications. Zone modifications were further categorized in 6 ways: general zone modifications where the type of zone modification was unclear, Protection to Planned Community, Planned Community to Protection, Conservation to Planned Community, Conservation to Protection and Protection to Conservation.

COMMENT: Some comments also requested zone modifications when the individual disagreed with a zone designation or were troubled by the future impact on the land within the area. Zone modifications were requested on the following basis: sites had prior approvals and/or permits which were approved by administrative bodies; existing utilities either on or adjacent to a site; existing zoning; existing environmental resources; sites identified to meet a municipality's affordable housing need; sites planned but not yet approved, such as preliminary site plan and subdivisions and municipal master plans; ownership such as college campus property; sites pending litigation or compatibility with State Development and Redevelopment Plan; or generally do not meet the criteria and/or indicators identified in the Land Use Capability Map development process, such as impervious surface coverage.

RESPONSE: Plan Conformance Procedures and Requirements (III.H.2) the 2006 Draft RMP details the process of adjustments and revisions to the Land Use Capability Map. The 2007 Draft RMP provides more detailed information in Chapter VI in the *RMP Updates and Adjustments Program*.

COMMENT: Some comments suggested that lands containing environmental features, such as steep slopes, floodplains, wellhead protection areas, wetlands, C1 streams, and river and stream buffers, should be removed from the Planned Community Zone. It was stated that inclusion of these areas within the Planned Community directly contradicts the Highlands Act which states that protection, "contiguous forests, wetlands, vegetated stream corridors, steep slopes, and critical habitat for flora and fauna" shall be a provision of the RMP.

RESPONSE: The Land Use Capability Zone Map in the 2007 Draft RMP includes two sub-zones, within the Conservation and Existing Community Zones, which indicate major environmentally-constrained areas. In

addition, many of the features mentioned are protected through specific resource policies and objectives in Chapter IV that apply irrespective of the Zone in which they fall. The purpose of the zone maps is to provide a regional sense of land use capability, and site-specific features will be addressed through Plan Conformance, Highlands Project Review, etc.

COMMENT: Other comments requested that Planned Community Zones be removed in their entirety, especially in areas where there is a potential to compromise the drinking water supply.

RESPONSE: The provisions of the *Highlands Act* declares that the Highlands Region, in addition to providing clean and plentiful drinking water, ensures the economic viability of communities throughout the New Jersey Highlands and that residential, commercial, and industrial development, redevelopment and economic growth in certain appropriate areas of the New Jersey Highlands.

LAKE MANAGEMENT ZONE

COMMENT: Numerous comments called for the creation of a Lake Management Zone. Comments expressed surprise and dismay to see Planned Community Zones located around lakes and waters which contribute to reservoirs, water supply watersheds, or flood plains. It was stated that the perception is that having Planned Community Zones around these environmental features undermines the intent and purpose of the Highlands Act. This was felt to be especially true in the Preservation Area.

COMMENT: Some comments noted that some existing lake communities have no sewers and an inadequate road system that would limit growth. Comments suggested these sensitive areas be preserved and not encouraged to grow in population or density. It was stated that the effect of designating Planned Community Zones around lakes may diminish a municipality's ability to limit development in these areas and have a negative impact on the environment.

RESPONSE: The 2007 Draft RMP includes Lake Management Areas to address special resource protection, land use management and restoration needs. Goals, policies, objectives and programs apply to these areas. Where these areas are located within the Existing Community Zone, they are designated as Lake Management Sub-zones.

CLARIFY CONNECTION BETWEEN RMP POLICIES AND LAND USE CAPABILITY MAP

COMMENT: Numerous comments called for greater clarity and more precise connections between policies in the 2006 Draft RMP and the zones of the Land Use Capability Map (LUCM). Four major issues were cited: 1) Land owners want a clear answer as to what the plan means to them when their property falls within one or more zones. 2) There is concern that sensitive lands that fall within the Planned Community Zone will not be protected. 3) The LUCM must take into consideration the degree to which an area can accommodate development by type and intensity. 4) There must be greater clarity and an understandable step by step processing of the map and its policy connections.

RESPONSE: The 2006 Draft RMP language was modified in the 2007 Draft RMP to add clarity between zone designation and policies. Protections for sensitive lands within the Planned Community Zone (now the Existing Community Zone) such as steep slopes, floodplains, wetlands, streams and rivers are addressed individually through site specific standards.

COMMENT: Some comments questioned the impacts of the overlay zones on lands both in the Preservation Area and the Planning Area. One comment asked what the implications would be for a municipality if their existing facilities and infrastructure were to fall within the Protection Zone. Would maintenance be limited? Some comments proposed that the RMP clarify or provide guidance as to which standards would apply if conflicts exist between resource areas, and suggested that the RMP provide a policy discussion for each overlay zone, with specific examples of what types of land uses would be permitted. The following question was asked:

Recognizing that the Draft RMP guidelines restrict new development based upon available water supply under drought conditions, would a municipality reaching these levels have to assert eminent domain and destroy a considerable number of dwelling units to stay within the limit?

RESPONSE: The 2007 Draft RMP adds clarity between zone designation and policies. Specific land uses are reviewed through conformance and against site specific standards. Existing land uses are not required to change based on resource constraints, but further development in areas of significant constraints may be limited or required (e.g., where water supplies are in deficit) to provide mitigation.

COMMENT: Some comments worried about the perception that sensitive lands within the Planned Community Zone would not be protected, which is contrary to the intent of the Highlands Act. It was stated that the indicators are much too narrow and ignore wetlands, stream corridors, steep slopes, lakes, flood plains and other environmentally and culturally sensitive areas. Concern was expressed over the impression that environmental and cultural features within the Planned Community Zone would not be protected. A suggestion was made that the Highlands Council identify areas for reclamation of lands that should never have been developed in the first place.

RESPONSE: The 2006 Draft RMP was modified through the use of the LANDS model and the Highlands Council distinguishes three primary zones and three sub-zones to more accurately capture the range of conditions and constraints with the Highlands Region. More detailed information for the Land Use Capability Zone Map development can be found in the *Draft Technical Report Addenda, November 2007*. Protections for sensitive lands within the Planned Community Zone such as steep slopes, floodplains, wetlands, streams and rivers are addressed individually through site specific standards.

COMMENT: Some comments suggested that the Land Use Capability Map (LUCM) specify the type and intensity of development that each area would be able to accommodate. It was noted that the Planned Community Zone is already built up and doesn't represent additional land use capability. Infrastructure capacity information was not considered in the development of the Land Use Capability Map. One comment suggested that the Highlands Council encourage municipalities to work with their lake communities to adopt best management practices.

RESPONSE: The 2007 Draft RMP includes a Land Use Capability Map Series which includes infrastructure capacity. The Land Use Capability Program in Chapter VI discusses how the five maps in the series provide sufficient information to determine net land use capability at the municipal level.

COMMENT: Some comments complained that the Draft RMP is difficult to read. Comments expressed both concern and confusion as to how different layers were used to develop the map, what data were used, how layers were weighted, what specific details were used to assign lands into zones, and how boundary locations were determined. It was suggested that the map should be based on hydrologic and geologic features, not on political boundaries.

RESPONSE: The 2006 Draft RMP language was modified in the 2007 Draft RMP to add clarity and limit confusion. The *Land Use Capability Map Abstract* was developed shortly after the release of the existing 2006 Draft RMP, dated November 30, 2006. The Abstract detailed the development of the Land Use Capability Map. The method for developing the modified Land Use Capability Zone Map was released as part of the *Technical Report Addenda, November 2007*.

ADDITIONAL DATA

COMMENT: Numerous comments requested additional data relative to the development of the Land Use Capability Map (LUCM). A frequent comment regarding the development of the Land Use Capability Map is the need for updated sewer and water data and capacity indicators. It was suggested that an infrastructure analysis would further define the capabilities in the Planned Community Zone. Areas of existing development appeared

to be missing from the mapping and can be acquired from updated tax records and site investigations. Examples of inaccurate mapping were given.

COMMENT: Some comments called for the use of additional data layers, in addition to utility data, in developing the Land Use Capability Map: limestone karst geology, carbonate rock areas, historic and present mine locations, updated advanced wellhead protection areas, known contaminated sites, infill areas, employment centers, public capital facilities, privately owned institutions, significant inclusionary housing, quality of runoff for potable water use, water evaluations, existing developed areas, recently preserved open space, bog communities, view sheds, public access to open spaces, 70% impervious cover areas for redevelopment map, and updated parcel coverage.

COMMENT: Some comments suggested that the Highlands Council must have an ongoing, open process to amend the Land Use Capability Map based on more current, appropriate data and/or assumptions brought to the Highlands Council by the public or local government agencies.

COMMENT: Some comments warned of the danger of utilizing landscape data because they are dated, the photography does not reflect the factual state of development, and they are subjective based on ground conditions.

RESPONSE: Plan Conformance Procedures and Requirements (III.H.2) the 2006 Draft RMP details the process of adjustments and revisions to the Land Use Capability Map. The 2007 Draft RMP provides more detailed information in Chapter VI in the *RMP Updates and Adjustments Program*.

GENERAL CONCERNS

COMMENT: Numerous comments referenced the Planned Community Zones stating that the 2006 Draft RMP would not stop the clock on habitat destruction and would perpetuate overdevelopment.

RESPONSE: The provisions of the *Highlands Act* declares that the Highlands Region, in addition to providing clean and plentiful drinking water, ensures the economic viability of communities throughout the New Jersey Highlands and that residential, commercial, and industrial development, redevelopment and economic growth in certain appropriate areas of the New Jersey Highlands.

COMMENT: Some comments questioned the statutory authority of the Highlands Council, specifically pertaining to the Land Use Capability Map in the Planning Area and the creation of three zones without regard to the boundaries of the Preservation Area.

RESPONSE: The *Highlands Act* delineates within the New Jersey Highlands a Preservation Area and a Planning Area, and specifically requires that the Highlands Council develop a Regional Master Plan that addresses both areas. The statutory requirements for the two areas are the same in some respects and differ in others; the Land Use Capability Zones are reflective of similar land use patterns in the two areas, but the protective standards established by the Department of Environmental Protection for development in the Preservation Area of the New Jersey Highlands are reflected within the 2007 Draft RMP in addition to the Zone policies and objectives.

COMMENT: Some comments noted the need to show what will really be left for development after policies are adopted. Comments expressed dismay over perceived financial devastation and an anticipation of becoming a plaintiff against the Highlands Council's policies.

COMMENT: Some comments complained that applying all of the policies in the Draft RMP left virtually no land available for development. Comprehensive mapping would have clearly shown that the Draft RMP is not compliant with the goals of the Highlands Act and represents the wrong vision for the Highlands Region and its future.

RESPONSE: The provisions of the *Highlands Act* identify numerous exemptions to the policies of the Highlands Act, along with the potential for limited waivers based on site-specific conditions and issues. The Land Use Capability Program in Chapter VI discusses how the five maps in the series provide sufficient information to determine net land use capability at the municipal level.

LACKS SMART GROWTH

COMMENT: Some comments held that the development of the Land Use Capability Map failed to employ the principles of smart growth. Cited was a passage from the 2006 Draft RMP that "The Planned Community Zone consists of areas with concentrated development signifying existing communities. These areas tend to have less environmental constraints. . ." However, there is no evidence to suggest that existing development within the Highlands Region was properly planned and sited in areas of lower environmental sensitivity. Planned Community Zones should not encourage the continuation of poor, past land use decisions; instead, restoration and enhancement of environmentally sensitive areas should be a priority.

COMMENT: Some comments expressed concern that existing town centers within a Protection Zone would force development outside centers and would work counter to the goals of the Highlands Act. Additional goals should place greater emphasis on redevelopment opportunities, existing major transportation hubs, and potential key economic development sites.

RESPONSE: The 2006 Draft RMP was modified through the use of the LANDS model and the Highlands Council distinguishes three primary zones and three sub-zones to more accurately capture the range of conditions and constraints with the Highlands Region. Restoration and enhancement of environmental resources vary by zone and are outlined through goals, policies and objectives when appropriate. The provisions of the *Highlands Act* require that the DCA's Office of Smart Growth review and coordinate community development. In addition, through Consistency and Coordination (III.F) the Council will coordinate with the State Planning Commission.

COMMENT: It was suggested that all major roadways, rights-of-way and other transportation and infrastructure corridors should be mapped within the Planned Community Zone, not the Protection or Conservation Zones.

RESPONSE: The comment was considered and no change was made to the 2007 Draft RMP. At a regional scale, cartographic conventions call for suppressing smaller size features for map legibility (i.e. A New York City Subway Map does not show all entryways into a particular subway station)

NO DEVELOPMENT IN THE PRESERVATION AREA

COMMENT: Some comments requested that the Highlands Council mandate that no development should continue in the Preservation Area. Comments worried that well-funded developers would take advantage of an opportunity to build in the Preservation Area and subject lands to unwanted sprawl and water pollution in the heart of the Highlands Region.

RESPONSE: The provisions of the *Highlands Act* declares that the Highlands Region, in addition to providing clean and plentiful drinking water, ensures the economic viability of communities throughout the New Jersey Highlands and that residential, commercial, and industrial development, redevelopment and economic growth in certain appropriate areas of the New Jersey Highlands. Development in the Preservation Area are restricted to very low density uses (maximum 3% impervious surface), exempt development, and development that qualifies for limited waivers based on site specific conditions.

COMMENT: Some comments insisted that there be no Planned Community Zones/Specially Planned Areas in the Preservation Area. Only sites that conform to the specific redevelopment standards laid out in the Highlands Act, namely 70% impervious cover or brownfields, should be identified as redevelopment areas. It was stated that Planned Community Zones in the Planning Area should not be mapped over environmentally sensitive lands.

COMMENT: Some comments claimed that the Highlands Act does not give authorization or justification to the creating of Planned Community Zones or Specially Planned Areas in the Preservation Area. Although comments concede that the Highlands Act does state that the Highlands Council should ". . . identify existing developed areas capable of sustaining redevelopment activities and investment," they point out that, within the preservation area "any area identified for possible redevelopment pursuant to this subparagraph shall be either a brownfield

site designated by the NJDEP or a site at which at least 70% of the area thereof is covered with impervious surface.”

COMMENT: One comment stated that the Highlands Council has done a commendable job of looking to the future needs of the State and the people of New Jersey. It warned that the Highlands Council should not lose sight of their true goals and worried that the Draft RMP could have a negative impact in the Preservation Area.

RESPONSE: The 2006 Draft RMP relied on a scoring system where the presence of a specific number of indicators helped drive the zone in which an area was placed. This system was significantly modified through the use of the LANDS model which has the capability of discerning the quality of individual indicators rather than collective quality. In addition, the minimum mapping unit was modified to smaller units to capture smaller, more fragmented land use variations. More detailed information for the Land Use Capability Zone Map development can be found in the *Draft Technical Report Addenda, November 2007*. Additional indicators such as State Planning Centers, future or “planned” utility service areas, golf courses as constrained areas, carbonate rock areas, and water supply areas which would include water quality and quantity were and will continue to be developed to be used in implementing appropriate programs. The identification of Planned Community Zones (now Existing Community Zones) in the Preservation Area reflects the existence of a clearly identifiable land use pattern that does not reflect the nature of the Conservation or Protection Zones. However, development opportunities in these areas will be limited due to Preservation Area regulations.

COMMENT: One comment encouraged the Highlands Council to identify any lands in which a public acquisition of a fee simple or lesser interest is necessary or desirable in order to ensure its preservation and to provide sites for public recreation, as required by the Highlands Act.

RESPONSE: Policies in the Land Preservation and Stewardship section (III.C.3) of the 2006 Draft RMP identify a prioritization for land preservation targets. The Highlands Council will provide to the Green Acres Program and the State Agriculture Development Committee confidential lists of priority parcels for fee simple or easement acquisitions.

AGENCY COORDINATION - (OFFICE OF SMART GROWTH)

COMMENT: Some comments called for greater coordination between the Office of Smart Growth (OSG) and the Highlands Council. Coordination would help support the delineation of State Planning Centers, Village and Town Centers, and Planning Area 1 on the State Plan Map. Coordination is also necessary for those areas seeking Town Center designation as part of the State Plan Endorsement Process, particularly as these areas relate to the Planned Community Zones. Comments encouraged the Highlands Council to utilize the planning areas mapped on the State Development and Redevelopment Plan to inform land use capability designations. It was stated that the Highlands Region contains a total of twenty (20) Designated Centers, all within the Planning Area. It was stated that these Centers are neither represented as such on the Land Use Capability Map (LUCM) nor are their boundaries consistent with the boundaries of the Planned Community Zone/Specially Planned Areas. It was stated that the LUCM should represent Designated Centers as areas that are most appropriate for high density development and potential receiving areas for Highlands Transfer of Development Rights credits.

COMMENT: Some comments claim the Draft RMP and the State Development and Redevelopment Plan (SDRP) have no reasonable relationship. It was stated that there is no indication why such a disparity exists between the two documents. It was stated that these inconsistencies interfere with the goals of the Village Center designation and the planning activities undertaken by municipal government and the State to support them.

COMMENT: Some comments encouraged consistency with the State Development and Redevelopment Plan and smart growth strategies and principles. A suggestion was offered that the RMP include maps, policies, and implementation strategies recommending appropriate zoning densities that will encourage center based development, redevelopment, and infill development within existing livable centers that protect and take advantage of environmental features, while providing convenient access to public transportation options.

RESPONSE: The 2007 Draft RMP includes a map of existing Centers, many of which are scheduled to expire in

2008. The Highlands Council and the State Planning Commission have signed a Memorandum of Understanding that sets forth a method by which Plan Endorsement for the Planning Area will be processed, and by which municipal planning reviews are coordinated. The Land Use Capability Zone Map is based on Highlands resource and land use factors, and may either support or not support certain Center designations in whole or in part. The Highlands Act anticipated that the SDRP and the RMP would be distinct products with significant differences, based on the goals and objectives of the Highlands Act.

IMPLEMENTATION

COMMENT: Some comments focused attention on the difficulty and confusion associated with implementation of the 2006 Draft RMP particularly with regard to the Land Use Capability Map. It was stated that the comments identified a need to clarify how a property owner should address policies and procedures when a property is located in multiple zones. It was noted that the exact location of the boundary line between one zone and another was difficult to ascertain.

RESPONSE: The 2007 Draft RMP includes a separate implementation chapter (Chapter VI). In addition, numerous formats for boundary delineation have been publicly provided, such as in the *Technical Report Addenda*, November 2007.

COMMENT: Some comments requested clarification of the opt-in process. It was stated that there is little incentive to opt-in to a plan that would render the few remaining economic growth opportunities non-existent.

RESPONSE: Benefits and Incentives for Municipalities and Counties is addressed (III.H.1) in the 2006 Draft RMP.

LOCAL PROPERTY TAX BASE

COMMENT: Several comments expressed concern that the Land Use Capability Map in its current form would result in a loss to the property tax base for their area. It was stated that absent a Planned Community Zone a municipality would not be able to attract tax-paying businesses and thus support the development of a strong economic base.

RESPONSE: The provisions of the *Highlands Act* declares that the Highlands Region, in addition to providing clean and plentiful drinking water, ensures the economic viability of communities throughout the New Jersey Highlands and that residential, commercial, and industrial development, redevelopment and economic growth in certain appropriate areas of the New Jersey Highlands. The Highlands Act specifically incorporates a fund for municipalities that suffer a loss in tax base due to implementation of the Act within the Preservation Area.

COMMENT: Some comments highlighted the potential effects of Protection Zone regulations on a transportation corridor. Strict regulations would affect the ability to attract new businesses to the corridor and limit expansion of existing facilities. Such limitations may result in otherwise successful business owners needing to relocate outside of the area, possibly hurting the economic health of an area.

RESPONSE: The Protection Zone is predominantly forested with little in the way of concentrated development or prospects for such. Commercial development in such areas is likely to consist of strip commercial development, which maximizes disruption of environmental resources in a sensitive area. The Protection Zone is, by its nature, inappropriate for such development.

COUNCIL ON AFFORDABLE HOUSING

COMMENT: Several comments held that the Land Use Capability Map (LUCM) did not take into account sites that were selected to meet Council on Affordable Housing (COAH) obligations. Areas cited are in various stages of certification and include zoning changes, court-approved Housing Elements, Fair Share Plans, and site-specific

changes. Comments cited areas that are under construction or have valid approvals within the Protection and Conservation Zones. Comments requested that the Land Use Capability Map reflect the authority and the requirements of the Fair Housing Act and the rules of the Council on Affordable Housing. Some comments were disheartened that the Draft RMP does not endorse a commitment to provide a variety of housing types. RESPONSE: Plan Conformance Procedures and Requirements (III.H.2) the 2006 Draft RMP details the process of adjustments and revisions to the Land Use Capability Map. The 2007 Draft RMP provides more detailed information in Chapter VI in the *RMP Updates and Adjustments Program*. Plan Conformance Procedures and Requirements (III.H.2) the 2006 Draft RMP details the process of adjustments and revisions to the Land Use Capability Map, as does the 2007 Draft RMP in Chapter VI. A petitioner may present additional information which may change the underlying assumptions about conditions present which may include COAH obligations. However, the Highlands Act recognizes the potential for the RMP to find that certain sites for affordable housing are not compatible with mandated goals and objectives for the RMP, and provides for coordination between the Highlands Council and COAH. A memorandum of understanding will be developed to address this coordination need.

GENERAL COMPLIMENTS

COMMENT: Some comments expressed appreciation for the Land Use Capability Map zones, and supported the Highlands Council's interpretation of land conditions and future planning needs. It was applauded that the Draft RMP allocation of nearly two-thirds of the Highlands Region be to the Protection Zone, which spans both the Preservation and Planning Areas.

COMMENT: Some comments endorsed the boundaries of the Protection, Conservation, and the Planned Community Zones in the Preservation Area and the Planning Area. Comments were supportive of the criteria used to distinguish the three zones within the Planning and Preservation Areas, namely ground water recharge, significant impervious cover, valuable agricultural soils and resources, existing infrastructure, among other criteria.

COMMENT: Some comments expressed support for the delineation of the Protection Zone as an extension of the Preservation Area along Musconetcong Mountain. Comments also gave support to the designation of Conservation Zone within Holland Township.

RESPONSE: The Highlands Council appreciates the comments.

WHAT DOES THE HIGHLANDS ACT MEAN TO ME?

COMMENT: A few comments submitted requests that the Highlands Council respond to them regarding the implications that the various zones have on their property, and what they can now do with their property.

RESPONSE: The provisions of the *Highlands Act* identify numerous exemptions to the policies of the Highlands Act. In addition, each zone has specific policies and goals as they refer to environmental features. Specific issues regarding properties are not addressed in the RMP, but can be discussed with the Highlands Council staff directly.

NEEDS BUILD OUT

COMMENT: A few comments questioned the validity of the Land Use Capability Map (LUCM) and expressed the need for a build out analysis to be incorporated into the development of the Land Use Capability Map. Absent a build out analysis, comments suggested that the Highlands Council create a layer showing developed areas, not linking them to policy decisions. This approach could assist in determining the availability of infrastructure capacity for additional development.

RESPONSE: The 2006 Draft RMP was modified with the addition of a Land Use Capability Map Series which includes infrastructure capacity. In addition, a build-out model has been developed to support State Plan Endorsement and to provide information for the municipal and county Plan Conformance process.

NEED “NO BUILD ZONES” AS REQUIRED IN THE HIGHLANDS ACT

COMMENT: Some comments called for the identification of a “no development” or “no build” zone, as required by the Highlands Act. It was stated that these zones should at least include all wetlands, lake communities, lakes that feed reservoirs, or areas too sensitive to allow any potential disturbance.

RESPONSE: Policies in the Land Preservation and Stewardship section (III.C.3) identify a prioritization for land preservation targets. Prioritization is based on environmental features such as wetlands and lakes. Policy 1H11 of the 2007 Draft RMP provides a method for designation of such areas, which will occur after more detailed consideration of the implications of exempt properties. The Highlands Council will provide to the Green Acres Program and the State Agriculture Development Committee confidential lists of priority parcels for fee simple or easement acquisitions.

DATA AVAILABILITY

COMMENT: A few comments expressed disappointment that the Land Use Capability Map’s underlying data layers were not available to the public in a useable form, or a format that allows for determining accuracy on the local level.

RESPONSE: Underlying data layers which contributed to the Land Use Capability Map were available publicly shortly after the release of the 2006 Draft RMP.

AGENCY COORDINATION (NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION)

COMMENT: A few comments stated that more coordination needs to take place between the NJDEP and the Highlands Council to avoid a redundant and onerous permitting process. Policies contained in the Draft RMP may already be under the purview of another agency, for example, clearing of woody vegetation and restrictions on tree cutting are regulated by other agencies. More coordination needs to take place to identify already approved permits like Freshwater Wetlands Permits and Stormwater Rules.

RESPONSE: The provisions of the *Highlands Act* require that the Highlands Council coordinate with NJDEP. In addition, through Consistency and Coordination (III.F) the Council will coordinate with NJDEP which may address a redundant and onerous permitting process.

TRANSFER OF DEVELOPMENT RIGHTS

COMMENT: A few comments focused on the need for the Land Use Capability Map to identify both sending and receiving areas for the Transfer of Development Rights (TDR) program. It was stated that receiving areas are to serve as voluntary development and redevelopment areas that allow for increased densities on specific sites which are not environmentally constrained and where infrastructure is available or feasible. It was added that these receiving areas should include areas both inside and outside the Highlands Region.

RESPONSE: While not part of the Land Use Capability Map Series, the 2007 Draft RMP includes a map of Potential Areas for Voluntary Highlands Development Credit Receiving Zones (Chapter V).

STANDARDS AND POLICIES

COMMENT: A few comments contended that more specific information is needed on standards, policies, and requirements, as they relate to the various Land Use Capability Map zones.

RESPONSE: The 2006 Draft RMP was modified. The 2007 Draft RMP uses the LANDS model and distinguishes three primary zones and three sub-zones to more accurately capture the range of conditions and constraints with the Highlands Region. Standards, policies and requirements vary by zone and are outlined

through goals, policies and objectives in Chapter IV when appropriate.

LAND USE CAPABILITY MAP - SITE SPECIFIC COMMENTS

This category captures comments more specifically referencing sites as they relate to the Land Use Capability Map (LUCM). Comments referencing a specific site and a request for a zone modification have been included in this category.

There were five types of zone changes requested for specific sites. Many comments requested changes from Protection Zone to Planned Community Zone. Numerous comments requested changes from Planned Community Zone to Protection Zone. Some comments requested changes from Conservation Zone to Planned Community Zone. Several comments requested changes from Conservation Zone to Protection Zone. A few comments requested changes from Protection Zone to Conservation Zone. Additionally, numerous comments requested modifying site designations, but the specifics relative to current zone category and desired zone category were unclear. Some comments requested multiple modifications. Table 1.0 summarizes the range of requested zone modifications.

Table 1.0

Zone Modification Request From	Zone Modification Request To	Comments
Protection	Planned Community	A large number
Planned Community	Protection	Numerous
Conservation	Planned Community	Some
Conservation	Protection	Several
Protection	Conservation	A few

When requesting zone changes, most comments included information believed to support the claims. Numerous comments referenced pending projects with prior approvals that were inconsistent with the proposed zone designation. These included items such as preliminary and conceptual site plans and subdivisions, master plans, and sites pending litigation. Numerous comments explained that parcels were adjacent to other developed parcels and the zone should be extended to encompass the referenced site. Some comments held that proposed zone classifications were inconsistent with existing municipal zoning. Some comments claimed that a specific site has existing development on it. Some comments claimed that a specific site has existing sewer and/or water utilities. Some comments claimed that parcels are adjacent to existing sewer and/or water utilities. Some comments cited specific sites with existing prior approvals issued by administrative bodies. These included official approvals from agencies such as NJDEP, New Jersey Department of Transportation or municipal governments. Several comments cited existing environmental resources on a specific site. A few comments claimed that a specific site was proposed for development. Table 2.0 summarizes the range of issues supporting zone modifications.

Table 2.0

Support for Zone Modification	Comments
Prior Approval (planned) includes pending litigation/master plans/preliminary and conceptual site plans and subdivisions	Numerous
Adjacent to Developed Parcels	Numerous
Existing Zoning	Some
Existing Developed	Some
Existing Utilities	Some
Adjacent to Existing Utilities	Some
Prior Approval (approved)	Some

Adjacent to Planned Community	Several
Existing Environmental Resources	Several
Proposed for Development	A few

Beyond specific zone modifications, a few comments requested information regarding the development potential remaining on a site. A few comments requested a site to be made part of the Preservation Area rather the Planning Area. A few comments concurred with the Highlands Council’s proposed zone designation for their specific site.

RESPONSE: Through Plan Conformance Procedures and Requirements (III.H.2) the 2006 Draft RMP, details the process of adjustments and revisions to the Land Use Capability Map. The 2006 RMP states that in the Highlands Act the Legislature designated specific boundaries of the Preservation Area. Any changes would require Legislative action. The 2007 Draft RMP incorporates the policies and objectives regarding RMP Map Updates and Adjustments in Chapter IV, and explains how these policies and objectives will be implemented within Chapter VI.

GENERAL RESOURCE ASSESSMENT

ACHIEVING MANDATES OF ACT

COMMENT: Several comments indicated that the Draft RMP does not yet achieve the mandates of the Highlands Act, such as failing to include policies and standards for the restoration and enhancement of impairments and deficits, and does not clearly lay out how to prevent future harm to the Highlands Region.

RESPONSE: The 2007 Draft RMP includes Goals, Policies, Objectives, and detailed program descriptions for the protection as well as the restoration, and enhancement of habitat and water quantity and quality. In Chapter V (Programs) Part 1 (Natural Resources) of the 2007 Draft RMP, the following programs are presented: Restoration of Streams and Riparian Areas (pg. 172), Critical Habitat Conservation and Management (pg. 175), and Land Preservation (pg. 178). In Part 2 (Water Resources and Water Utilities), there is a Highlands Restoration: Water Deficits program (pg. 196) and a Water Quality Restoration program (pg. 205)

COMMENT: Several comments noted that the 2006 Draft RMP, as proposed, does not contain a capacity analysis in order to determine the amount and type of human activity that can be sustained.

RESPONSE: The 2007 Draft RMP presents a capacity analysis in Chapter II, Part 6 Subpart d (Future Land Use). It includes a Land Use Capability Map Series (text starting on pg. 69 and subsequent map series), which includes: Land Use Capability Map, Land Use Capability Water Availability Map, Land Use Capability Public Community Water Systems Map, Land Use Capability Domestic Sewerage Facilities Map, and Land Use Capability Septic Systems Yield Map. The Council utilized the results of the Resource Assessment to identify lands within the Region with significant natural and ecological resources. The Council then used the results of the Smart Growth analysis to identify the nature and extent of developed lands that have limited and dispersed environmental resources. Areas were identified based upon existing patterns of development with particular emphasis on areas that are currently served by existing water and wastewater infrastructure. These findings were used to develop the Land Use Capability Map Series.

COMMENT: Some comments expressed the belief that the long-term planning for, and protection of, the Highlands water resources is the most important objective of the Highlands Water Protection and Planning Act. Several comments expressed support for the Draft RMP as an important basis for land use regulation in the Highlands Region.

RESPONSE: The comment is acknowledged by the Highlands Council.

COMMENT: A few comments encouraged strict limits on any new development in both the Planning and Preservation Areas in order to protect our water supply and quality, while several felt the Highlands Act was not necessary to protect water.

RESPONSE: The 2007 Draft RMP includes both careful development controls in the Protection and Conservation Zones and a recognition and limited provision for existing development, redevelopment and new development in appropriate areas.

COMMENT: One comment expressed opposition to the “blind to the line” rationale in crafting the 2006 Draft RMP as not consistent with the Highlands Act, Section 11(1)(b) which maintains that the resource assessment, transportation component, and smart growth component shall be used only for advisory purposes in the Planning Area and shall have no binding or regulatory effect.

RESPONSE: The blind to the line concept recognizes that watersheds and other natural resources extend across the Area boundaries. The development of policies and objectives likewise must address the resources as they exist. What differs between the Preservation and Planning Areas is the method of implementation. Municipal and county Plan Conformance is mandatory in the Preservation Area, and voluntary in the Planning Area. However, the Highlands Act also requires that State agencies give the RMP certain consideration in both areas. The Highlands Act specifies that certain agencies act consistently with the RMP in the Planning Area.

COMMENT: One comment opposed a perceived unrestrained exercise of power and unrestricted scope of restrictions on land in the Preservation Area.

RESPONSE: The 2006 Draft RMP and the 2007 Draft RMP both rely on the Highlands Act for authority and guidance.

COMMENT: One comment stated that the coordination and consistency strategies imply that the Highlands Council will work with other State agencies to ensure that the recommendations of the RMP will be used in all State regulatory review programs.

RESPONSE: The Highlands Act requires a coordination and consistency component of the RMP, which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the goals, purposes, policies, and provisions of the RMP, and which details how land, water, and structures managed by governmental and nongovernmental entities in the public interest within the Highlands Region may be integrated into the RMP.

COMMENT: One comment stated that many issues must be addressed before final adoption of the RMP.

RESPONSE: The 2007 Draft RMP addresses a wide variety of public comments and issues that were not addressed by the 2006 Draft RMP or required further clarification.

COMMENT: One comment requested that the RMP commit to periodic evaluation of ecological conditions using a standardized set of indicators to measure the success of the Highlands Act in preserving and restoring natural resources.

RESPONSE: A Water Resources and Ecosystem Science Agenda was included in the 2007 Draft RMP in Chapter VI, Part 3 (Improvement of the Regional Master Plan), Subpart a. In that Plan element (pg. 332), it is noted that implementing the Goals, Policies, and Objectives of the RMP will require programs to guide the ongoing research agenda after its adoption. A major focus will be continued refinement, updating and research into new methods to improve the Council’s understanding of the Highlands Region’s resources.

COMMENT: One comment stated that the Highlands Council must meet the goals set forth in Section 6 of the Highlands Act to “Designate special areas in the Preservation Area within which development shall not occur.” (Sec. 6.n) and promote conservation of water resources both inside and outside the Highlands Region for which the Highlands Region is a source of drinking water.

RESPONSE: Section 6 of the Act gives the Council the authority to identify and designate special areas in the Preservation Area within which development shall not occur. Policy 1H11 has been added to the 2007 Draft RMP (Chapter IV Goals, Policies and Objectives, Part 1, Subpart e. Land Preservation and Stewardship, pg. 120), to identify and designate Special Environmental Areas which should not be developed. Objectives 1H11a-g in the 2007 Draft RMP support the policy.

COMMENT: One comment stated that the justification that has been used to promote the Highlands Act has been clean water and the environment. It was stated that the reality behind this legislation is money, political power, and ignorance.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

ENVIRONMENTAL RESOURCE INVENTORIES

COMMENT: One comment recommends that the RMP incorporate an Environmental Resource Inventory (ERI) that includes the following sections: Geography/Topography Physiographic region and sub-regions; Climate; Air Quality; Historic and Cultural Features; Scenic Qualities; Known Contaminated Sites; Critical Environmental Areas; and Energy. It was stated that there should be a separate Hydrology section. It was also stated that the Vegetation Section should include types of vegetation (forest communities in particular); fire hazard and history of wildfire; pollution effects on vegetation; historic, recreational and economic values, especially forestry; forest cover; agricultural areas; and street tree resources. It was suggested that the Geology section include: bedrock geology, types and characteristics, especially carbonate rocks; surficial geology; depth to bedrock; unconsolidated deposits; and economic mineral resources, including historic iron mines and non-ferrous ore mines.

RESPONSE: The Technical Reports that support the RMP contain detailed information regarding the identified resources. While this information is generally described in the 2007 Draft RMP, detailed information is left to the Technical Reports to avoid making the RMP too voluminous.

LAND USE CAPABILITY MAP

COMMENT: One comment felt that the Land Use Capability Map zones are not capacity-based and that the RMP needs to include an explanation regarding the relationship between the Land Use Capability Map, the resource analysis, and the water analysis.

RESPONSE: The 2007 Draft RMP presents a capacity analysis in Chapter II, Part 6 Subpart d (Future Land Use). It includes a Land Use Capability Map Series (text starting on pg. 69 and subsequent map series), which includes: Land Use Capability Map, Land Use Capability Water Availability Map, Land Use Capability Public Community Water Systems Map, Land Use Capability Domestic Sewerage Facilities Map, and Land Use Capability Septic Systems Yield Map. The Council utilized the results of the Resource Assessment to identify lands within the Region with significant natural and ecological resources. The Council then used the results of the Smart Growth analysis to identify the nature and extent of developed lands that have limited and dispersed environmental resources. Areas were identified based upon existing patterns of development with particular emphasis on areas that are currently served by existing water and wastewater infrastructure. These findings were used to develop the Land Use Capability Map Series.

COMMENT: It was suggested that mapping inaccuracies be corrected.

RESPONSE: The Highlands Council recognizes that the RMP was created at a regional scale and that new, updated, or additional information at the federal, State, county, municipal, or public level may become available. The 2007 Draft RMP presents an *RMP Updates and Map Adjustments* program in Chapter VI, Part 1 (Regional Master Plan Conformance, Consistency, and Coordination), Subpart b (RMP Updates and Map Adjustments) (pg. 295).

COMMENT: It was suggested that a key map and municipal boundaries need to be superimposed onto the HUC14 water maps so that municipalities can gauge the impact on their town.

RESPONSE: The scale at which the HUC14 (hydrologic unit code) subwatershed maps are presented for display purposes in the 2006 Draft RMP renders it infeasible to show municipal boundaries. The Council has made this mapping, in digital format, available to the public, including the municipalities.

COMMENT: One comment complained that the release of the GIS data hindered the public's ability to comment.

RESPONSE: The Highlands Council did extend the public comment period until May 11, 2007, in acknowledgment of this issue.

COMMENT: One comment requested that the RMP more clearly relate the Resource Assessment to the Land Use Capability Map. The comment requested a summary of which assessed resources (Section IIIC) were included in the development of the Land Use Capability Map, and which of the indicators (listed on page 50) correspond to each resource. It was requested that there be an explanation for why some resources were not factored into the map.

RESPONSE: As discussed above, a new Land Use Capability Map Series was developed for the 2007 Draft RMP. The development of the map series is described in Chapter II, Part 6, Subpart d (Future Land Use), 1. Land Use Capability Zone Map (pg. 69).

TERMINOLOGY AND TEXT CONSISTENCY

COMMENT: A few comments noted that various terms used in the 2006 Draft RMP should be clarified. One comment suggested "pervious surface" be defined, along with "impervious surface," with a clear indication of where one ends and the other begins.

RESPONSE: The various terms used in the 2006 Draft RMP have been clarified throughout the 2007 Draft RMP. All of the terms presented in the Glossary of the 2006 Draft RMP were re-examined and re-crafted as necessary in the 2007 Draft RMP (pg. 347). With respect specifically to the term "impervious surface," that statutory definition was provided in the Highlands Act.

COMMENT: One comment called for the RMP to include a definition of "low impact development best management practices for development activities."

RESPONSE: The terms "best management practices" and "low impact development" are used in the 2007 Draft RMP and appear in the Glossary of the 2007 Draft RMP (pages 347 and 354, respectively).

COMMENT: One comment noted that in many areas of the 2006 Draft RMP, regulatory words, such as "prohibit" and "limit," are used in general discussions concerning the Protection and Conservation Zones without any indication that they are merely advisory in the Planning Area. If, in fact, they are advisory in such situations, the language should clearly reflect it throughout the RMP.

RESPONSE: The various regulatory terms used in the 2006 Draft RMP have been re-crafted and clarified throughout the 2007 Draft RMP. The comment that the use of regulatory words such as "prohibit" and "limit" are merely advisory in the Planning Area is not entirely accurate. The master plans and municipal ordinances of conforming municipalities must be consistent with the Regional Master Plan.

COMMENT: One comment noted that the 2006 Draft RMP indicates that no new or expanded infrastructure is permitted in the Conservation Zone, but the wastewater section states that the infrastructure can be expanded to the Agricultural Resource Areas in the Conservation Zone if it abuts a Planned Community Zone.

RESPONSE: The language regarding new or expanded infrastructures into the various zones and Resource

Areas has been re-crafted in the 2007 Draft RMP. Policy 2K3 (pg. 138) addresses new growth and development in the Protection and Conservation Zones. Objective 2K3d (pg. 138) addresses the Agricultural Resource Area. The latter Objective notes “Permit cluster development served by existing or expanded wastewater collection and treatment systems in an Agricultural Resource Area only where such development is within or immediately adjacent to an Existing Areas Served and adequate provision is made for the preservation of at least 80 percent of the project area in perpetuity for environmental protection or agricultural purposes and provided that the proposed development is otherwise consistent with the goals and requirements of the Plan.”

DRAFT RMP ORGANIZATIONAL COMMENTS

COMMENT: One comment requested the RMP separate policies from inventory and assessment data and be organized according to Preservation Area/Planning Area and overlay zone.

RESPONSE: The 2007 Draft RMP has a separate Analysis of the Highlands Region chapter (Chapter II), which provides the resource assessment data, and a separate Goals, Policies, and Objectives chapter (Chapter IV). While Preservation Area/Planning Area overlay zones are not depicted, the RMP does distinguish between those policies relevant to the Preservation Area, those relevant to the Planning Area, and those relevant to the full Highlands Region.

COMMENT: One comment stated that the Resource Assessment Component should be derived from and linked to the objective inventory information, identifying positive and negative conditions resulting from human intervention in the natural systems. Readers should be able to access the policy statements of the RMP readily and be able to trace the rationale for each policy to a resource protection need.

RESPONSE: In both the 2006 Draft RMP and the 2007 Draft RMP, the Resource Assessment component is derived from objective inventory information in the various Technical Reports. Chapter II in the 2007 Draft RMP presents the resource assessment. The Goals, Policies and Objectives of Chapter IV provide detailed statements of intent and standards for the Regional Master Plan. Chapter V (Programs) provides an overview of how these policies and standards will be implemented through “programs” – approaches to specific environmental and planning issues that respond to the relevant Goals, Policies, and Objectives for that topic. This report organization is intended to assist readers to readily access the policy statements and to trace the rationale for each policy to a resource protection need.

COMMENT: One comment suggested that the *Environmental and Land Use Setting* section of the RMP should provide an objective inventory of the Highlands Region.

RESPONSE: The *Environmental and Land Use Setting* section in the 2006 Draft RMP was intended to be a broad overview of the Region, with the more specific resource inventory/assessment information presented in Section III C (*Resource Assessment Component*). The broad overview *Environmental and Land Use Setting* section has been omitted in the 2007 Draft RMP. Chapter 2 (Analysis of the Highlands Region) presents a comprehensive overview of the resources of the Highlands Region.

DRAFT RMP TEXT EDITS

COMMENT: A few comments recommended specific text changes to Section II.C.8 (*Geology*), and maintained that the section is inadequate and needs to be expanded because geology is what defines the Highlands.

RESPONSE: Section II.C. (*Environmental and Land Use Setting*) in the 2006 Draft RMP was intended to be a broad overview of the Region, and the components of that section (such as Geology) were discussed at the broad overview level. Details regarding geologic features of the Region are presented in Chapter 5 (Ground Water Quality) of the Water Resources Technical Report (Volume I – Watersheds and Water Quality)

COMMENT: One comment included specific text changes to Section II.C.5 (*Vegetation*), and stated that the

section should include information on the number and diversity of natural communities in the Highlands Region, and should note the existence and number of rare, threatened, and endangered plants, Natural Heritage Sites, and imperiled communities.

RESPONSE: Section II.C. (*Environmental and Land Use Setting*) in the 2006 Draft RMP was intended to be a broad overview of the Region, and the components of that section (such as Vegetation) were discussed at the broad overview level. Details regarding natural communities in the Region and the existence and number of rare, threatened, and endangered plants, Natural Heritage Sites are discussed in the Critical Habitat section of the 2007 Draft RMP (pg. 32) and in the Ecosystem Technical Report.

DRAFT RMP DEFICIENCY COMMENTS

COMMENT: One comment called for an explanation as to why some assessed resources have no general policies, site standards, or zone standards associated with them.

RESPONSE: Chapter IV of the 2007 Draft RMP provides Goals, Policies and Objectives by zone for each assessed resource.

COMMENT: One comment noted that the Highlands Council's review of the natural resource area provisions of the 2006 Draft RMP was done as an individualized review for each resource, and did not look at the cumulative effect of its policy decisions.

RESPONSE: The Highlands Council recognizes that the natural resources of the Region, while independent systems, are also interrelated. As such, they were reviewed and are presented in an integrated ecosystem protection and management framework. Through local development review and Highlands Project Reviews, the cumulative effects of a given project will be considered and addressed.

COMMENT: Some comments suggested the RMP should focus development towards centers and recognize existing centers.

RESPONSE: The 2007 Draft RMP does focus development and redevelopment towards such areas, but also provides for limited development in other areas based on water supply and ground water quality capacity constraints.

COMMENT: One comment felt that the RMP should give priority consideration to remediation of brownfield areas.

RESPONSE: Brownfields remediation is under the jurisdiction of the NJDEP, with which the Highlands Council will work to designate brownfields-related redevelopment areas in appropriate locations. Not all brownfields should be targeted for development, such as forested areas in the Protection Zone that are underlain by ground water contamination.

COMMENT: One comment stated that the RMP needs energy conservation policies.

RESPONSE: The 2007 Draft RMP presents a Future Land Use Program. One element of that program is entitled Housing and Community Facilities, which includes a Green and Energy Efficient Facilities component (pg. 265). The Green and Energy Efficient Facilities program entails the implementation of green building and energy efficient technology.

AGRICULTURE-RELATED COMMENTS

COMMENT: One comment supported the encouragement of agricultural expansion that does not result in paving over of prime agricultural soils or the 300-foot riparian buffer. It was stated that the comment encouraged the Highlands Council to apply the 300-foot riparian buffer in the Conservation Zone.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

COMMENT: One comment advocated that farm ponds be encouraged as a conservation practice within State grant programs.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

COMMENT: One comment emphasized the need for ongoing coordination between the Highlands Council and the NJ Department of Agriculture, State Soil Conservation Committee, as well as the Natural Resources Conservation Service.

RESPONSE: Coordination with the listed agencies is addressed in the 2006 Draft RMP section Consistency and Coordination component. Additional coordination has been undertaken in preparation of the 2007 Draft RMP.

AREA-SPECIFIC COMMENTS

COMMENT: One comment stated that the 2006 Draft RMP shows Federal Hill in Bloomingdale Borough in the Protection Zone of the Planning Area. It was stated that the comment believes it should be placed in the Protection Zone of the Preservation Area because this scenic tract is a greenway continuation that contains significant natural and cultural resources.

RESPONSE: The Preservation Area was delineated directly by the Highlands Act, and the Highlands Council has no authority to modify the boundary.

COMMENT: One comment stated that according to the 2006 Draft RMP the majority of Lebanon Township is within a High Integrity Forest Area, Critical Resource Habitat Area, and Agricultural Resource Area. It was stated that there should be a better understanding of how these standards were developed and whether they excessively limit potential development.

RESPONSE: The 2007 Draft RMP has been reorganized and rewritten with the goal of making the RMP more user-friendly and understandable. The location of Lebanon Township within the Preservation Area will have a significant impact on development capacity, based on regulatory requirements mandated by the Highlands Act.

COMMENT: One comment opposed the Pinnacle Project in Wayne.

RESPONSE: Development proposals were not considered in the drafting of the 2006 Draft or 2007 Draft RMP. The Highlands Council will address any development proposals through the Highlands Project Review process, as discussed in the program by this name in Chapter VI of the 2007 Draft RMP, starting on page 314.

COMMENT: One comment stated that water quality impairment mapping for Washington Township suggests that existing development patterns have severely impaired the Township's surface water bodies, despite the Township's C-1 designations, and questioned if the map identifies "at risk" surface water courses or surface water courses with measured levels of impairment.

RESPONSE: The Water Resources Technical Report (Volume I – Watersheds and Water Quality) identifies those water bodies that have identified levels of impairment (Total Maximum Daily Loads).

COMMENT: One comment stated that Washington Township is seeking confirmation as to whether the NJDEP emergency rule densities of 1 dwelling unit/88 acres (forest) and 1 dwelling unit/25 acres (agriculture) will be adjusted in the Preservation Area once the septic densities referenced in the 2006 Draft RMP are released by the Highlands Council.

RESPONSE: The NJDEP Highlands rules for the Preservation Area will not change with adoption of the RMP. Information developed by the Highlands Council regarding septic system densities supports continuation of the NJDEP rules.

MISCELLANEOUS

COMMENT: It was stated that the 2006 Draft RMP includes an ambitious and costly agenda of tasks, studies, and educational campaigns to be conducted by the Highlands Council. Given the State's budget deficits, will the possible lack of funding for these numerous projects compromise the integrity of the RMP and/or grants distributed for public input.

RESPONSE: The Highlands Council recognizes that the State budget will have some impact on its ability to continue research and program development, and therefore is establishing priorities, conducting research in-house, and coordinating with other agencies to ensure maximum cost-effectiveness.

COMMENT: One comment opposed destroying wild areas for development purposes in the Planned Community Zone and one comment requested that the Highlands Council protect the ecosystems of the Highlands by not allowing development in environmentally sensitive areas.

RESPONSE: The 2006 Draft RMP did not, nor does the 2007 Draft RMP propose or facilitate the destruction of wild areas for development purposes in the Planned Community Zone (referred to in the 2007 Draft RMP as the Existing Community Zone). The goal of the Act and the Council is to protect sensitive environmental resources throughout the entire Region.

COMMENT: One comment stated that the "cutting edge science" used to produce policy decisions set forth in the 2006 Draft RMP should be made available for public review.

RESPONSE: The science that supports the policy decisions is documented in the various Technical Reports and Technical Addenda that accompany the 2006 Draft RMP (and now the 2007 Draft RMP).

COMMENT: One comment suggested that climate change impacts should not be one of the Highlands Council's research priorities.

RESPONSE: The Highlands Council has identified climate change impacts on the regions' water resources and ecosystems as a matter of long-term concern and will monitor scientific research on this topic as it applies to the Highlands Region.

COMMENT: Some comments stated that the RMP needs to be written in a manner that is comprehensible to the layperson.

RESPONSE: The 2007 Draft RMP was written to address concerns about readability, among other public comments.

COMMENT: One comment encouraged the Highlands Council to engage in public education and outreach.

RESPONSE: Public education and outreach is addressed throughout the 2006 Draft RMP and further in the 2007 Draft RMP.

COMMENT: One comment stated that there is no real "water problem" in the Highlands because development continues from Guttenberg to Atlantic City and is supported by Highlands water.

RESPONSE: The Highlands Region serves as a vital source of drinking water for over half of New Jersey residents. It is the goal of the Highlands Act and the Council to protect this special resource area.

WATER RESOURCE MANAGEMENT

RESOURCE INVENTORY BY WATERSHED MANAGEMENT AREA

COMMENT: Several comments felt that the RMP should include a fully developed inventory of the resources within the region. Some comments felt that the descriptions of the Highlands Region's eight Watershed

Management Areas contribute significantly to understanding the importance of the Highland Council's mission. Several comments felt that there needs to be more information provided for each Watershed Management Area. It was stated that the Draft RMP does not identify any large lakes or impoundments in either the Upper or Middle Passaic Rivers nor on the Rockaway and Whippany Rivers. It was stated that the RMP should identify vacant, privately owned, and developable land within each Watershed Management Area. A suggestion was made that there be a better explanation of HUC subwatershed units at both the HUC11 and HUC14 level. It was suggested that there be a legend on the map for Highlands Watershed Management Areas.

RESPONSE: The Water Resources Technical Report Volume I addresses Watershed Management Areas in detail. Both the 2006 Draft and 2007 Draft RMP included generalized descriptions of the Highlands Region but did not include detailed information to avoid making the RMP too large.

GENERAL WATER RESOURCE MANAGEMENT

RESTORATION AND ENHANCEMENT

COMMENT: Several comments held that the RMP needs to include additional policies to restore and enhance the quality and quantity of water resources in accordance with Section 10 of the Highlands Act and to do more to make the connections between water supply, water quality, water enhancement, and development.

RESPONSE: The policies in the 2007 Draft RMP regarding restoration and enhancement of the quality and quantity of water resources have been updated and elaborated upon in Chapter IV, Goals, Policies and Objectives. Also, more connections were made between water supply, water quality, water enhancement and development.

WATER USE AND AVAILABILITY

WATER AVAILABILITY METHODS

COMMENT: Several comments expressed concern that the "Low Flow Margin" is not an "ecologically-based" approach and until the availability methodology addresses ecological integrity, threshold percentages should not exceed 10% anywhere in the Highlands Region.

COMMENT: One comment noted that the Low Flow Margin's method of using September flows alone appears to create large deficit water supply areas that do not accurately depict true seasonal water availability in the Highlands Region. If the Low Flow Margin is to be utilized rather than conventional Average Base Flow methodology, it is recommended that monthly values be used.

COMMENT: It was stated that the GIS data and supporting data should be released to review Net Water Availability. A few comments felt the Low Flow Method is too conservative because water can be reused elsewhere, not singularly. One comment recommended that the Tennant method be used for estimation of ecological water needs until subwatershed studies have been completed. It was stated that the determination of water supply availability needs to be coordinated with the NJDEP as they are the permitting agency.

COMMENT: Several comments felt that the Highlands Council needs to continue its research into alternative methods aimed at enhancing the Highlands in-stream flow protection program.

COMMENT: Some comments called for the Draft RMP to include a comparison of all the water availability methods considered. It was stated that the RMP should outline specific measures that could be taken to ensure an improved understanding of watershed modeling. Suggestions included more "ground truthing" instead of using model results.

COMMENT: One comment noted the lack of site-specific data for determination of the Water Availability and recommended such data be used. The comment held that there is a sufficient water supply for current and future development.

COMMENT: A few comments expressed concern that there is limited capacity to support additional water

withdrawals because most of the Highlands streams currently fail to support the designated uses for aquatic life and primary contact recreation, and a significant number of the Highlands streams currently fail to support drinking water use and trout use.

RESPONSE: The 2006 Draft RMP and Water Resources Technical Reports include resource assessments for water resources, based on a significant research effort by the Highlands Council. Much of that information represents one-of-a-kind data products using innovative methods and techniques. The Low Flow Method Margin of Safety was used to determine the sustainability of the Highlands Region's ground water resources, as explained in the 2006 Draft RMP and Water Resources Technical Report. Given the regional planning focus of the Highlands Council and the availability of data, the Low Flow Method was selected as an appropriate ground water availability method. This method is also being used by the NJ Department of Environmental Protection in developing a new Statewide Water Supply Plan. The thresholds in the 2006 Draft RMP have been modified somewhat in the 2007 Draft RMP, but are more stringent than NJDEP's statewide threshold. The basis for the thresholds is explained in detail in the Water Resources Technical Report and the Technical Report Addenda. The 2007 Draft RMP includes an implementation program (Chap. VI, Part 3, Subpart a.) for water resources future research. A major focus of that research will be continued refinement, updating and research into water availability methods, including the potential for methods that more directly related to instream ecological water needs.

AGRICULTURAL ACTIVITIES

COMMENT: One comment supported the exemption of agricultural activities from water limitations when following a farm conservation plan, explaining that the Highlands Act requires the support of agricultural viability.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

COMMENT: One comment suggested that agriculture should be given the highest priority for available water when using irrigation Best Management Practices.

RESPONSE: The 2007 Draft RMP has a revised Net Water Availability analysis that includes a separate allocation reserved for agricultural diversions for subwatersheds in the Conservation Zone, to better respond to the Highlands Act goal of enhancing the viability of agriculture in the Highlands Region within environmental constraints.

NET WATER AVAILABILITY DETERMINATION

COMMENT: One comment wanted a clearer definition of ground water capacity, water availability, and constraints. It was stated that the policy statement of "or other means necessary as approved or required by the Highlands Council" is subjective.

RESPONSE: Ground water capacity is defined in the 2007 Draft RMP and further discussed in the Water Resources Technical Report, Volume II. Regarding the language referenced, the Highlands Council recognizes that in some situations more detailed information or methods will be available on a case-by-case basis that are not regionally available. Such language provides the opportunity for the Highlands Council to address such instances, and policies and procedures will be developed to identify appropriate limitations.

COMMENT: One comment noted that depletive uses are not considered for non-public water systems (i.e., ignores the impact of wells to sewer.).

COMMENT: One comment stated that the water availability analysis fails to properly consider the effect of depletive uses by development that is not served by public water systems.

COMMENT: Several comments called for the Highlands Council to explicitly state the net water availability for each particular water supply.

RESPONSE: Net Water Availability results were reported at a HUC14 subwatershed level. They will be further analyzed using a refined water use tracking model that will enable the results to be portioned to the specific utilities and municipalities. The specific allocations will be subject to the provisions of the new Goal 2K. This program is discussed further in the 2007 Draft RMP (Chap. VI, Part 3, Subpart a., Water and Wastewater Tracking).

COMMENT: One comment stated that the water balance at the HUC14 level isolates the inputs and outputs from upstream and downstream HUCs, which leads to an exaggerated determination of deficit areas. A HUC14 is too small to evaluate the cumulative effects and establish performance benchmarks for regional water policy.

RESPONSE: The 2006 Draft RMP explicitly noted that in some instances the analysis of net water availability should be addressed by aggregating HUC14 subwatersheds that are closely interconnected, or that all contribute to a single surface water supply.

COMMENT: One comment suggested that there should be an analysis breaking down how much water is produced by watershed land that is already publicly owned versus water that is supplied by privately owned watershed land.

RESPONSE: The ownership of land upstream of a water supply intake is not relevant to the allocation of that water by NJDEP.

COMMENT: One comment expressed concern that subwatersheds with existing surplus water supplies, but are identified as “future deficit areas,” creates an assumption that those areas will be significantly depleted over time with no scientific basis.

RESPONSE: Net Water Availability analysis has been revised in the 2007 Draft RMP, as explained in the Technical Report Addendum. Future Deficit Areas are no longer identified, as implementation of the RMP through Plan Conformance will result in modified water demands that may or may not make use of currently approved water allocations. The potential for future water deficits will be identified through build-out analyses, and development that would create a new deficit will not be acceptable.

ALLOCATION/PRIORITIZATION OF NET WATER AVAILABILITY

COMMENT: A few comments questioned the rationale for the 80%/20% allocation to public water utilities. No policies exist for domestic well users with regards to allocation. One comment asked what is meant by over-allocation.

COMMENT: One comment held that the Highlands Council must prioritize who is going to get water first, where, and for what purposes; and that the growth priorities of the water service area outside the Highlands must be considered, in addition to those within the Highlands Region.

RESPONSE: Prioritization of water and utility capacity has been modified in the Goals, Policies, and Objectives of the 2007 Draft RMP (Chap. IV, Goal 2K).

WATER USE

COMMENT: One comment held that there needs to be additional explanation of water uses. It was stated that the Water Supply and Use map needs explanation and the table of Water Uses by Type needs to be attributed by source. It was stated that there needs to be an explanation as to why “Hydroelectric” is the third largest use category and there is no entry for thermo-electric (evaporative cooling) uses. It was stated that the source of the projections for water demand should be cited.

COMMENT: Several comments recommended methods to improve estimates of water use and availability. A few comments questioned how ongoing efforts will track water use and availability. One comment questioned if more recent data would show that water usage is underestimated.

RESPONSE: Net Water Availability will be further analyzed using a refined water use data as it becomes available. This program is discussed further in the 2007 Draft RMP (Chap. VI, Part 3, Subpart a.).

COMMENT: One comment questioned the agricultural consumptive use as 90% of the total use annually. Traditionally, agricultural water use is seasonal and the winter months have little significant consumptive use. Additionally, the Natural Resources Conservation Service (NRCS) has recommended a consumptive use factor of 65% percent for the seasonal irrigation periods in the Water Supply Master Plan.

RESPONSE: Maximum monthly withdrawals from the year 2003 were the source of water use in the net water availability analysis, not total annual withdrawals. The 90% consumptive factor represents the maximum monthly coefficient for agriculture, whose use is typically greatest in the summer months. These values are used to be conservative in estimates of net water availability.

COMMENT: One comment stated that farm ponds should be encouraged as a way to reuse stormwater runoff.

RESPONSE: The comment is acknowledged by the Highlands Council but no response is required.

MUNICIPAL AND UTILITY ESTIMATES OF WATER CAPACITY

COMMENT: Several comments wanted water availability totals for the entire Highlands Region. Numerous comments thought that the availability calculations should translate estimates into future development potential, such as square feet or units, to address the Highlands Act's mandate for "amount and type of human development" that the Highlands Region can sustain.

COMMENT: Several comments noted that the availability estimates preclude development in most areas of the Highland Region, such as the Planning Area. Planned Community Zones have no potential for growth, as many are upstream of reservoirs or intakes, and more development will further constrain water supplies.

COMMENT: Numerous comments thought the municipal estimates of water availability need to be performed before the RMP is adopted. It was suggested that the Highlands Council perform a build out analysis and capacity analysis

COMMENT: One comment argued that the amount of available water and treatment capacity in existing systems must be translated into a development cap necessary to maintain the ecological balance sought by the Highlands Act.

COMMENT: One comment stated that the Rockaway Valley Regional Sewage Authority (RVRSA) serves ten municipalities within the Highlands Region that derive the majority of their water supply from ground water. It was stated that the RVRSA supports the Draft RMP goal to protect the ground water supply for the existing residents and to provide water for appropriate development and redevelopment in the member municipalities. However, the Draft RMP does not clearly present the current condition of the ground water resources or quantify the available supply for the municipal water supply systems.

COMMENT: One comment suggested that there be opportunity to amend the findings in the Draft RMP with more detailed investigations conducted by municipal and county planning entities.

COMMENT: One comment felt that the RMP needs to reflect more of a municipality's role in water diversion

RESPONSE: Net Water Availability and Utility Capacity results in the 2007 Draft RMP have been modified based on new policies and updated information. This information will be further updated using a refined water use tracking model and water use data as it becomes available from municipalities and utilities. Future efforts will also link water utility capacity to the net water availability of its source subwatershed. Build out analyses from the Highlands Council will incorporate this information in their models, indicating where utility capacity or net water availability constraints are the limiting factor in potential residential and non-residential development capacity.

NJDEP COORDINATION

COMMENT: One comment recommended that the Highlands Council use the values detailed in the State's

Water Supply Master Plan.

COMMENT: One comment suggested that the RMP should compare the estimates of Ground Water Availability to the published estimates in the 1996 Water Supply Plan, together with an explanation as to the differences between the two different sets of estimates and the probable reasons for those differences.

COMMENT: One comment asked how ground water availability limitations are going to be enforced.

COMMENT: One comment stated that standards should be stronger than the regulations of NJDEP wherever scientifically justifiable.

COMMENT: One comment stated that “safe yields” need to be recalculated and should include requirements for stream restoration.

COMMENT: One comment questioned how the RMP will affect regulations for drilling wells for agricultural, residential, and non-residential purposes.

RESPONSE: The Coordination and Consistency Strategies of the Water Use and Availability section discuss issues on which the Highlands Council and the NJDEP will seek program coordination. The Highlands Act requires that NJDEP decisions under the Water Supply Management Act be consistent with the RMP.

WATER SOURCES/SUPPLIES

COMMENT: A few comments requested that the RMP do more to identify new water supplies such as desalination plants and constructing a reservoir in the Delaware River as a way of increasing water supply.

COMMENT: One comment suggested that the Highlands Council consider the Tocks Island Dam Project, de-authorized several years ago, as a potential water source for the Highlands Region.

COMMENT: One comment expressed concern that the Draft RMP did not adequately address water supply.

RESPONSE: The Highlands Council has no program for the development of remote water supplies. Any development of water supplies in the state should be done in consultation with the New Jersey Statewide Water Supply Plan.

INFRASTRUCTURE/FINANCING

COMMENT: One comment suggested that the RMP identify needed water supply infrastructure improvements and financing, both inside and outside the Highlands Region.

COMMENT: One comment recommended that there be changes made to how the Environmental Infrastructure Trust finances the repair and upgrade of leaky water supply systems inside and outside the Highlands Region.

RESPONSE: The RMP will identify areas that are constrained by the lack of water availability, and water management plans will identify how deficits will be eliminated and growth, to the extent allowed by other RMP policies, will be supplied. However, the Highlands Council does not plan for supplies outside of the Highlands Council, which is a role of the NJDEP through the NJ Statewide Water Supply Plan. Municipalities that conform to the RMP will be given priority in the Environmental Infrastructure Trust program.

COMMENT: One comment stated that the current water supply system is inefficiently set up. It was stated that the Highlands Council should be planning to consolidate and interconnect these systems.

RESPONSE: Transferring water between subwatersheds is addressed in the 2007 Draft RMP’s Goals, Policies and Objectives (Objective 2B10f and Policy 2J6). Development of new water supplies in the state should be done in consultation with the New Jersey Statewide Water Supply Plan. NJDEP has an ongoing program to require interconnections of water supplies for emergency management purposes and drought emergency supplies as appropriate; the Highlands Council will consult with NJDEP in its implementation of this program within the Highlands Region.

COMMENT: One comment expressed concern that the Draft RMP does not include an analysis of the

economic impacts for New Jersey of the loss of water from the Highlands Region or of how much of the State's economy is dependent on this water.

RESPONSE: The 2007 Draft RMP recognizes the economic significance of water resources for the Highlands and the entire state.

SITE SPECIFIC CONCERNS

COMMENT: A few comments raised concerns about the impact of the Pequest Fish Hatchery on the water supply and water quality.

RESPONSE: The impacts of the Hatchery on net water availability are included in the calculations, and the impacts on water quality are being assessed by NJDEP within its TMDL program for nutrients in the Pequest River watershed.

COMMENT: A few comments noted that West Milford has conducted studies that conclude there is no available water supply for further development.

RESPONSE: The Net Water Availability determination is based on a significant research effort by the Highlands Council and applies an approach consistent with the New Jersey Water Supply Plan. The 2007 Draft RMP anticipates additional research and analysis into water resources as described in Chapters IV, V, and VI. Municipalities may use more restrictive methods or more detailed local studies as needed to manage growth, as provided for by the Highlands Act.

COMMENT: A few comments recommended that the Pequannock River should have adequate flows restored before additional growth is permitted.

RESPONSE: The Highlands Council intends to coordinate with the NJDEP as safe yields and passing flow requirements for surface water reservoir systems are reevaluated. Reservoir releases are regulated by NJDEP and do not have a direct effect on net water availability calculations, which are based on non-reservoir resources and withdrawals. Additional consumptive and depletive uses will be allowed according the Goals, Policies and Objective of the 2007 Draft RMP and the net water availability analysis.

MISCELLANEOUS

COMMENT: One comment suggested leasing water rights on private lands as a method of protecting water supplies.

RESPONSE: Under State law, the ownership of land is not related to the management and allocation of public trust resources, such as water.

COMMENT: One comment expressed concern that ground water levels are dropping and many people have had to drill new wells. Additionally, water levels in streams are lower than they had been in the past.

COMMENT: Some comments expressed concern that there are areas in the Highlands Region with very low water pressure.

RESPONSE: The Highlands Council decided to use the Low Flow Margin method and stringent thresholds in determining water availability in recognitions of these concerns. Water pressure, if referring to public utilities, is usually related to the utility system itself rather than the availability of water.

COMMENT: One comment questioned why the Site Specific Density requirements for water are a minimum of 2 dwelling units per acre, while according to Smart Growth in centers they are 3 dwelling units per acre and for Transfer of Development Rights areas, 5 dwelling units per acre. It was questioned why the density standard utilized in the Conservation Zone for onsite domestic wells is not be used in the other sections.

RESPONSE: The general policy of having a minimum density for public water is distinct from the appropriate

density of centers. Not all public water systems are created to supply centers. Regarding onsite domestic wells, the expectation is that densities will be driven primarily by septic system density calculations.

COMMENT: One comment suggested that the indicator for mapping water supply should be only if an area is located within a water service area.

RESPONSE: The Highlands Council's map of Areas Served by Highlands Water represents areas that are actually served by a public water utility, not simply franchise areas.

AVAILABILITY THRESHOLDS

COMMENT: One comment felt that the ground water available thresholds were too aggressive.

COMMENT: One comment suggested that a carrying capacity study be performed to justify higher thresholds, such as in Specially Planned Areas or Planned Community Zones. A few comments stated that the thresholds were not clearly presented in the technical reports and questioned the rationale for the values (5, 10, and 20%). Other comments stated that the thresholds do not express the relationship between low base flows and aquatic integrity.

RESPONSE: The rationale for the ground water availability thresholds are discussed in detail in the Water Resources Technical Report, Vol. II. The thresholds are applied recognizing that significant ground water supplies must be reserved to maintain stream flows for aquatic ecology. The EcoFlow Goal study was utilized for certain thresholds. The Conservation Zone thresholds have been modified in the 2007 Draft RMP as described in Goals, Policies and Objectives. In the 2007 Draft RMP, one significant change is that the threshold of the dominant LUCM Zone is applied to the entire HUC14 subwatershed, whereas the 2006 Draft RMP used an area weighted approach. In the new method, the existence of a small Existing Community Zone in a subwatershed that is otherwise Protection Zone does not increase the 5% LFM threshold.

NET WATER AVAILABILITY DEFICITS

COMMENT: One comment suggested that the goal of encouraging redevelopment in existing developed areas is negated by the 5% threshold in Existing Constrained Areas and Current Deficit Areas.

COMMENT: Numerous comments questioned the guidelines for mitigation of Current Deficit Areas, Existing Constrained Areas, and Future Deficit Areas. A few comments asked if the Highlands Council will issue guidance or Best Management Practices for mitigation of deficits. One comment questioned whether assistance will be given to municipalities in demonstrating management of Net Water Availability. One comment felt that it was misleading to show areas with Net Water Availability in basins that are also shown to be depletive or constrained.

COMMENT: A few comments felt that the prevalence of water deficits should require numerous measures such as identifying new water supplies, repairing leaking infrastructure, and utilizing existing non-drinking water reservoirs. If additional supplies are needed, then additional infrastructure (reservoirs, water distribution systems) should be built. Caps should be placed on water for utilities outside the Highlands Region.

RESPONSE: The 2007 Draft RMP has issued a Technical Report Addendum that discusses how water availability deficits will be addressed. The threshold for Existing Constrained Areas has been modified to avoid creating new Water Deficits Areas due to downstream overuse, but to ensure that new growth in the upstream subwatershed does not greatly affect the downstream area. Language regarding the necessity for water management plans to address Current Deficit Areas has been strengthened in Chapter IV, Goals, Policies and Objectives.

RECHARGE/DEFICIT MITIGATION

COMMENT: One comment suggested that recharge and availability should be linked.

RESPONSE: The 2006 Draft RMP acknowledges that ground water recharge and ground water availability are inextricably linked. NJDEP has seen good correlation between GSR-32 estimates of recharge compared to those estimates of baseflow that utilize hydrograph separation, such as the Posten method.

COMMENT: A few comments questioned the rationale for the 125% recharge requirement including how this will be implemented when a water utility encompasses several municipalities.

COMMENT: One comment questioned how the Highlands Council will retroactively control existing water uses within water deficit areas. The comment suggested that the RMP should include specific recommendations on how consumptive use coefficients could be improved and what conservation methods/practices will help mitigate water deficits.

RESPONSE: The 125% recharge requirement for development in prime ground water recharge areas is based on a desire to ensure that recharge is truly mitigated even if maintenance is not fully effective. This safety factor is necessary due to the importance of prime recharge areas. The 2007 Draft RMP has a water conservation program in Chapter V that discusses the issue of water conservation, and more detailed information is provided in the Technical Report Addendum. Using water conserving devices that would warrant an adjustment of consumptive use coefficients.

COMMENT: One comment questioned how stormwater reuse for non-agricultural irrigation will be encouraged at the site level and whether the depletive use of stormwater in a recharge area for a potable water supply is appropriate.

COMMENT: One comment supported coordination of wastewater management plan review with Net Water Availability. Several comments supported a conservative approach to calculating water quantity and for requiring mitigating measures for water deficits.

RESPONSE: The Highlands Council does examine net water availability in its review of wastewater management plans. The Technical Report Addendum discusses how the recharge will requirements will be implemented.

COMMENT: It was stated that the map showing Areas Served by Highlands Water does not accurately reflect the reliance on Highlands water.

COMMENT: Several comments felt that there needs to be a full accounting of areas served by Highlands water including both within and outside of New Jersey.

RESPONSE: The map in the 2006 Draft RMP represents the best understanding of those areas served by Highlands water supplies. This map has been revised in the 2007 Draft RMP for clarity regarding supplies to areas outside the Region.

WATER MANAGEMENT PLANS

COMMENT: Numerous comments wanted the standards and policies to be specified.

COMMENT: One comment suggested that water should only be made available when firm capacity has been established. Several comments questioned who would be responsible for developments of Water Management Plans and noted concerns about the burden placed on municipalities.

RESPONSE: The NJDEP assigns and approves water community systems firm capacity. Highlands Council has issued a Technical Report Addendum that discusses the how Water Management Plans will be implemented. The water availability deficits will be addressed through water management plans prepared during municipal Plan Conformance, which will be supported by grants by the Highlands Council.

COMMENT: One comment suggested that water utilities submit Water Management Plans just like sewer utilities do.

RESPONSE: The Highlands Council has issued a Technical Report Addendum that discusses the how Water Management Plans will be implemented. Municipalities may coordinate with water utilities where appropriate to

address water availability deficits through water management plans, which must address the deficit HUC14 subwatershed but may address multiple HUC14s.

WATER CONSERVATION

COMMENT: Several comments discussed the need for water conservation measures. One comment suggested that the RMP not encourage recycling and re-use of water because it can cause more water quality impairments and will promote growth in inappropriate places. One comment recommended the development of a Regional Water Supply Plan. Other comments suggested that a Regional Conservation Plan be developed. It was stated that the RMP should have opportunities for non-opt-in municipalities to participate. Regional efforts to conserve and protect water should be coordinated with the Statewide Water Supply Plan.

COMMENT: Some comments offered suggestions for ways to address water usage. Some examples of water use restrictions included placing a permanent ban on swimming pools, both public and private; placing a permanent ban on lawn watering both public and private; placing an excess tax on water usage for high users; requiring replacement of all wet sprinkler systems in buildings with chemical agent fire suppression systems; promoting the use of desalination plants along the Jersey Shore to supplement the water coming from the Highlands Region; placing restrictions on development or rehabilitation of any new or existing housing or businesses throughout the State in an effort to reduce consumption.

COMMENT: Numerous comments highlighted the importance of water conservation for the State and its future economic viability. It was suggested that golf courses be required to use recycled water.

COMMENT: Numerous comments highlighted the need to conserve water outside the Highlands Region. It was stated that these comments expressed concern that the RMP needs to include water conservation measures that should be implemented within all areas served by Highlands water.

RESPONSE: The Highlands Council has no authority to manage water resources outside the Highlands Region, but will coordinate with NJDEP to determine how the Highlands Region's needs and those of outside areas will affect the potential for supply development within the Region. The Council supports the statewide need for water conservation as described in the NJ Statewide Water Supply Plan. The Highlands Council RMP now has programs in its 2007 Draft RMP, Chapter V, which address water conservation.

COMMENT: A few comments recommended that a permanent water conservation program be set up to address or mitigate for current or future water deficits.

COMMENT: One comment noted that requiring water conservation measures in building codes is beyond the Highlands Council's authority.

COMMENT: One comment recommended that water conservation measures should be encouraged not required.

RESPONSE: Municipalities can incorporate water conserving devices by changes to their local ordinances. These ordinances will be required by water management plans to address water deficits.

COMMENT: One comment stated that the Draft RMP contains no incentives for consumers to conserve water.

COMMENT: One comment suggested that user fees be implemented to discourage the wasteful use of water.

RESPONSE: The Highlands Council encourages municipalities to conserve water everywhere. Water conservation measures will be included in Water Management Plans as a means to mitigate current deficits. Reducing the amount of additional consumptive and depletive uses through conservation practices will provide an incentive for municipalities seeking those additional uses. In addition, the Highlands Council has supported restructuring water rates to encourage water conservation and compensation for Highlands landowners.

COMMENT: A few comments expressed concern with the requirement to implement conservation Best Management Practices and measures. One comment held that imposing water conservation appliances and measures during renovations would place a financial burden on individual homeowners.

COMMENT: Several comments felt that putting restrictions on land use to protect the supply without putting restriction on the use of water is unfair. It was stated that the RMP needs to include specific initiatives that can be implemented state-wide to reduce the consumption and use of water.

COMMENT: One comment asked how water reuse and recycling programs would be implemented, whether they would require NJDEP approval, and what would be the original source of the recycled water.

RESPONSE: Implementation of water conservation measures are discussed in the Technical Report Addendum. In addition, the 2007 Draft RMP has a new program (Chapter V) and implementation standards (Chapter IV) addressing this issue.

WATER ALLOCATIONS

COMMENT: A few comments suggested that water allocations be restricted so they do not exceed water availability.

COMMENT: One comment suggested that all unregulated, undocumented ground water withdrawals be regulated.

COMMENT: One comment requested policies in the RMP for special situations to permit water-consumptive uses, such as the golf course and other regional recreation facilities, in the Preservation Area.

RESPONSE: Non-agriculture irrigation is a highly consumptive water use. Using conservation techniques such as stormwater reuse are well-suited for irrigation. Any additional consumptive uses must satisfy the requirements of the Net Water Availability analysis. Where net water is available, the prioritization of it allocation is described in the Goals, Policies, and Objectives of the RMP. The Highlands Act requires that NJDEP decisions under the Water Supply Management Act be consistent with the RMP, which provides a mechanism for interagency coordination on this issue.

COMMENT: One comment mentioned that there is no map to show where water infrastructure is located and its supply source. The comment questioned how community development areas could be defined without this information.

COMMENT: One comment questioned why water supply intakes are not mapped.

RESPONSE: Although no specific map was published for these items the Highlands Council does have geographic information regarding existing areas served and relevant supply sources, which was used in various analyses.

GROUND WATER RECHARGE

RECHARGE REQUIREMENTS/MITIGATION

COMMENT: Numerous comments discussed the policy statements in the Draft RMP. A few questioned rationale for the 125% recharge requirement. A few comments also stated that design standards are lacking to describe how to satisfy the 125% recharge requirement and should be developed. Another comment suggested that the recharge modeling needs more definite criteria (e.g., desired recharge volumes should be specified) for determinations. One comment felt the 40% drought rainfall value was too conservative.

RESPONSE: The 2007 Draft RMP was accompanied by a Technical Report Addendum that discusses the rationale for the 125% recharge requirement, and how recharge requirements will be implemented. Prime ground water recharge areas are identified as the areas of highest recharge that in aggregate provide 40% of drought period recharge.

COMMENT: Some comments suggested that the Draft RMP recharge standards should incorporate more flexible language. It was suggested that words like “restrict” or “prohibit” should be replaced with words that allow the

Highlands Council to encourage innovation in site plans and grant relief from strict standards.

RESPONSE: The standards for prime ground water recharge areas have been modified in the 2007 Draft RMP in Chapter IV to clarify their intent. In some cases, such as for the Protection Zone, the standards are more stringent than in the 2006 Draft RMP.

COMMENT: One comment stated that recharge requirements should deal with areas served by a public utility and not a project-by-project requirement.

RESPONSE: Many small projects have the potential to reduce on-site recharge, and the cumulative effect of many can significantly reduce subwatershed recharge, which will affect stream base flow regardless of public utility water uses. Consequently, it is important that all projects mitigate reduction of on-site recharge.

COMMENT: A few comments questioned how a determination will be made regarding which land uses will impair recharge volumes or water quality.

RESPONSE: This will be determined individually on the basis of existing site conditions and proposed land use/land cover changes using technically acceptable methods (e.g. GSR-32).

COMMENT: One comment expressed concern that municipalities and counties would incur significant cost and effort to align their master plans with the RMP. Adopting the RMP's standards by reference should be permitted.

RESPONSE: The 2006 Draft and 2007 Draft RMP and the Draft Plan Conformance Technical Guidelines (February 2007) both anticipate that initial conformance will rely in part on adoption of RMP standards by reference.

COMMENT: One comment asked who will prepare regional stormwater plans. If these plans are to be approved by the Highlands Council, then guidance and standards should be provided and a funding source should be identified.

RESPONSE: Regional stormwater plans are approved by NJDEP according to standards in N.J.A.C. 7:8, which define the entities eligible to develop such plans. Policies 2E1 and 2E2 in the 2007 Draft RMP address this issue further.

COMMENT: One comment suggested that economic, social, and other factors should be considered when determining which lands are designated as prime recharge areas.

RESPONSE: The delineation of prime ground water recharge areas is a scientifically-based methodology using climatic, soil, and land use/land cover conditions, not economic or other planning considerations. The policies of the RMP address the planning considerations of these resources.

COMMENT: One comment suggested that large contiguous tracts would be more appropriate for recharge, rather than a requisite amount of land within a HUC14 boundary.

RESPONSE: Recharge within each individual HUC14 will be maintained to ensure sufficient stream base flow, and is independent of land area or contiguous tracts. There is no requirement with respect to the size of the land used for recharge. It is important that any potential loss of ground water recharge within the HUC14 be mitigated within it to protect its resources. On-site mitigation may not be appropriate (e.g. contaminated site) or feasible (e.g. geology), depending upon site conditions. However, mitigation would then be performed off-site but within the HUC14.

COMMENT: Some comments suggested that agricultural activities should be permitted in prime recharge areas and that only the New Jersey Department of Agriculture should regulate agricultural development, which should be exempted from the 125% requirements. Some comments wanted recognition that the prohibited activities within prime recharge areas should not include agriculture.

RESPONSE: The Highlands Act provides special and specific regulatory standards for agriculture, where an increase of 3% and 9% impervious surface, beyond pre-Act levels, triggers the requirement for a farm conservation plan or resource management systems plan, respectively. The RMP policies for prime recharge areas will be implemented within the limits on regulation imposed by the Act.

COMMENT: A few comments held that the Draft RMP policies with regard to recharge should differentiate between “aquifer” and “non-aquifer” recharge and their respective volumes.

RESPONSE: Recharge is important to both aquifers and non-aquifer ground water, as the latter also contributes to stream base flow. Prime recharge areas were identified with the GSR-32 method, a soil-water budget approach developed by the NJ Geological Survey for estimating the quantity of water that infiltrates below the root zone. The method does not differentiate between recharge to aquifers and non-aquifers, as doing so would require extensive data collection at the local scale which is cost prohibitive. Large recharge volumes indicative of prime recharge areas occur in areas where soil and land use/land cover conditions are favorable. Large recharge volumes in these areas are in most if not all cases accommodated by high aquifer recharge.

COMMENT: One comment suggested that the Highlands Council develop an inventory of prime recharge areas.

RESPONSE: The RMP does delineate the areas of prime recharge areas, as well as areas with lower recharge, segregated into quintile classification.

COMMENT: One comment suggested the Highlands Council needs to provide specific data regarding ground water recharge.

RESPONSE: The Highlands Council has made its GIS information on ground water recharge available to the public. If additional data are needed, the commenter should contact the Highlands Council.

SMART GROWTH/REDEVELOPMENT

COMMENT: One comment questioned the designation of Mountain Creek as an “urban use” when the Vernon Town Center is designed to have substantial recharge.

RESPONSE: Even urban areas designed with some recharge capability are not usually considered Prime Ground Water Recharge Areas. Prime recharge areas are based on natural recharge capacity, not on infrastructure.

COMMENT: One comment criticized the identification of prime recharge areas within Centers designated by the State Planning Commission.

RESPONSE: Prime recharge areas are determined on the basis of soil conditions and land cover, and are entirely independent of political boundaries or designations.

COMMENT: One comment stated that the recharge requirement and the redevelopment goals of the Draft RMP are incompatible. Another comment stated that the clustering requirements are in conflict with the recharge rates and build out requirements.

RESPONSE: Redevelopment of existing impervious areas has benefits for maintenance of ground water because it typically adds less impervious areas than development of greenfield sites. Adding recharge requirements in accordance with the Stormwater Rules is not incompatible with redevelopment.

MISCELLANEOUS

COMMENT: One comment noted the recharge requirements may interfere with the proposed location of Chester Borough’s new sewage treatment plant.

RESPONSE: The specific impact of recharge requirements on a sanitary discharge are site-specific issues that would be addressed by the RMP through the Highlands Project Review process.

COMMENT: One comment questioned the recharge requirement in areas of karst topography.

RESPONSE: Alteration of land surface conditions may significantly reduce ground water recharge rates, even in karst areas, which can have long-termed effects on water availability and ecosystem sustainability. Therefore, the

nature of the hydrogeology does not preclude the need to preserve natural recharge rates. However, artificial recharge techniques in areas of karst topography must be designed to avoid water quality and karst development problems.

COMMENT: One comment stated that Highlands Council should look into the appropriateness of Geological Survey Report - 39 for determining recharge in the Highlands.

RESPONSE: The GSR-39 is a water quality report for groundwater quality in the bedrock aquifers of the Highlands that quantifies major ion and trace element concentrations in different formations. There is no method or discussion put forth for calculating recharge in GSR-39. If the commenter was referring to GSR-32, this is the only method currently available for differentiating relative recharge potential among lands within a watershed. It was used to determine prime recharge areas, not to determine actual recharge contributions

COMMENT: One comment stated the United States Forest Service Study of the Highlands Region used ground water data that are not representative of the Highlands Region.

RESPONSE: The Highlands Council did not prepare the United States Forest Service Highlands Study, but acknowledges the comment.

COMMENT: One comment raised concern that there are no regional studies on fractured rock aquifers in the northern Highlands that properly map and analyze them in terms of recharge.

RESPONSE: Ground water recharge was estimated with GSR-32 method, a soil-water budget approach developed by the New Jersey Geological Survey for estimating the quantity of water that infiltrates below the root zone. There are some regional numerical ground water flow models that have been developed that include estimates of recharge in fractured rock aquifers. However, these models have an inherent degree of inaccuracy, particularly in fractured rock settings, and in order to be consistent, GSR-32 was used throughout the Highlands Region for estimating recharge, regardless of aquifer type.

SURFACE AND GROUND WATER QUALITY

DATA DEFICIENCIES

COMMENT: Several comments indicated that data utilized in mapping and as a technical basis for the 2006 Draft RMP are deficient or flawed. Comments included questions about why impaired water bodies were primarily mapped in rural watersheds, as opposed to developed watersheds. Comments questioned if the impaired water bodies map suggests that all streams within an impaired HUC14 are actually impaired. Similarly, comments questioned if the impaired water bodies map accurately depicts watersheds listed as impaired on the 303d list. One comment suggested that the impaired water bodies map distinguish water bodies' impairment sources. Comments also questioned the standards used to identify impairments and expressed concerns about use of limited Ambient Biological Monitoring Network (AMNET) data. A few comments expressed concerns about the use of limited ground water data and modeling rather than utilization of real data. Some comments questioned water quality data within the Pequannock River watershed and why supporting technical information provided by the Pequannock River Watershed Association wasn't utilized.

RESPONSE: The Highlands Council obtained surface water quality assessments from NJDEP and the map depicts HUC14 subwatersheds with impairments; based on this information more subwatersheds in rural areas are impaired. Data may be available from additional sources but not incorporated into the assessments available to the Highlands Council at the time when the technical reports were being development. Not necessarily all streams/stream segments in the HUC 14 are impaired but NJDEP describes an entire HUC14 subwatershed as being impaired if monitoring data indicate any impaired water body. The map accurately depicts subwatersheds listed as impaired on the 303(d) list. A map can depict point sources in the watershed, but it is hard to map nonpoint sources of pollution. Also, the source of impairment generally comes from many sources and sometimes the source is unknown. The standards used

to identify impairments are based on the DEP “2006 Integrated Report,” which uses AMNET for only aquatic life support assessment. Use of the ground water quality data allows the Highlands Council to make comparisons and track changes in water quality. Modeling extrapolates the limited data to help make decisions. Real time data do not provide trends and water quality can fluctuate within a short amount of time.

COMMENT: Some comments suggested that the Highlands Council utilize the most current research for land use impacts on water quality and quantity.

RESPONSE: The Highlands Council has been using the most current research data.

COMMENT: Some comments included requests for further discussion of the use of habitat quality as a watershed indicator.

RESPONSE: The use of critical habitat as an indicator of watershed quality is discussed in detail in the Ecosystem Technical Report.

COMMENT: One comment was concerned that the use of rare, endangered, and threatened species habitat in watershed classification can create a situation where almost all watersheds are considered High Resource Value.

RESPONSE: Critical habitat was used as one of five indicators of subwatershed quality. The Ecosystem Technical Report provides technical detail regarding the utilization of indicators in subwatershed resource value class. High Resource Value subwatersheds are classified for approximately 68% of the Highlands Region.

WATER QUALITY PROTECTION STANDARDS

COMMENT: Numerous comments suggested amending the definition of “major development” and amending policies for major development.

RESPONSE: The Highland Councils’ definition of “major development” is taken directly from the Highlands Act as it applies to development that requires approval from NJDEP.

COMMENT: A few comments requested identification of the impacts by Pequest Trout Hatchery discharges to the Pequest River.

RESPONSE: The NJDEP Division of Fish and Wildlife operates the Pequest Trout Hatchery, which relies on ground water withdrawals and subsequent discharge into the Pequest River. To the extent that the discharge affects the water quality for the river, it would be addressed through any TMDL for relevant pollutants developed by NJDEP.

COMMENT: Some comments suggested that prohibiting land uses that result in increased pollutant loads to Total Maximum Daily Load (TMDL)-assigned waters was overreaching the authority of the Highlands Act.

RESPONSE: One of the goals of the Highlands Act is to protect, restore, and enhance water quality in the Highlands Region. Therefore, a stream segment that has a TMDL is in need of restoration. Ensuring that the water quality problem does not worsen due to new land uses is a legitimate issue of concern for the RMP.

COMMENT: A few comments expressed concern about the 2006 Draft RMP’s failure to include an evaluation of appropriate land uses in the Highlands Region. Other comments provided suggestions for specific standards (e.g., nitrate regulation, remediation of polluted waters, regulated temperature, prohibit development, prohibit farming, prohibit septic, impervious surfaces limitations, salt use on roads). A few comments suggested that standards be stronger than the regulations of NJDEP wherever scientifically justifiable. One comment suggested that water quality protection needs to entail more than compliance with Total Maximum Daily Loads (TMDL). A few comments questioned standards for water bodies for which a TMDL is needed, but not yet assigned.

RESPONSE: Appropriate land uses in the Highlands Region are already addressed in the 2006 Draft RMP and more extensively in the 2007 Draft RMP through such means as the Land Use Capability Map Series and through site-

specific requirements such as redevelopment, stream buffers, steep slopes, etc. Specific standards are addressed throughout the document. Some standards are stronger than the regulations of NJDEP wherever scientifically justifiable, such as septic system density within the Planning Area. Water quality protection includes the standards in the 2006 Integrated Report, which includes more standards than TMDLs such as designated uses. The same standards apply if a TMDL is needed but not yet assigned.

COMMENT: One comment stated that New Jersey's watersheds are overdeveloped.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

COMMENT: One comment suggested that surface water quality be protective of potable ground water.

RESPONSE: Surface Water Quality Standards (SWQS) of NJDEP are protective of drinking water supply designated use, which refers to water that is safe to ingest after conventional filtration treatment (i.e. filtration, flocculation, coagulation, and sedimentation) and disinfection. To the extent that surface water quality standards protect potable surface water supplies, they also protect potable ground water supplies.

COMMENT: One comment questioned what qualifies as clean stormwater.

RESPONSE: Stormwater is considered clean if it does not come into contact with surfaces that would introduce pollutants or stormwater that has been treated to meet water quality standards. Generally speaking, stormwater from naturally vegetated surfaces and most rooftops would be considered clean stormwater.

COMMENT: A few comments expressed concern that Total Maximum Daily Load (TMDL) policies will negatively affect farm activities. A few comments expressed opposition to protection standards in the Planning Area that limit agricultural development. A few comments requested that only the Natural Resources Conservation Service (NRCS) and the United States Department of Agriculture (USDA) be consulted to provide water quality protection Best Management Practices (BMPs) for agricultural lands.

RESPONSE: The Highlands Council will consult the NRCS and USDA for assistance in the development of water quality BMPs for agricultural lands. TMDL policies are used to achieve compliance with surface water quality standards and may affect farm activities, but there are programs that can help farmers implement BMPs or other non-point source (NPS) control measures.

COMMENT: A few comments expressed concern about interstate water use and contamination.

RESPONSE: New York and Pennsylvania must achieve compliance with New Jersey's SWQS at the border. New York and Pennsylvania are responsible to determine the exact load reduction needed to attain water quality standards at the border and for allocating that load between point and nonpoint sources. Water use of interstate waters is addressed in the Delaware River Basin by management under court decree and the Delaware River Basin Commission and in other waters by direct interaction between the states.

COMMENT: One comment suggested that water quality effects due to wastewater treatment financing be considered.

RESPONSE: The Highlands Council will consider water quality effects due to wastewater treatment financing.

COMMENT: A few comments suggested that the RMP include enhancement requirements in protection standards.

RESPONSE: The Highlands Council has included enhancement objectives in its Goals, Policies and Objectives (Chapter IV).

COMMENT: One comment expressed concern that the plan does not recognize the relationship between water withdrawal and water quality.

RESPONSE: The water availability methods (low flow margin and 7Q10) use stream parameters that are considered protective of water quality.

COMMENT: A few comments expressed concerns about the 2006 Draft RMP's lack of implementation strategies.
RESPONSE: The 2007 Draft RMP developed and elaborated upon implementation strategies in Chapter IV (Goals, Policies and Objectives) and V (Programs).

COMMENT: One comment had several questions regarding various aspects of the water quality component including watershed assessments; NJDEP's Impaired Water bodies; exceedance of iron standards; radon gas; ground water contamination; Total Maximum Daily Loads; the adequacy of current monitoring; and distinctions between NJDEP's statewide standards.

RESPONSE: Watershed assessments, NJDEP's Impaired Waterbodies, TMDLs, monitoring, ground water contamination, and statewide standards are performed and assessed by NJDEP.

COMMENT: One comment suggested a more protective "Conservation Zone 1" related to "Environmentally Sensitive Agriculture." Criteria and policies could be created for Conservation Zone 1 regarding modified agricultural wetlands, protection of hydric soils, protection of alluvial and floodplain soils, protection of soils with high seasonal water tables, protection of soils with shallow depth to bedrock, protection of highly erodible soils, and protection of karst.

RESPONSE: The 2007 Draft RMP includes a new sub-zone, the Conservation Zone-Environmentally Constrained Sub-zone, that recognizes the environmentally sensitive nature of resources in parts of the Conservation Zone, some of which (e.g., grassland bird habitat for threatened and endangered species) are directly related to the existence of agriculture. The Highlands Council is coordinating efforts with the USDA Natural Resource Conservation Service and New Jersey Department of Agriculture to promote Highlands Open Water and Riparian Areas protection requirements and standards for existing and new agricultural uses to the maximum extent practical. The Highlands Council has included a technical report addendum about karst topography.

COMMENT: A few comments suggested there be explicit language that the RMP in no way alters or modifies the legal requirements that may be applicable under other statutes.

RESPONSE: The Highlands Council has no authority to alter the legal requirements that may be applicable under other statutes. The language in the RMP reflects this.

COMMENT: One comment expressed concern that existing regulations on new development fail to address pollution from existing roadways and stormwater outfalls.

RESPONSE: The NJDEP stormwater regulations and rules in N.J.A.C. 7:14A includes requirements regarding the management of stormwater runoff from existing highways and roadways. TMDLs (N.J.A.C. 7:15) and regional stormwater management plans (N.J.A.C. 7:8) may also be approved by NJDEP that require additional management of such stormwater.

COMMENT: One comment expressed concern that water quality in agricultural areas will not improve if cluster development is allowed.

RESPONSE: The 2007 Draft RMP includes language in Chapter IV (Goals, Policies and Objectives) that addresses the need to improve agricultural practices on the undeveloped land associated with cluster development, while allowing for continuation of agriculture through the use of clustering.

CONTAMINATED SITES

COMMENT: A few comments requested the mapping of specific locations of contaminated sites and that the RMP include a list of sites and remediation standards in the water quality section.

RESPONSE: The Highlands Council included information from NJDEP regarding contaminated sites in the technical report on water quality. This is the most current information available to the Council.

MANAGEMENT PLANS

COMMENT: A few comments requested the creation of a Regional Stormwater Management Plan to serve as guidance during Conformance that includes mitigation planning guidance. Comments requested the creation of a State Stormwater Management Plan for State transportation corridors.

RESPONSE: The 2007 Draft RMP includes language in Chapter IV (Goals, Policies and Objectives) calling for the development of Regional Stormwater Management Plans where appropriate to address existing stormwater conditions, which would include transportation corridors.

RESTORATION STANDARDS

COMMENT: A few comments requested that the Highlands Council map potential regional restoration and mitigation sites.

RESPONSE: The Highlands Council included information from NJDEP regarding contaminated sites in the technical report on water quality. This is the most current information available to the Council. It is not feasible to determine which sites are most appropriate for restoration at the regional scale, but the Highlands Council and NJDEP will coordinate efforts for the designation of brownfield redevelopment areas. The Council will also encourage the restoration of contaminated sites over time through coordination with NJDEP.

COMMENT: A few comments asked what standards the RMP will include for restoration.

RESPONSE: Water quality restoration standards for the Highlands Region initially will be those of NJDEP, which has established such standards under separate statutory authority. Where the Highlands Council determines that alternate standards are appropriate for the Highlands Region or some portion thereof, it will propose a future amendment to the RMP.

COMMENT: One comment requested a timeline to address and improve water quality.

RESPONSE: The Highlands Council acknowledges this comment but cannot provide a timeline to address and improve water quality. NJDEP has approved a number of TMDLs in the Highlands Region that will initiate improvement efforts, and the Highlands Council will work in coordination with NJDEP and the NJ Department of Agriculture to initiate further efforts in the region.

COMMENT: One comment requested the RMP include an approach for restoration of impaired waters and riparian areas.

RESPONSE: The 2007 Draft RMP includes a commitment that the Highlands Council will develop a handbook for restoration of impaired waters and riparian areas.

COMMENT: Some comments included support for a partnership of agencies to repair existing damage to Highlands resources.

COMMENT: One comment felt that the Highlands Council should develop and finance a “Highlands Resource Restoration Program” that supports implementation of local and regional water and habitat restoration and mitigation initiatives.

RESPONSE: The 2007 Draft RMP includes extensive coordination approaches for working with State and federal agencies to repair existing damage to Highlands resources.

MONITORING PROGRAM

COMMENT: A few comments held that NJDEP should perform all monitoring, and monitoring should not be performed to either support or undermine a regulatory impairment status.

COMMENT: Some comments emphasized the need for the RMP to establish a monitoring program designed to collect data for the Highlands Region's HUC14s and to allow for future modifications to policies based on information derived from monitoring of the Highlands Region's surface waters.

COMMENT: Some comments expressed concern that there are not enough flow gauging stations in headwaters to develop a complete picture of flows in the region and some of the existing gauging stations are in the wrong locations (below dams) and obsolete.

RESPONSE: The 2007 Draft RMP calls for the development of a Highlands Region monitoring strategy in coordination with NJDEP and other agencies, to identify areas of monitoring needs that will aid in understanding the status and trends for water quality and flows in the region. Monitoring is already conducted as a coordinated effort of Federal, State and local agencies, coordinated by NJDEP, and the Highlands Council will participate in this effort. Monitoring that will be conducted will supplement monitoring that has already been performed to fill in data gaps and track trends in water quality.

LAKE COMMUNITIES

COMMENT: A few comments included suggestions for policies such as septic management, re-establishing vegetated buffers on lake fronts, encouraging floor area ratio ordinances that limit sizes of buildings, and promoting use of phosphorous-free fertilizers.

COMMENT: Some comments expressed concern about Planned Community Zones around lakes, and requested for creation of a Lake Community Zone with accompanying standards.

RESPONSE: The 2007 Draft RMP includes extensive policies and objectives for the management of new and existing land uses in Lake Community Areas, including Lake Community Sub-zones of the Existing Community Zone.

PLANNED COMMUNITY ZONES

COMMENT: A few comments expressed concern that growth within Planned Community Zones would threaten water quality and suggested no Planned Community Zone or Specially Planned Area be permitted within the Preservation Area or mapped over sensitive areas.

COMMENT: Some comments expressed concern that the Planned Community Zones includes areas in the Highlands Region that have already been overdeveloped and have the most serious pollution problems and water supply deficits.

RESPONSE: The term "Planned Community Zone" from the 2006 Draft RMP is no longer used in the 2007 Draft RMP. In the 2007 Draft RMP, Existing Community Zones, especially in the Preservation Area, predominantly reflect the existing nature of center-based and concentrated development. Limited allowance for new development will be allowed in the Planning Area, and redevelopment of developed areas is possible in both the Planning and Preservation Areas. Water quality in Existing Community Zones may already be damaged, and protective measures are taken to assure water quality is not further threatened by development. Sensitive areas with Existing Community Zones are protected through a variety of policies and objectives in Chapter IV of the 2007 Draft RMP.

COMMENT: Several comments expressed concern that the Draft RMP does not address secondary and cumulative impacts within growth areas.

RESPONSE: The 2007 Draft RMP clarifies provisions related to the secondary and cumulative impacts of growth through the use of capacity constraints, such as for water availability and septic system capacity, and other measures.

KARST

COMMENT: A few comments expressed concern regarding the need for the Highlands Council to include karst limestone within the Water Resources section of the Draft RMP, including model limestone and/or carbonate rock

ordinances. One comment was specifically concerned with the potential for sinkhole formation.

RESPONSE: The Highlands Council has added a set of goals, policies and objectives regarding karst topography to the 2007 Draft RMP, which includes carbonate rock ordinances. The technical basis is addressed in the Technical Report Addendum.

MISCELLANEOUS

COMMENT: One comment addressed the need for the Highlands Council to investigate water quality impacts resulting from wildlife droppings.

RESPONSE: Water quality impacts from wildlife droppings have been extensively investigated. They contain fecal coliform bacteria and nutrients that can contaminate water through overland flow. Droppings, especially from Canada geese, are a source of impairment in many watersheds. NJDEP incorporates monitoring within TMDL development to help determine the extent to which identified impairments are caused by wildlife instead of anthropogenic sources.

COMMENT: One comment questioned what determined the quality of a water source.

RESPONSE: The quality of water is determined by a comparison of monitored water quality to the relevant water quality standards established by NJDEP, which shows if the water quality required by designated uses is met.

COMMENT: One comment requested that the Highlands Council work with United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), and New Jersey Department of Agriculture (NJDA) to acquire funding for implementation of Best Management Practices (BMPs) on agricultural lands.

RESPONSE: The Highlands Council will work with USDA-NRCS, and NJDA to acquire funding for implementation of BMPs on agricultural lands. In addition, the Highlands Council in 2007 designated \$450,000 to fund the implementation of certain BMPs and develop agricultural sustainability programs for the Highlands Region.

COMMENT: One comment requested that the Highlands Council include a requirement that the State provide funding for the improvement of Sparta Lake in order to protect and maintain the ecosystem and water quality within the Highlands Region.

RESPONSE: The 2007 Draft RMP focuses on programmatic and coordination methods to improve water quality and ecosystems through the Highlands Region, rather than recommending funding for specific water quality improvement projects.

COMMENT: Several comments suggested that there should be no growth areas adjacent to waterways.

RESPONSE: The Highlands Council has designated a 300 foot buffer around waterways and added a section on lake community zone.

COMMENT: One comment expressed concern that the Draft RMP does not adequately address water quality or flooding.

RESPONSE: The 2007 Draft RMP includes extensive policies and objectives in Chapter IV and program descriptions in Chapter V regarding water quality issues, and likewise addresses flooding issues caused by stormwater management.

COMMENT: One comment felt that the Draft RMP needed to reflect more on a municipality's role in water protection.

RESPONSE: Chapter IV Implementation of the 2007 Draft RMP includes a section "Part 1. RMP Conformance, Consistency, and Coordination" that reflects on a municipalities role. The Highlands Council will prepare and distribute a Plan Conformance Guideline Handbook that will outline what a municipality needs to do to conform to the RMP. Water protection is a critical aspect of municipal Plan Conformance.

WELLHEAD PROTECTION

WELLHEAD DELINEATION

COMMENT: Several comments expressed concern with the 12-year time of travel. One comment noted that in many areas of the Highlands Region, it takes 50 years of travel between recharge and wellhead. Another comment noted that on fractured rock (Highlands geology); 12-year time of travel may not be suitable.

RESPONSE: The 12 year time of travel is the Tier 3 threshold selected by the NJDEP for estimating the furthest most Wellhead Protection Area (WHPA) boundary surrounding the wellhead. This time of travel was selected based upon an analysis by the NJDEP of pollution cases in New Jersey, which indicated that a time of travel of 12 years would encompass the full length of most pollution plumes. In addition, analysis indicates that a 12 year time of travel would provide sufficient dilution and attenuation of the plume to minimize the risk to the well. Because of the complexity of the hydrogeology within the Highlands Region, particularly in karst or fractured aquifer systems, and the difficulty in accurately delineating time of travels for public supply wells in this environment, the NJDEP conservatively assumed that all public supply wells exist under unconfined conditions, and are therefore vulnerable to contamination originating at the ground surface. With respect to WHPA delineation, the method does not include the time of travel required for pollutants to migrate from the ground surface to the water table, but only the time of travel in ground water (i.e. contaminants assumed to exist in ground water).

COMMENT: A few comments noted that, in addition to public community wells, non-community wells must be identified in the RMP.

RESPONSE: Because of the large number of non-community wells, and given that they generally do not serve nearly as many people as public supply wells, or serve a large number of people for an extended period of time, they were not identified in the mapping for the RMP. However, this information is available from the NJDEP.

COMMENT: Some comments noted that designation of Tiers within the Wellhead Protection Area should be carefully delineated to recognize the existence of established developed lands. One comment felt it was necessary to prohibit all sources of pathogens (including septic systems) from Tiers 1, 2, and 3. A second comment questioned the rationale for the prohibition of engineered stormwater infiltration only within Tier 1. A third comment questioned the rationale for prohibiting new discharges, or expansion of existing discharges of sanitary or non-sanitary wastewater, within only Tier 1 or Tier 2.

RESPONSE: Wellhead protection areas were delineated by the NJ Geological Survey using acceptable modeling techniques that consider hydrogeologic conditions. The method relies upon a number of conservative assumptions (e.g. well pumping rate biased to an upper extreme) to provide an additional factor of safety. The 2 year time of travel was selected by NJDEP to represent the attenuation of viral pathogen contamination, which relates to stormwater infiltration from non-clean sources and to sewage discharges. The 2 and 5 year time of travel criteria for Tiers 1 and 2, respectively, were deemed sufficiently long by the Highlands Council to mitigate against the potential threats identified in the RMP regarding non-sanitary wastewater. The NJ DEP is “reasonably sure that a viable pollution mitigation response is possible for significant, known discharges of pollutants” beyond Tier 2 (“Guidelines for Delineation of Well Head Protection Areas in New Jersey”, New Jersey Geological Survey Open File Report OFR 03-1).

COMMENT: Several comments noted that the RMP should advocate the use of advanced wellhead delineation techniques in the entire Highlands Region, rather than relying on existing, less valid methodological approaches used by NJDEP under the limitations of the Source Water Assessment and Protection (SWAP) and previous Wellhead Protection Programs. One comment expressed concern that the Draft RMP relies on the NJDEP’s SWAP mapping of wellhead protection areas. It was stated that the goals for water resource protection established in the Highlands Act are broader and more comprehensive than those used by the NJDEP. It was stated that the methodologies used

by the NJDEP to derive these map areas (Combined Model/Calculated Fixed Radius Model for public community wells and the Calculated Fixed Ratio Model for public non-community wells) may not meet the requirements of a comprehensive water resources protection effort applied at a regional, rather than statewide scale. It was stated that the regional approach necessitated by the Highlands Act favors the use of advanced delineation techniques to define the Wellhead Protection Areas. One comment noted that with respect to developing advanced Wellhead Delineation Area techniques, the Highlands Council should more carefully evaluate existing hydro-geological data to determine if, and where, more advanced delineation techniques could be supported with existing data available in the Highlands Region. Based on these analyses, the Highlands Council, in coordination with the NJDEP, New Jersey Geological Survey (NJGS), United States Geological Survey (USGS) and other interested parties, should prepare a priority schedule for application of advanced wellhead area delineations throughout the Highlands Region. It was stated that the Highlands Council, in coordination with the NJDEP, NJGS and USGS and other interested parties, should provide technical assistance and funding assistance to complete advanced wellhead delineations on this priority schedule. Where adequate data have been determined not to exist to support advanced wellhead delineation, the Highlands Council, while relying on the current SWAP delineations, should in coordination with the NJDEP, NJGS, USGS, and other interested parties provide technical and funding assistance to develop this data on an on-going basis. Advanced wellhead delineations should always be made using full allocation pumping rates

COMMENT: A couple of comments noted that the Alamatong Wellhead Protection Study (December 1998) is an example of an advanced delineation technique to define the Wellhead Protection Areas. A comparison of the wellhead protection areas defined by the SWAP program (depicted on the Wellhead Protection Area map and the results obtained in the Alamatong study) reveals a wide divergence of land areas, not only for the two, five, and twelve year time of travel zones, but for total contributing areas.

RESPONSE: Wellhead protection areas were delineated by the NJ Geological Survey using acceptable modeling techniques that consider to the extent possible with available data local hydrogeologic conditions. The method relies upon a number of conservative assumptions (e.g. well pumping rate biased to an upper extreme) to provide an additional factor of safety. At the same time, the Highlands Council recognizes that more advanced delineations using sophisticated numerical models and/or site specific field data could improve the accuracy of the delineated WHPA areas. Under the current NJ DEP WHPA Guidelines (Open-File Report OFR 03-1), any interested party may perform a more advanced delineation that meet the requirements of the guidelines, and submit it to the Bureau of Safe Drinking Water for review. The Highlands Council may use more detailed WHPA delineations in its Highlands Project Reviews on a case-by-case basis where such information is available.

An advanced delineation, for example, one performed with a numerical groundwater flow model that uses more site-specific data and accounts for boundary conditions, heterogeneity, and anisotropy or some combination thereof will produce different delineations than those generated by NJ Geological Survey. If the model is developed with better data and properly calibrated, the delineated WHPAs may be more accurate than those delineated by the NJ Geological Survey. However, advanced delineations must meet the NJ DEP WHPA Technical Guidelines, and be submitted to the Bureau of Safe Drinking Water for review.

COMMENT: One comment indicated that the Draft RMP does not show which wells are confined versus unconfined.

RESPONSE: Because of the complexity of the hydrogeology within the Highlands, particularly in karst or fractured aquifer systems, and the associated difficulty with accurately delineating groundwater flow paths, the NJDEP conservatively assumed that all public supply wells within the Region exist under unconfined conditions, and therefore are vulnerable to contamination originating at or near the ground surface. Therefore, no differentiation is made between confined and unconfined wells.

WELLHEAD PROTECTION STANDARDS

COMMENT: Several comments requested that better definitions of terms in the Draft RMP be provided and/or text be clarified. One comment mentioned that the Draft RMP discusses the susceptibility of pollution to wellheads,

but there is no definition of what this means nor are standards provided.

RESPONSE: Additional clarification regarding the definition of WHPA terms may be found in the New Jersey Geological Survey Open File Report OFR 03-1, entitled “Guidelines for Delineation of Well Head Protection Areas in New Jersey”, and can be downloaded from the following website:

<http://www.state.nj.us/dep/njgs/whpaguide.pdf>.

COMMENT: One comment questioned what constitutes non-agricultural irrigation.

RESPONSE: In most cases, this term refers to the irrigation of lawns and gardens, whether in residential or non-residential land uses.

COMMENT: One comment requested an explanation of the concept of unconfined and confined aquifers.

RESPONSE: The 2006 Draft RMP does provide an explanation of unconfined and confined aquifers, and may be found on page 24 of the report within the Aquifer Section discussion.

COMMENT: One comment suggested that the discussion of pollutant sources be expanded to better define what these pollutants are, especially the rather exotic disinfection-by product precursors and radon and radionuclide categories. One comment requested clarification about what defines a pathogen source. One comment asked for a definition of persistent organic chemical sources and why they are more of a concern than a persistent non-organic chemical source, such as road salt storage, heavy metals sources, etc.

RESPONSE: The RMP addresses a broad class of pollutants originating from a variety of sources, and recognizes that “the need to protect, enhance and restore water quality is fundamental to ensuring that there are adequate water supplies to support these needs.” Accordingly, the Highlands Council is intent on protecting wellheads against water quality degradation of any type of contaminant originating from any source through a variety of programs contained within the RMP.

COMMENT: A few comments asked for clarification of prohibited uses such as gas stations, dry cleaners, and industrial sites using degreasing solvents or storage facilities. A question was raised about the meaning of management of toxic chemical sources. One comment felt that new discharges or expansion of discharges of sanitary or non-sanitary wastewater effluent should be regulated, but only prohibited if it can be scientifically proven that a pollutant discharge is degrading ground water quality. Best management guidelines and procedures were strongly encouraged.

RESPONSE: The Highlands Council recognizes that “the need to protect, enhance and restore water quality is fundamental to ensuring that there are adequate water supplies to support these needs.” Accordingly, the Highlands Council is intent on protecting wellheads against water quality degradation of any type originating from any source through a variety of programs contained within the RMP. Regulating a source only after pollution is proved to not be protective or appropriate.

COMMENT: One comment asked what is meant by “retrofit or upgrades” of existing land uses.

RESPONSE: Land uses can be modified to reduce the potential for pollutant discharge, for migration of pollutants to water resources, etc. In some cases, this may require a retrofit (e.g., changing from one stormwater management technology to another), or an upgrade (e.g., adding treatment capacity to an existing management practice).

COMMENT: One comment felt that there should be specific policy guidance provided for municipalities to address wellhead protection requirements or to amend wastewater management plans.

RESPONSE: As discussed in the 2006 Draft RMP, the Highlands Council shall take actions to:

1. Develop technical guidelines and procedures for wellhead protection best management practices to protect groundwater quality; and
2. Develop model master plan elements and development regulations for Wellhead Protection Areas.

The 2007 Draft RMP also addresses this need through programs to develop Plan Conformance Guidelines (Chapter VI).

COMMENT: One comment felt that policies to protect wellheads in the Planned Community Zone must be explicit.
RESPONSE: The Highlands Council is intent on protecting wellheads against water quality degradation of any type originating from any source through a variety of programs contained within the RMP. The policies apply regardless of LUCM Zone.

COMMENT: One comment felt that areas of existing dense private wells should also be considered for protection.
RESPONSE: The Well Head Protection Program was developed specifically for public community supply wells. At the same time, the Highlands Council is dedicated to reducing the vulnerability of private well clusters to ground water contamination through a variety of programs (e.g., septic system density). Municipalities may determine that the protection of dense private wells is a priority and create an equivalent wellhead protection program for them. Model ordinance language from the Hunterdon County Environmental Toolbox Committee addresses this issue.

COMMENT: One comment was concerned that the site-specific standards in the Draft RMP presume that everything that is currently being done by NJDEP to protect wellheads does not work.
RESPONSE: The RMP does not assume that the work performed by NJDEP in protecting public supply wells is not effective. Rather, the Highlands Council recognizes that in order to better protect public supply wells from contamination, and meet the “need to protect, enhance and restore water quality” in the Highlands, additional initiatives and programs are necessary.

COMMENT: One comment suggested that the final RMP should permit continuation of careful engineering and development practices to allow redevelopment within a Wellhead Protection Area.
RESPONSE: The RMP does not ban redevelopment within wellhead protection areas.

COMMENT: One comment felt that the policies and strategies related to Wellhead Protection Areas should prioritize and target resources for the clean-up of “Known Contaminated Sites.”
RESPONSE: The NJDEP, which has regulatory authority over groundwater contamination sites in New Jersey, uses the WHPA delineations for prioritizing remediation.

COMMENT: One comment suggested a control program for upstream waters’ contribution to Wellhead Protection Areas.
RESPONSE: Wellhead protection was developed for the purpose of protecting public supply wells from ground water contamination. Surface water contamination is addressed by other State regulatory programs. In addition, potential well vulnerability to surface water contamination is addressed by the NJDEP during the water allocation and safe drinking water permit review process.

SPECIAL WATER RESOURCES MANAGEMENT AREAS

COMMENT: One comment proposed the use of a special overlay zone directly related to protecting ground water supplies drawn from public community and public non-community wells. It was stated that these districts should be shown on the Land Use Capability Map when revised. It is recommended that these areas be called “Special Water Resources Management Areas” and include: the existing, delineated Wellhead Protection Areas, (2, 5 and 12 year areas); the entire recharge areas for the existing public community and public non-community wells, as developed by advanced wellhead delineation where available; the upstream drainage areas of water bodies crossing or contained in the wellhead protection zones; and the land areas that contribute surface water run-off to the delineated Wellhead Protection Areas.

RESPONSE: The WHPAs generated by the NJ Geological Survey and the prime recharge areas are delineated independent of one another with different methodology. WHPAs are delineated on the basis of subsurface hydrogeological conditions (e.g. hydraulic conductivity, hydraulic gradient, etc.) primarily using a ground water flow

model, while recharge areas are mapped on the basis of climatic and surface conditions using a soil-water budget method. Protection of both areas is addressed through a number of programs contained within the 2006 Draft RMP.

COMMENT: One comment recommended that the Highlands Council should ensure that all Special Water Resources Management Areas be included in local master plans.

RESPONSE: Government entities within the Preservation Area and those within the Planning Area that opt in will be required to achieve conformance with the different RMP programs.

COMMENT: One comment suggested that Special Water Resources Management Areas should include the following policies: 1) apply a surface and ground water quality anti-degradation policy for all point discharges, stormwater and non-point sources that is fully protective of the surface and ground water resource; 2) educate the public about the importance of, and methods to be used to protect, the water resources; 3) strictly limit new impervious surfaces; 4) protect and restore riparian zones; 5) prohibit the installation of underground storage tanks for all substances except potable and storm water; 6) require stormwater retrofits to meet non-degradation standards; 7) require publicly owned land areas to employ best management practices with the goal of precluding water quality degradation; 8) ensure that municipalities implement a septic management program that includes an annual registration, location, and identification of responsible operator and a pumping schedule; 9) ensure that responsible sewer agencies conduct collection system integrity studies to preclude the leakage of untreated effluent into the Special Water Resources Management Area; 10) ensure that emergency responders and other responsible parties develop a spill control educational program that stresses containment for the protection of water resources.

RESPONSE: The Highlands Council has developed a multi-programmatic approach to “protect, restore and enhance water quality and quantity of surface and groundwaters,” which includes but is not limited to wellhead protection, septic system management, and water availability.

COMMENT: One comment suggested that the Highlands Council, in concert with the DEP, should prioritize, advocate, and facilitate the remediation of all known contaminated sites within the Special Water Resources Management Area.

RESPONSE: The NJDEP, which has regulatory authority over ground water contamination sites in New Jersey, uses the WHPA delineations for prioritizing remediation.

COMMENT: One comment suggested that the Highlands Council should require responsible transportation management agencies to prepare management agreements that minimize the application of pesticides, herbicides, and water soluble road de-icing chemicals within the Special Water Resources Management Area, consistent with public safety.

RESPONSE: The Highlands Council recognizes that “the need to protect, enhance and restore water quality is fundamental to ensuring that there are adequate water supplies to support these needs.” Accordingly, the Highlands Council is intent on protecting wellheads against water quality degradation of any type originating from any source through a variety of programs contained within the RMP. Coordination with agencies regarding management practices that affect water resources will occur through the various RMP programs.

COMMENT: One comment suggested that the Highlands Council should ensure that government-funded land preservation projects prioritize open space acquisition to Special Water Resources Management Area properties that contain riparian zones, open waters, wetlands, abut surface waters or that contain prime aquifer recharge areas. It was stated that the Highlands Council should ensure that lands acquired are managed to be protective of the water resource; and such areas are subject to management plans that protect, enhance, and restore the water resources on site.

RESPONSE: The 2006 Draft and 2007 Draft RMP include a map of priority conservation areas that is derived in part based on important water resources. NJDEP has also developed a priority approach for water resources protection that it uses statewide, and has directly purchased or helped fund the purchase of large areas that contribute

to Highlands water resources.

COMMENT: One comment suggested that the Highlands Council prioritize stream corridor stabilization, buffer strip installation, and reforestation projects to Special Water Resource Management Areas.

RESPONSE: The 2007 Draft RMP includes a program for water quality protection and restoration (Chapter V) and a variety of new or modified policies and objectives (Chapter IV) addressing these issues.

SURFACE WATER INTERFERENCE/RECHARGE

COMMENT: One comment stated that “surface water interference” is not addressed in the Draft RMP. Where streams contribute recharge to public community and public non-community wells, the entire upstream watershed should be managed to be protective of the ground water resource. It was stated that the RMP should assume that all surface waters within defined wellhead protection zones may be contributing recharge to the wells and delineate the contributing upstream watershed and its associated delineated wellhead protection area as a Special Water Resources Management area. A couple of comments noted that the quality of surface waters that contribute ground water flows to wells should be managed to be protective of the potable ground water source. It would be prudent to assume that all surface water bodies present in the delineated wellhead protection (2, 5, and 12 year areas) zones are contributing recharge to the water supply wells. It was stated that the use of an advanced wellhead delineation methodology would allow the determination of actual conditions. In the absence of this data, it was suggested that all surface water bodies within the total recharge area be assumed to contribute recharge to the wells.

RESPONSE: Wellhead protection was developed for the purpose of protecting public supply wells from ground water contamination, but did consider situations where a well next to a major surface water body is strongly affected by the quality of those surface waters. The Highlands Council does not have detailed information on such situations, but may consider any information provided through Plan Conformance or Highlands Project Review. Surface water contamination is addressed by other State regulatory programs. In addition, potential well vulnerability to surface water contamination is addressed by the NJDEP during the water allocation and safe drinking water permit review process, including provisions regarding “ground water under the influence of surface water.”

COMMENT: A couple of comments held that the Source Water Assessment and Protection (SWAP) and previous Wellhead Protection Programs were developed to protect water quality and do not consider the protection of water quantity. As such, the approach presented in the Draft RMP is entirely focused on the protection of water quality. It was stated that the Highlands Council should expand the spatial scope for wellhead protection to include the total recharge areas, rather than the two, five, and twelve year recharge zones.

RESPONSE: The 12 year time of travel is the Tier 3 threshold selected by the NJ DEP for estimating the furthest most WHPA area surrounding the wellhead. This time of travel was selected based upon an analysis by the NJ DEP of pollution cases in New Jersey, which indicated that a time of travel of 12 years would encompass the full length of most pollution plumes. In addition, analysis indicates that a 12 year time of travel would provide sufficient dilution and attenuation of the plume to minimize the risk to the well. Water quantity is addressed under the water availability program contained within the RMP, including the protection of recharge for all ground waters, not just those contributing to wells.

USE OF BEST MANAGEMENT PRACTICES

COMMENT: A couple of comments expressed opinions regarding the use of best management practices (BMPs). One comment indicated agreement with the Draft RMP regarding the need to develop technical guidance and promote the use of Best Management Practices to protect water quality on farms in Wellhead Protection Areas. The comment suggested this concept be incorporated into the site-specific standards as it is outlined under Surface & Ground Water Quality. Another comment noted that the Highlands Council should analyze the extent of agricultural or horticultural operations within a Wellhead Protection Area. It was stated that the Best Management Practices that

currently exist for water quality protection may not be properly designed to protect wellhead areas.

RESPONSE: The Highlands Council will continue to pursue best management practices to protect wellhead protection areas to the maximum extent possible.

COMMENT: One comment felt that the RMP should clearly state as a general policy that agricultural or horticultural production or activity done according to a farm conservation plan is exempt. Another comment felt there is no justification for excluding agriculture from reusing stormwater in Wellhead Protection Areas. It was recommended that the prohibition of engineered stormwater infiltration in Wellhead Protection Areas should be qualified by the quality of that water. It was stated that there should be no restrictions for clean stormwater such as roof runoff. It was stated that the restriction of infiltration in these areas is counter-productive to maintaining or even increasing aquifer recharge.

RESPONSE: The 2007 Draft RMP clarifies that the restriction on engineered stormwater infiltration within Tier 1 applies to water sources that are not clean; roof runoff generally would be considered a clean water source and its recharge in Tier 1 would be encouraged. The 2007 Draft RMP includes clarified language that agriculture is subject only to the restrictions provided by the Highlands Act.

COMMENT: One comment recommended that the Highlands Council identify potential funding sources to plan, install, and maintain the Agricultural Management Practices that are demonstrated to be needed on active farms within Wellhead Protection Areas.

RESPONSE: The 2006 Draft RMP identifies various funding sources for (pg 127) for supporting best agricultural management practices, including the United States Department of Agriculture and the Natural Resources Conservation Service.

WELLHEAD - GENERAL

COMMENT: One comment suggested that the first paragraph of the Wellhead Protection section should include some statistics about the volume of water, the number of public community and public non-community wells, and the population of the Highlands Region served by ground water and public community and non-community wells.

RESPONSE: Much of this material is contained in other sections of the 2006 Draft RMP.

COMMENT: One comment recommended that the discussion of the NJDEP's wellhead protection program should indicate that it is a regulatory discussion, not a generic definition of wellhead protection programs.

RESPONSE: It is acknowledged that the discussion overviews the New Jersey WHPA program; this was deemed relevant as this programmatic approach applies to the Highlands Region, and that readers interested in a more generic discussion may consult other sources on-line, including the NJ Geological Survey and the United States Environmental Protection Agency.

COMMENT: One comment recommended that the RMP provide a list of water supply wells lost to pollution or requiring sophisticated treatment and treatment costs incurred.

RESPONSE: This information is available from the NJDEP, Bureau of Safe Drinking Water. Treatment system construction costs that were supported by funding from the NJ Spill Compensation Fund may also be available. Operation and maintenance costs are utility specific.

COMMENT: One comment suggested that the RMP should clarify the information, including susceptibility ratings, from the individual reports that have been created for each of the community water systems and non-community water systems relying on surface water.

RESPONSE: Wellhead protection addresses ground water contamination, and not surface water. Consequently, this was not included in the Wellhead Protection section. All Source Water Assessments for public water supplies are available online from NJDEP.

COMMENT: One comment recommended that a specific statement concerning the importance of ground water as a water supply within the Highlands Region should be included in the “Goals and Requirements of the Highlands Act.”

RESPONSE: The importance of water resources and ground water in particular for water supply within the Highlands is noted in multiple locations within the RMP.

COMMENT: One comment stated that it is unclear how the related policy statements implement the charge to protect, enhance, and restore water quality, nor how adequate supplies will be ensured.

RESPONSE: Wellhead protection is a management tool for protecting wells against potential ground water contamination, and is complemented by a number of initiatives and programs contained within the RMP. The 2007 Draft RMP provides policies and objectives in Chapter IV that clarify this intent.

COMMENT: It was stated that the RMP should include the following measures to protect Wellhead Protection Areas: identify all existing public and non-community Wellhead Protection Areas in the Highlands Region and provide effective protection of water quality and quantity on a sustainable basis; develop resource protection measures to protect and enhance ground water and water supply resources within Wellhead Protection Areas consistent with the source water assessments for each water supply source; and develop educational materials to further the understanding of the importance of Wellhead Protection Areas to protect ground water supply.

RESPONSE: The 2006 Draft RMP proposes to develop protection measures through a number of initiatives, including development of technical guidelines and procedures, regulations, best management practices, training and educational programs.

COMMENT: One comment suggested that private operators of public, non-community wells should be included in the educational programs.

RESPONSE: Training and educational programs would be open to all operators of public supply wells.

COMMENT: One comment suggested that new wells should have their Wellhead Protection Areas mapped as part of permit issuance.

RESPONSE: Under NJDEP requirements, purveyors must consider existing ground water contamination when siting new wells to minimize their vulnerability. In addition, the RMP put forth as a long term goal identification of potential sites for future public water supply wells to minimize their potential to contamination.

COMMENT: One comment stated that the Draft RMP is silent as to how the “education” is to take place or who is to implement this essential step.

RESPONSE: Education will take place in a number of ways, including presentations, workshops, and educational material like pamphlets and brochures.

MISCELLANEOUS

COMMENT: One comment suggested the Highlands Council needs to provide specific data regarding wellhead protection.

RESPONSE: Data used for delineating WHPAs is available from the NJ Geological Survey, and the actual delineations for supply wells can be downloaded from their website.

NITRATE CONCENTRATIONS, SEPTIC SUITABILITY, SEPTIC DENSITY

SEPTIC MANAGEMENT STANDARDS

COMMENT: Several comments felt that development in areas that are not within sewer service areas should be required to implement septic management programs. It was stated that the RMP needs to include precise standards for management of septic systems as a required element for a municipality to conform. It was stated that these standards need to include targets for “enhancement” of ground water quality. Clarification needs to be provided on whether these standards will supersede local health department authority and how these standards will affect municipal base zoning and uses exempted by the Highlands Act.

RESPONSE: The 2007 Draft RMP includes a program to address septic management (see Wastewater System Maintenance, Chapter V, Part 2).

COMMENT: One comment suggested that the RMP needs to further explain the US Environmental Protection Agency Decentralized Wastewater Treatment Systems Program Strategy.

RESPONSE: Details regarding the program strategy may be found in the document *Decentralized Wastewater Treatment Systems Program Strategy*, and can be accessed at the following web address:

http://www.epa.gov/owm/septic/pubs/septic_program_strategy.pdf

COMMENT: Several comments suggested that the RMP needs to address existing septic systems that are failing, particularly those around lakes. One comment questioned how the RMP will reduce nitrates in areas that are already overbuilt.

RESPONSE: The 2007 Draft RMP now includes lake management areas for protection of water quality, including program language focused on replacing failing septic systems around lakes. The RMP also addresses septic and agricultural impacts on ground water quality with the objective of reducing nitrate concentrations in developed areas.

COMMENT: Several comments felt that future growth could only be accommodated in areas that have sewers.

COMMENT: One comment suggested that nitrate management and septic suitability information is an important consideration in evaluating the suitability of cluster development within the Conservation Zone and needs to be included in the RMP.

COMMENT: Many comments believe that the standards and guidance for determining appropriate septic densities and septic design/maintenance requirements should be completed before the final RMP adoption and not during the pre-conformance period.

RESPONSE: The 2007 Draft RMP includes detailed and stringent policies regarding development densities where septic systems are used. Prohibition of development outside of sewer service areas is not feasible, given exemptions and other provisions of the Highlands Act. The 2007 Draft RMP only allows for responsible development protective of environmental and water quality conditions within undeveloped and underdeveloped areas. The methodology for determining appropriate septic densities (i.e. lot sizes) within the Protection and Conservation Zones of the planning area have been developed, and is described in the 2007 Draft RMP. The corresponding number of additional allowable septic units within these two zones for each municipality is included in the Technical Report Addenda. In terms of septic design/ maintenance requirements, these systems are subject to the NJDEP’s Standards for Individual Subsurface Sewage Disposal System (N.J.A.C. 7:9A), and are generally regulated at the county and municipal level. However, the Highlands Council will continue to work with local authorities and develop appropriate design and maintenance requirements.

COMMENT: One comment felt there needs to be a coordinated effort among State agencies to find funding and technical assistance to develop and install Best Management Practices.

RESPONSE: The Highlands Council will continue to pursue funding and technical cooperation among various

agencies to develop and implement best management practices.

SEPTIC SYSTEM DENSITY

COMMENT: Many comments felt strongly that the RMP needs to include a recommendation for establishing septic system densities prior to adoption because it is essential to the development of a capacity based plan and critical to understanding the impact of the RMP on local development policies. It was stated that the septic densities established by the NJDEP for the Highlands Region need to be referenced in the RMP. It was stated that there was support for a predictive model that can theoretically be used to determine existing locations where the potential for pollution is high and for helping to evaluate the impact of land use decisions regarding permitted densities of development. A few comments felt that GSR 32 is not an appropriate method for determining septic densities because it does not reflect the unique geological conditions that are prevalent in the Highlands Region, particularly the karst limestone formations. Another model called GSR 39 should be used instead of GSR 32. A suggestion was made that the plan consult existing nitrate model results that recommend minimum lot sizes according to soil types, while others expressed support for NJDEP septic density standards that require 88 acres per septic system for forest and 25 acres per septic system for mixed land uses.

RESPONSE: The methodology for determine appropriate septic densities (i.e. lot sizes) have been developed, and are described in the 2007 Draft RMP and the Technical Report Addenda, including the number of additional allowable septic units by municipality and zone (i.e. septic yields). The Trela-Douglas nitrate dilution model was selected by the Highlands Council for calculating septic lot sizes and septic yields. The Trela-Douglas model was also used by NJDEP in computing the 88 and 25 acre lot sizes for the forested and non-forested lands, respectively in the Preservation Area. The 2007 Draft RMP continues the use of these values for the Preservation Area. Trela-Douglas requires annual ground water recharge rate as a model input, and these values were estimated with GSR-32. The GSR-32 methodology was developed specifically for the New Jersey application by the New Jersey Geological Survey, in technical consultation with other agencies. The methodology is a soil-water budget method that estimates annual ground water recharge under variable climatic, soil, and land use/land cover conditions. In order to represent worst case conditions for septic dilution, the Highlands Council decided to use GSR-32 as calibrated to the New Jersey Drought of Record, and its values agree closely with streamflow separation techniques applied to several watersheds within the Highlands during this period. Because GSR-32 does account for soil type, the septic lot sizes computed by Trela-Douglas are in part determined by sub-watershed soil conditions. GSR-39 is a technical report for ground water quality in the bedrock aquifers of the Highlands, and quantifies major ion and trace element concentrations in different formations. There is no method or discussion put forth for calculating recharge in GSR-39. Regarding karst topography, the critical issue is design of the septic system to ensure that karst feature development and ground water contamination are not exacerbated by placement of the septic system.

COMMENT: One comment felt that septic system density figures developed by the Highlands Council for the Planning Area will be: 1) central to any discussions that a Planning Area municipality will have when deciding to opt-in or not; and 2) could affect Preservation Area municipalities if the NJDEP considers using the Planning Area densities developed by the Highlands Council, which could potentially turn out to be even more stringent than the existing NJDEP rules in the Preservation Area.

RESPONSE: The septic system densities computed for the planning area are higher (i.e. less stringent) than those required for the Preservation Area, as computed by the NJDEP and supported by the 2007 Draft RMP. The computed septic lot sizes and number of additional allowable septic units per municipality and zone are reported in the 2007 Draft RMP.

COMMENT: One comment felt that the complete information regarding nitrate management should be included in the RMP for any policy decision to be valid.

RESPONSE: The 2007 Draft RMP includes both new and clarified policies and objectives for septic system density and water quality in Chapter IV, and includes a program for Water Quality Restoration in Chapter V that addresses

broader issues of nitrate contamination from various sources including septic systems.

SEPTIC SYSTEM TECHNOLOGY

COMMENT: Many comments felt that the plan should consider a full range of alternate design septic systems and should encourage the use of advanced septic system technologies wherever possible. It was stated that the RMP should contain policies and guidelines facilitating the use of alternatives to conventional septic systems that do not adversely affect ground or surface water quality. Recommendations were made that alternate septic systems be explored to promote clustering on smaller parcels and to provide for a better quality effluent. Some comments recommended that the incorporation of innovative technologies appropriate for the design, installation, and maintenance of septic systems should be part of the pre-conformance period, not put off until some date in the future. Some comments felt that where innovative technologies are proposed that would improve septic treatment, the Highlands Council should permit waivers to the septic density standards to allow use of such technologies and subsequent increases in septic density. Some comments cautioned that since nitrates are only an “indicator” of pollution and not the sole pollutant of concern, using technology to lower nitrate levels and then using those lower levels as a justification for more intense development, is not appropriate or consistent with the goals of the Highlands Act.

RESPONSE: A major goal of the RMP is to improve the overall water quality within the Highlands Region, and not reduce the level of only select indicator pollutants. The 2007 Draft RMP states that septic systems are generally subject to NJDEP’s Standards for Individual Subsurface Sewage Disposal Systems (N.J.A.C. 7:9A), and that systems are generally regulated at the county and municipal level.

BACKGROUND NITRATE CONCENTRATIONS

COMMENT: Although some comments expressed support for a median nitrate concentration of 0.83 mg/L (milligrams per liter), many felt this threshold was very low, will be difficult to achieve, and has no public health basis. Comments provided a range of thresholds ranging from current EPA standard of 10 mg/L to many county and municipal plans that currently rely on 2 mg/L. One comment indicated that the median nitrate concentration of 0.83 mg/L, which translates roughly to a 12 acre lot, could be lower, and thus the lot size larger, in certain higher water quality watersheds. It was stated that the RMP should include a justification for using a standard below the current State standard, clarify under what circumstances the nitrate concentration may be lowered, and how a municipality would apply the threshold.

RESPONSE: The Highlands Council has analyzed nitrate concentration estimates generated with logistic regression models at the subwatershed scale. The results clearly demonstrate that localized land practices have measurable impacts on nitrate concentrations in ground water, with agricultural areas generally exhibiting the highest concentrations, and septic systems also correlated to higher concentrations, although to a lesser degree. The Council has determined that two different target concentrations are justified for the Protection and Conservation Zones in the Planning Area based upon inherent differences in land uses and existing nitrate concentrations. The targets were derived from the estimated median nitrate concentrations for subwatersheds that primarily consist of one particular zone. The median concentration based target approach has been used by the NJDEP in establishing nitrate target concentrations in the Highlands Preservation Area, as well as the proposed Statewide nitrate target of 2 mg/L. In no cases will a conforming municipality be permitted to make target nitrate concentration values less stringent (i.e. higher) than those assigned by the Highlands Council. The Highlands Council will continue efforts through analysis of new water quality data and research to refine appropriate nitrate target concentrations based upon land use patterns and hydrogeological conditions.

COMMENT: One comment expressed concern that areas within the Highlands already have background nitrate concentrations close to, or in excess of, the 0.83 mg/L threshold. Clarification needs to be provided regarding development in areas that currently exceed this threshold.

RESPONSE: Subwatersheds of the Highlands Planning Area do in some cases exceed the 0.83 mg/L level discussed in the 2006 Draft RMP and the nitrate targets for the relevant LUCM Zones established in the 2007 Draft RMP. The 2007 Draft RMP includes new and clarified policies to address water quality restoration in such areas while allowing for limited development based on stringent septic system density standards.

COMMENT: Several comments supported the establishment of background concentrations for each HUC14 to be more responsive to localized conditions.

RESPONSE: The Highlands Council has analyzed nitrate concentration estimates generated with logistic regression models at the sub-watershed scale. The results clearly demonstrate that localized land practices have measurable impacts on nitrate concentrations on ground water, with agricultural areas generally exhibiting the highest concentrations, with septic systems also correlated to higher concentrations, although to a lesser degree. However, the data distribution constrained efforts to develop appropriate nitrate concentration targets that would be sub-watershed specific. Instead, a more general approach was used to develop target nitrate concentrations specific to the LUCM Zones in the Planning Area. This zone target approach, while not as specific as the subwatershed approach, does account for localized land use conditions like agricultural coverage which influence nitrate concentrations in groundwater.

COMMENT: One comment felt that the Highlands Council should focus on protecting designated uses and not just a concentration of a pollutant.

RESPONSE: Nitrate is a good surrogate for overall ground water quality, as demonstrated in numerous scientific studies, as discussed in the Water Resources Technical Report and Technical Report Addenda. However, a major goal of the RMP is to protect and restore overall water quality throughout the Highlands Region, and 2007 Draft RMP includes both new and clarified policies and objectives in Chapter IV to address this issue.

COMMENT: Several comments felt that there should be further explanation of why a higher nitrate threshold would not be permitted where conditions allow, such as where soils are prime for use of septic systems.

RESPONSE: Septic system densities are established by LUCM Zone in the 2007 Draft RMP. The allocation of resulting septic system yields within each municipality and Zone will occur through municipal Plan Conformance. Municipalities can address issues of lands with septic system suitability, within the overall yields established by the RMP. With respect to the higher nitrate threshold (i.e. target), the LUCM Zones each have their own nitrate concentration targets, based upon estimated median nitrate concentrations for these zones, which are in part influenced by land use characteristics and soil conditions. Soil conditions that are conducive to higher ground water recharge rates increase dilution of septic effluent, resulting in higher septic system densities as computed by Trela-Douglas model.

COMMENT: One comment questioned how clustering within the Conservation Zone will be achieved with a septic standard of 0.83 mg/L in the absence of public wastewater infrastructure.

RESPONSE: The target nitrate concentration in the 2007 Draft RMP for the Conservation Zone is 1.87 mg/L. Where clustering is proposed, the overall septic system density for the affected property must achieve that result, but the cluster development itself must have an average nitrate concentration of 10 mg/L and be designed to minimize the potential for contamination of water supply wells in the cluster. Implementation of best management practices and appropriate septic density will reduce nitrate concentrations in these areas over time.

COMMENT: One comment opposed the use of NJGS method "Recharge Based Nitrate Dilution Model for New Jersey."

RESPONSE: The Trela-Douglas nitrate dilution model used for calculating septic lot size has a long history of use within the State of New Jersey. This model was used by the NJDEP for calculating the 88 and 25 acre septic lot sizes in the forested and non-forested preservation areas of the Highlands, respectively, using drought recharge levels rather than annual average recharge. The NJGS-32 recharge model, which calculates the annual drought recharge rate

used in the Trela-Douglas model, is a peer-reviewed methodology developed specifically for the New Jersey use by the NJ Geological Survey, in technical consultation with numerous agencies. Annual drought estimates provided by this method for the Highlands Region are not only in close agreement to estimates generated by streamflow separation technique, but are even more conservative (i.e. lower annual recharge rate).

SOIL SUITABILITY

COMMENT: Several comments suggested that the RMP should include more analysis on soils suitability, including an index of soil assessment and a definition or standard for “very favorable.” Concern was raised that Warren County is the only county that still needs a complete updated soil survey.

RESPONSE: The Warren County soil survey update was completed in September, 2006. Soil suitability for the construction of septic systems is not a factor in the septic density analysis as described in the 2007 Draft RMP, but can be a site-specific factor in the actual location of septic systems.

COMMENT PERIOD

COMMENT: Several comments recommended that any additional information on nitrate management be provided to the public for review and comments, even if that comment period is part of additional public hearings on the final draft version of the RMP.

RESPONSE: The methodologies and techniques necessary for computing septic lot sizes and the number of additional allowable septic units has been revised and is included in the 2007 Draft RMP through the Technical Report Addendum (November 2007) and the Water Resources Technical Report.

GENERAL ECOSYSTEM MANAGEMENT

ECOSYSTEM MANAGEMENT - GENERAL

COMMENT: Several comments felt the eco-management section of the Draft RMP is an important part of the plan and necessary to protect the most important natural resources and biodiversity. One comment stated the ecosystem management section is deeply inaccurate and needs a line by line rebuttal.

RESPONSE: The comment is acknowledged by the Highlands Council, but the Council believes that the section is appropriately written.

COMMENT: A few comments expressed concern that the Draft RMP disregards wetlands, steep slopes, riparian buffers, flood plains, wellhead protection areas, and category one waterways. It was stated that the Draft RMP is missing identification of environmentally sensitive resources within areas identified for growth and should incorporate a process equivalent to a critical environmental review by the State Planning Committee. Some felt the Draft RMP excessively restricts lands outside the Preservation Area.

RESPONSE: The Draft RMP did address all Highlands Open Waters (including wetlands), steep slopes, and riparian areas (including wellhead protection areas). In the 2007 Draft RMP, new sub-zones were created to identify environmentally constrained lands within the Conservation and Existing Community Zones (pg. 70). These areas are subject to additional controls on dense development. In addition, the 2007 Draft RMP compiles and clarifies policies on the protection of sensitive environmental features in Chapter IV.

COMMENT: One comment felt the plan should provide specific documentation of the ecological resources found within each Watershed Management Area.

RESPONSE: The Water Resources Technical Report (Volume I – Watersheds and Water Quality) discusses water quality and ecological characterizations of each Watershed Management Area.

COMMENT: One comment expressed concern that some towns are petitioning the Office of Smart Growth to include C1 streams and endangered species habitats in areas designated as centers.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

COMMENT: One comment felt the RMP lacks specific details that would be useful for those people contemplating obtaining approvals from the Highlands Council and the NJDEP for development and/or preservation of their land. It was stated that the RMP should bring the most important of disparate information sources into one place for those living and doing business in the Highlands. If the RMP designates a previously unregulated resource as one that can now entirely restrict development, the technical details should be provided to the public.

RESPONSE: The 2007 Draft RMP is intended to be both user-friendly and to provide sufficient detail for interested parties whom will eventually seek approvals from the Highlands Council. Chapter II presents the resource assessment. The Goals, Policies and Objectives of Chapter IV provide detailed statements of intent and standards for the Regional Master Plan. Chapter V (Programs) provides an overview of how these policies and standards will be implemented through “programs” – approaches to specific environmental and planning issues that respond to the relevant Goals, Policies, and Objectives for that topic. The Highlands Council will develop and adopt detailed standards and procedures, along with guidance, to address needs of the public regarding development controls.

COMMENT: One comment felt the RMP should do more to promote passive recreation and ecotourism, including bird watching.

RESPONSE: The 2007 Draft RMP presents Goals, Policies, and Objectives with respect to the expansion of tourism and recreation within the Highlands Region (Goal 8C on pg. 166). Objective 8C1a calls for the identification of specific economic development which would encourage and promote ecotourism.

AGENCY COORDINATION

COMMENT: It was stated that the Highlands Council should include a Memorandum of Agreement (MOA) with other agencies such as the NJDEP, NJDOT, NJDA to promote restoration and enhancement of resources using native species.

RESPONSE: State agency and local government coordination is addressed in the 2007 Draft RMP section Consistency and Coordination. Throughout the 2007 Draft RMP it is noted that native species should be used in restoration and enhancement projects (e.g., Lake Management Program pg.193, Water Quality Restoration Projects: Streambank and Riparian Restoration pgs. 210-211 Low Impact Development Program pg. 269, etc.).

HIGHLANDS OPEN WATERS AND RIPARIAN AREAS

BUFFERS

COMMENT: Several comments questioned the appropriateness of the Highlands Open Waters protection area buffers. Some believe that the 300-foot buffers are excessive and would place an exceptional hardship on affected property owners, while others believe that the 300-foot buffer area should be expanded. A few comments questioned the science behind the proposed buffers. With respect to the provision in the Draft RMP for potential expansion of the 300-foot buffer, a few comments noted that it appears to be a highly subjective and arbitrary standard, while one comment supported the provision. One comment was raised that a 300-foot buffer should not be required adjacent to any areas mapped within the Planned Community Zone. One comment noted that the RMP should verify where 75 or 150 feet buffers are adequate and not put that burden on applicants.

RESPONSE: Section 3.2 of the Ecosystem Technical Report provides a review of scientific literature that supports the establishment of a 300-foot buffer on all Highlands Open Waters. Further, in establishing a 300-foot buffer along Category 1 waterways in its stormwater regulations adopted in 2004, the NJDEP referenced the U.S. Environmental Protection Agency, the Natural Resources Conservation Service and numerous scientific sources that have withstood

rigorous legal scrutiny. The 300-foot buffer on Highlands Open Waters in the Preservation Area is a legislative mandate in the Highlands Act. With respect for the potential expansion of the 300-foot buffer, the 2006 Draft RMP and the 2007 Draft RMP specifically note that the Council may require, on a case-by-case basis, expansion of the buffer to protect the habitat of a rare, threatened, or endangered species, which would be based on their confirmed presence. Both the Draft RMP and the 2007 Draft RMP describe the specific circumstances when exceptions may be made to the 300-foot buffer (Objective 1D4d on pg. 113 in the 2007 Draft RMP).

DEFINITION OF HIGHLANDS OPEN WATERS

COMMENT: A few comments took exception with the definition of the term “Highlands Open Waters” in the Highlands Act. A few comments indicated that the definition in the Highlands Act and the Draft RMP is overly broad and would include drainage ditches and detention basins. It was noted that, according to the definition, artificial bodies of water developed to improve water quality such as retention/detention basins and farm ponds used to irrigate crops would be considered Highlands Open Waters.

RESPONSE: The definition of Highlands Open Waters is a legislative definition in the Highlands Act.

TERMINOLOGY

COMMENT: Several comments were opposed to the use of specific terms in the resource protection standards for Highlands Open Waters. One comment indicated that the term “detrimental” should be changed to “substantially detrimental” because with strict interpretation, all activity may be considered detrimental. A couple of comments questioned the use of absolute terms such as “prohibit,” noting that use of such terms is only appropriate where there is a variance or waiver process to address unusual circumstances. Specifically, one comment noted that use of the term “prohibit new land uses...” could be interpreted to mean that existing agricultural operations cannot adapt or change in order to meet the needs of the agricultural business or community. Another comment states the identical concern with the use of the phrase “maintain existing uses.” One comment states that the standards that use the term “prohibit new land uses...” appear highly subjective and asks how this determination will be made.

RESPONSE: The various regulatory terms used in the Draft RMP have been re-crafted and clarified throughout the 2007 Draft RMP. An existing agricultural land area would not be considered a new land use unless an increase of at least 3% impervious surface was proposed. Crop changes are not a change in land use.

PROTECTION STANDARDS

COMMENT: Several comments noted that provisions for relaxing standards for Highlands Open Waters protection area buffers should be well established in the RMP. A couple of comments indicated that a specific adjustment and revision process with appropriate guidance must be established in the RMP. A couple of comments noted that the Municipal Land Use Law variance procedures are instructive for this purpose. One comment noted that reductions of the 300-foot buffer should be acknowledged to recognize the existing built environment. Another comment indicated that there should be no reductions for the 300-foot buffers in any areas unless net improvements can be demonstrated. One comment supported the special protection of forested wetlands, which are preferred stopover habitat for many migratory songbirds and are difficult to replace.

RESPONSE: New text has been provided in the 2007 Draft RMP that clarifies the circumstances for which buffers may be modified (Objectives 1D4d and 1D4e pg. 113). Objective 1D4f speaks of stream corridor protection/restoration.

COMMENT: One comment provided recommendations regarding language for standards in each Land Use Capability Map zone for Highlands Open Waters and Riparian Areas. In Protection Zone: it is appropriate that new land uses or alteration of existing land uses be prohibited; it will be important to address how restoration and enhancement will be mandated on private lands; the term “feasible and appropriate” needs to be clearly defined;

acquisition should be prioritized through the established ranking criteria. In Conservation Zone: the protection language is unclear; and the “demonstration” of net improvement should be evaluated and clarified. In Planned Community Zone: more weight should be placed on restoration and enhancement rather than assuming unalterable degradation.

RESPONSE: The text in the 2007 Draft RMP has been completely rewritten regarding standards for Highlands Open Waters in each zone (pg. 114).

RESTORATION

COMMENT: One comment suggested the RMP should strengthen provisions to enhance and restore impaired waters and riparian sites. It was suggested that the Highlands Council go beyond promotion to require restoration and enhancement of resources through the use of native plant species. It was stated that the RMP should include policy statements that promote the restoration of critical habitat, forest resources, and other resources. Priority restoration projects should be identified and methods included preventing future degradation of new enhancements. One comment indicated that restoration of waters to a higher ecological value is unlikely if it comes with the “penalty” of a greater buffer requirement. One comment proposed the creation of a “Lake Community and Stream Corridor Policy” which would be applied region-wide and would encourage the enhancement and restoration of water quality.

RESPONSE: A program is included in the 2007 Draft RMP – Restoration of Streams and Riparian Areas (pg. 172). There is also a Lake Management Area program (pg. 187) and a Water Quality Restoration Program (pg. 205).

COMMENT: One comment asked for the details regarding the Highlands Regional Stormwater/Wetlands Mitigation Plans mentioned in the Draft RMP. Another comment noted that stream corridor protection plans must be regional. One comment questioned who will review mitigation plans.

RESPONSE: Additional detail is provided in the 2007 Draft RMP regarding Stormwater Management Plans and other water quality restoration plans (Water Quality Restoration Program beginning on pg. 205). Municipalities are already required to implement certain actions, including the adoption of stormwater management plans and ordinances and the implementation of management practices for municipal stormwater systems and facilities. The Highlands Council will coordinate with counties, municipalities, and other interested parties to develop and implement Regional Stormwater Management Plans. These plans, where adopted by NJDEP through an Areawide Water Quality Management Plan, become part of each municipality’s stormwater permit.

STREAM CLASSIFICATION/RE-CLASSIFICATION

COMMENT: One comment recommended that the RMP designate all tributaries to the Upper Rockaway and the main stem as Category 1 waterways. One comment indicated that it may not be appropriate to identify Exceptional Waters as all those that include habitat for water/wetland dependent rare, threatened, or endangered species. It was recommended that instead Exceptional Waters be those other than Highlands or Special Waters that drain to a FW1 water or include habitat for rare, threatened, and endangered species that have been defined as Critical Habitat Area in the Draft RMP. One comment opposed the policy that places all man-made waters into the Intermediate Waters category. One comment suggested all open waters within a watershed that drain to a National Wildlife Refuge should be classified as Special waters or Highlands waters.

RESPONSE: NJDEP has sole authority to designate Category 1 waters. The Council will be developing a Regional Stream Integrity Model (pg. 336) which the Council may use to designate streams for the highest priority of protection. In regard to Exceptional Waters, the 2006 Draft RMP and the 2007 Draft RMP define Exceptional Waters as all Highlands Open Waters other than Highlands Waters or Special Waters (which are both of higher classification than Exceptional Waters) that drain to a FW1 waterway or include habitat for water/wetland dependant rare, threatened, or endangered species. With respect to the comment concerning Intermediate Waters, all man-made waters are not automatically classified as Intermediate Waters (pg. 112). The Council’s definitions of all the

Highlands Open Water categories appear on pg. 112 of the 2007 Draft RMP.

WATERSHED VALUE AND RIPARIAN INTEGRITY

COMMENT: A couple of comments were concerned with the site specific standards associated with High and Moderate Integrity Riparian Areas which prohibit alteration to existing natural vegetation or increases in impervious cover, unless it can be demonstrated that the water quality and habitat value of the Riparian Area can be maintained or restored. One comment objected to the policy that determined the quality of a watershed based solely on the percentage of developed and undeveloped land and suggested that a more appropriate policy would utilize Farmland Assessment Woodland Management data. Another comment recommended the use of high quality habitat represented by the documented presence of protected species as a measure of watershed value, as opposed to the mere presence of “potential habitat.” One comment recommended adding all Trout Production waters to the criteria for “High Resource Value Watershed” and “High Integrity Riparian Area.”

RESPONSE: Text has been completely rewritten in the 2007 Draft RMP regarding the standards associated with High and Moderate Integrity Riparian Areas (see Goals, Policies and Objectives for Highlands Open Waters and Riparian Areas starting on page 112). The Council chose not to use Trout Production water as a criteria for defining High Resource Value Watersheds and High Integrity Riparian Area (the criteria used are listed on pg. 28 of the 2007 Draft RMP. It should be noted that Trout Production Waters are automatically designated as Category 1 waters by NJDEP. An expanded discussion of these criteria is presented in the Ecosystem Management Technical Report.

COMMENT: One comment opposed the use of merely spatial characteristics to determine levels of quality of forest as an indicator of watershed value and recommended using forest health characteristics.

RESPONSE: Watershed indicators that were selected to evaluate each HUC14 subwatershed in the Region included percent developed lands, habitat quality, percent total forest, percent core forest, and proportion of total forest. Undisturbed forests provide essential ecosystem functions of surface water filtration and ground water quality and that is why three measures of forest fragmentation (versus other forest health characteristics) were used to assess watershed quality.

COMMENT: One comment recommended a transition between the discussion of criteria for ranking watershed and riparian areas.

RESPONSE: The Council felt it unnecessary to have a transition discussion. While they are interrelated topics, they are two discrete topics.

RIPARIAN AREA

COMMENT: One comment indicated that it is impossible to figure out how riparian areas were determined in the Draft RMP and noted that the soil types are incorrect and the size of the polygons is unknown. Another comment related a similar concern and noted that riparian buffer lines based upon estimates of the location of hydric soils may be used beyond the Draft RMP, and that the Natural Resources Conservation Service does not intend for its soil maps to be used for regulatory purposes.

RESPONSE: As defined by the Council, Riparian Areas are areas adjacent to, and hydrologically interconnected with rivers and streams. They are areas that exhibit periodic inundation or saturation of soils, are subject to periodic flooding, and include wildlife corridors within 300 feet of the surface water feature. The Council has made its GIS shape files (including riparian coverage) available to the public.

COMMENT: One comment noted that riparian areas should have high priority for acquisition.

RESPONSE: The 2007 Draft RMP includes a map of priority areas for preservation, which includes consideration of riparian areas.

COMMENT: One comment held that the overall impact of the site specific standards for the riparian area will severely limit the ability of the Highlands Region and its residents to maintain economic stability.

RESPONSE: The Highlands Council has included requirements for riparian areas to ensure the protection of water resources as required by the Highlands Act.

COMMENT: One comment noted that agricultural or horticultural production or activity done according to a farm conservation plan are exempt from the provisions of the RMP and may continue within the riparian areas across all zones of the Highlands Region. Another comment stated that the NJ Department of Agriculture's Rules for the Highlands will apply to any new agricultural development activities in the Riparian Areas within both the Preservation and Planning Areas.

RESPONSE: Agricultural or horticultural production or activity done according to a farm conservation plan are not exempt, but rather are existing land uses that may continue as is the case with all existing land uses. The comment is acknowledged by the Highlands Council, but no response required.

COMMENT: Some comments supported the inclusion of 300 foot wildlife corridors along surface water features.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

IDENTIFICATION AND INVENTORY OF HIGHLANDS OPEN WATERS

COMMENT: One comment noted language in the Draft RMP that indicates that during Pre-Conformance the Highlands Council will develop guidelines for the identification and mapping of Highlands Open Waters and questioned whether the Highlands Council has jurisdiction to supersede the Freshwater Wetlands Protection Act Rules. Another comment questioned whether the Highlands Council will perform on-the-ground delineations of headwater streams, seeps, and springs. Another comment noted that mapping Highlands Open Waters and Riparian Areas has largely been done by the NJDEP as part of the stormwater and wetlands rules.

RESPONSE: The language regarding the Council's development of guidelines for the identification and mapping of Highlands Open Waters was removed from the 2007 Draft RMP. The Council will not be performing on-the-ground delineations, but will require that applicants define such features as part of a development proposal.

COMMENTS REGARDING SPECIFIC WATER BODIES

COMMENT: One comment recommended that the Musconetcong wild and scenic river and its boundaries be permanently delineated in the RMP.

RESPONSE: The Council recognizes the Wild and Scenic status of the Musconetcong River; the policies, objectives and programs of the RMP should help implement the management plan for that river.

COMMENT: One comment expressed concern that the Ramapo River, where it crosses from New York State to New Jersey, is impaired and problems in New York State are affecting downstream water bodies.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

COMMENT: One comment expressed concern about Sparta Lake and that the Highlands Act does not provide funding for the maintenance of watershed infrastructure, including dams.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

COMMENT: One comment mentioned that more growth around Greenwood Lake would increase phosphorous pollution into the Lake.

RESPONSE: The 2007 Draft RMP includes policies and objectives for Lake Management Areas and water quality that would require that growth be allowed only in the context of water quality objectives established by TMDLs, the NJDEP water quality standards, and protection, restoration and enhancement requirements of the RMP.

COMMENT: One comment recommended that HUC14s that include Pohatcong Creek and its tributaries should be rated as High Value Watershed Areas.

RESPONSE: The criteria for designating High Resource Value Watersheds are presented on pg. 28. The Council chose to vary from this approach for the HUC14 watersheds that contain Pohatcong Creek and its tributaries.

MISCELLANEOUS

COMMENT: One comment recommended that the policies regarding agriculture and horticultural buildings should come under the Agricultural element of the RMP, not the Highlands Open Waters and Riparian Areas element.

RESPONSE: Language regarding agriculture and horticultural buildings no longer appears in the Highlands Open Waters and Riparian Areas portion of the 2007 Draft RMP.

COMMENT: One comment suggested that the following protection measures be incorporated into the RMP within a watershed of a National Wildlife Refuge: provide at least 300-foot vegetated buffers on all rivers and streams; contact the refuge manager if activities are proposed within an approved refuge acquisition boundary, if major activities are proposed within 500 feet of a river or stream, or if an area is proposed for designation as a growth zone or Transfer of Development Rights receiving zone; and give priority to habitat acquisition and restoration projects, especially riparian buffers.

RESPONSE: The Council chose not to include the recommendation in the RMP. However, Chapter VI of the 2007 Draft RMP addressed interagency coordination, which will include federal agencies.

STEEP SLOPES

COMMENT: Some comments recommended that there be more measurable and objective distinctions between slope categories. Some suggestions included increasing Severe Slope to 25% or greater, identification of slopes based on management concerns, separating standards for slope and forest, designating slope constraint by land use type, including standards for how to measure slope, establishing a minimum slope area, and taking into consideration underlying geology. One comment stated that the Draft RMP initially defines slopes as 25% and later as 10%.

RESPONSE: The 2006 Draft RMP and the 2007 Draft RMP provide distinct slope categories as follows: grades of slope of 20% or greater; between 15%-20%, and between 10% and 15% that occur in the Riparian Area. Further, when classifying the level of slope constraint (Severely Constrained, Moderately Constrained, Constrained, or Limited Constrained), the following factors are considered: proximity to a Riparian Area, whether the land is forested or not, the soil's susceptibility to erosion, and the Soil Capability Class (pgs. 115-116). The 2006 Draft RMP and the 2007 Draft RMP establish a minimum slope area of 5,000 square feet (pg. 115 of the 2007 Draft RMP).

COMMENT: Some comments suggested that slope standards be flexible to allow for creative site planning/design where there is no "substantial" detriment to ecological integrity, slope stability or water quality, or where it may be necessary to accommodate a critical public need. Concern was expressed that an absolute prohibition of development activities on certain slopes would impede even the most minor proposals for land use such as property access. One comment expressed concern that minimizing disturbance to soils or vegetation for some types of development activity may not produce the most beneficial results, such as when the disturbance is necessary to remedy an existing problem or negative impact. One comment was opposed to use of the words "require" and "prohibit," while another suggested that disturbance should be prohibited on all but the most unconstrained slope. One comment suggested an exemption for redevelopment activities providing there are appropriate environmental controls in place.

RESPONSE: The text in the 2007 Draft RMP was rewritten (pgs 115-116). However, the Council maintains the policy to prohibit, through local development review and Highlands Project Review, land disturbance within areas which are Severely Constrained Slopes and Moderately Constrained Slopes

COMMENT: One comment suggested that the RMP should rely on the Natural Resources Conservation Service Field Office Technical Guide for guidance on how to manage steep slopes and protect the soil resource, particularly in agricultural areas. A suggestion was made to include a policy that specifically exempts agricultural and horticultural production and activities done under a farm conservation plan from the slope standards contained in the Draft RMP.
RESPONSE: The Highlands Council will be coordinating with the Natural Resources Conservation Service Field Office on several issues including steep slopes. The Council chose not to include a policy in the steep slopes section regarding exempting agricultural and horticultural activities, as these activities are addressed by provisions of the Highlands Act.

COMMENT: One comment suggested that the RMP needs to make mention of the authority of the Soil Erosion and Sedimentation Control Act and encouraged more reliance on established standards for protection of steep slopes.
RESPONSE: The comment is acknowledged by the Highlands Council. Municipal ordinances routinely control where development can occur and the extent of site disturbance, while the Soil Erosion and Sedimentation Control Act addresses such issues for approved development. They are different statutory authorities, and likewise the Highlands Act is an independent authority.

COMMENT: One comment raised concern that before the soil survey information is used for regulation it first needs to be field verified according to the Natural Resources Conservation Service. One comment suggested that the Highlands Council conduct a study to remedy the 'honeycomb' geology in Warren County that is susceptible to disturbance by inappropriate development.

RESPONSE: The soil information presented the 2006 Draft RMP and 2007 Draft RMP is intended to provide regional information for regional planning purposes. It is not intended to replace site-specific information required as part of site plan/subdivision review. With regard to the "honeycomb" geology component, the 2007 Draft RMP does include a Carbonate Rock (Karst) program (pg. 185).

COMMENT: One comment questioned how the slope policies that are included in the Draft RMP were developed in the absence of the Light Detection and Ranging (LiDAR) data, while another comment asked if the LiDAR data will be publicly available in the future to identify areas of steep slope.

RESPONSE: The 2006 Draft RMP explained that the Highlands Council spatially examined slopes in the Highlands Region using Digital Elevation Model Grids and that eventually LiDAR data will be available. When the slope and topographic results from the LiDAR data are available, they will be made available to the public.

FOREST INTEGRITY AND STEWARDSHIP

FOREST INTEGRITY ANALYSIS

COMMENT: A few comments stated that utilization of Landscape Project Version 3 was inappropriate because 1) it is not publicly available; and 2) it is critically flawed, unreasonable, and arbitrary because: a) it relies on contiguous land use type rather than presence of a protected species, b) the selection year of 1970 as the cut-off point for historical observations is arbitrary, c) Landscape Project maps are not scientifically peer reviewed since errors occur in Version 1 and are passed to Version 2, and d) "rare" species should only include state endangered/threatened, not species of concern.

RESPONSE: The Highlands Council utilized the most current version of the Landscape Project, provided from NJDEP Endangered Nongame Species Program (NJDEP-ENSP). All mapping is based on species occurrence data and surrounding habitat requirements. The 2007 Draft RMP includes the ability for modification to critical habitat boundaries due to site habitat suitability or existing land uses, as approved by the Highlands Council in coordination with NJDEP-ENSP.

COMMENT: One comment stated the need for the Highlands Council to utilize more current research in forestry.
RESPONSE: The Highlands Council welcomes the submission of scientifically-reviewed journal articles for all technical subjects.

COMMENT: Some comments requested clarification of forest integrity metrics.

COMMENT: One comment stated that forest integrity should include forest health as a metric. One comment expressed concern that HUC14 valuation is inappropriate for determining forest integrity because forests span watersheds. One comment supported integrity analysis, while another recommended use of on-the-ground information about forests to determine integrity.

RESPONSE: Forest integrity was used as an indicator of subwatershed quality. The Highlands Council assigned a value class to each of the 183 HUC14 subwatersheds in the Highlands Region based on a series of forest integrity metrics for forested lands within that subwatershed. Forest integrity metrics are defined in Section 6.6 of the 2006 Ecosystem Technical Report.

COMMENT: A few comments requested better defined standards of forest cover used to categorize forests.

RESPONSE: The Highlands Council utilized five different indicators of forest fragmentation in assessing forests in the Region at the forest patch scale and at the subwatershed scale.

FOREST MANAGEMENT PLANS

COMMENT: Numerous comments regarding Forest Management Plans stated that approved management plans are only required for private forest landowners and not for public lands.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Policies 1A5, 1C2 and Objectives 1B1c, 1B2a, 1B6a, 1B7.

COMMENT: A few comments stated that the Highlands Council should rely on existing forestry guidance for management plan standards rather than create new standards.

RESPONSE: The Highlands Council will utilize appropriate and scientifically-defensible guidance and standards for forestry activities and forest protection in development of guidelines for Forest Management Plans and will coordinate with the NJDEP Division of Parks & Forestry on these issues.

COMMENT: One comment expressed concern that Draft Plan standards that would prevent forest cutting will prevent native forest regeneration and improved forest health.

RESPONSE: The 2007 Draft RMP addresses these issues in Chapter IV, Subpart a, Policies 1B1, 1B7 and Objective 1B1c.

COMMENT: Several comments opposed creating a Highlands Certified Logger Program.

RESPONSE: This program is not included in the 2007 Draft RMP

COMMENT: A few comments stated that incentives should be created for private landowners to prepare management/stewardship plans.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Policy 1B1.

COMMENT: A few comments stated that a forest easement purchase program should be created.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Policy 1A4.

COMMENT: A few comments stated that the RMP should outline implementation costs and funding mechanisms for Forest Management Plans.

COMMENT: One comment stated that niche forest products would promote agro forestry.

COMMENT: A few comments stated that forest management is the best way to produce more water on forest lands.

COMMENT: One comment suggested awarding Transfer of Development Rights bonuses in Forest Resource Area only where growth areas occur with sewer capacity.

COMMENT: A few comments supported the Highlands Council's forestry policies.

RESPONSE: The comment is acknowledged by the Highlands Council, but no change to the RMP is required.

COMMENT: A few comments stated that enforcing implementation of management plans is needed.

RESPONSE: Enforcement responsibilities remain under NJDEP's authority.

COMMENT: A few comments stated that restrictions on ATV (all terrain vehicle) use are needed.

COMMENT: A few comments stated deer management plans should be required in mitigation plans.

COMMENT: One comment recommended requiring stewardship plans.

COMMENT: One comment questioned if landowners will have to create stewardship plans when their management plans expire.

COMMENT: One comment recommended the promotion of conservation and stewardship, rather than preservation.

COMMENT: Some comments suggested defining a monetary value for ancillary benefits (e.g., creating Threatened and Endangered species habitat) to aid landowners in having properties Farmland Assessed. One comment stated that forestry and agriculture are separate resources in the Draft RMP despite thousands of acres of appurtenant woodlands being part of Highlands farms. One comment expressed concern that the Draft RMP omits details regarding cost and time investment for forest owners that are required to develop Woodland Management Plans. Comments expressed both opposition to and support for the need to petition for amendments to Farmland Assessment Act.

COMMENT: One comment recommended that policies need to exempt public recreational uses.

COMMENT: Several comments requested clarification of prohibited uses/activities. Comments included a request for what forestry practices are allowed on farms and how can growth occur in Moderate or High Integrity Forest areas when the Draft RMP standards outline "limit permissible uses to maintenance of existing uses and prevent removal of woody vegetation." One comment stated that prohibiting woody vegetation removal will have the same result as when NJDEP denies Treatment Works Approval (TWA) construction of sewage treatment plants.

COMMENT: A few comments focused on the need to investigate methyl mercury effects on forest growth.

COMMENT: A few comments requested that funding and resources be made available to municipalities during implementation.

COMMENT: One comment maintained that regionally-based forest management is impractical for private lands because private woodlot sizes are too small to make a difference on a regional scale.

COMMENT: One comment was received regarding the creation of a Forest Health Council, referenced under Long Term Goals, stating that this has already been created within last 12 months.

COMMENT: One comment was received regarding the desire for green building standards to embrace wood as an environmentally friendly product.

RESPONSE: These issues will be discussed during development of the Forest Resource Management and Sustainability Program, as discussed in Chapter V of the 2007 Draft RMP.

COMMENT: Several comments stated that deer/invasive species management is needed.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Objective 1B1c.

COMMENT: A few comments stated that critical habitat should be included in Management Plans.

COMMENT: Some comments regarding Habitat Conservation Plans recommended specific standards relating to forest habitat, such as making plans species-specific based on habitat needs, allowing hunting via ATV access to core forest areas to limit deer populations, requiring that conservation easements focus primarily on natural resource

protection and secondarily on forest products, and requesting that conservation easements be managed by NJDEP.
RESPONSE: Critical habitat will be addressed in the Habitat Conservation and Management Guidance document developed in response to the 2007 Draft RMP.

FOREST RESTORATION PLANS

COMMENT: Several comments requested that the RMP outline standards for Forest Mitigation/Restoration Plans and suggested that mitigation plans follow Best Management Practices.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Policy 1B4, Objectives 1A2b, 1B1a.

COMMENT: A few comments suggested acquisition and restoration of impaired areas in Forest Resource Area or High Integrity Forest.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a, Policies 1A3, 1B4.

COMMENT: One comment questioned why mitigation will be required in primarily non-forested areas.

RESPONSE: Mitigation will be required for disturbance to forested lands.

FORESTRY ACTIVITIES

COMMENT: Some comments expressed concern that the Draft RMP does not refer to the Forestry Exemption included in the Highlands Act. A few comments question if the RMP will prevent clearing in the Forest Resource Area even though forestry is exempt. One comment questioned if the RMP will require mandatory inspections of exempt forestry activities.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a (second paragraph) and Objective 1A2c, which clearly reflects the exemption.

COMMENT: A few comments stated that the Draft RMP discusses standardized forest clearing ordinances in Pre-conformance but not in Conformance.

RESPONSE: The 2007 Draft RMP does not include Pre-conformance language.

COMMENT: One comment questioned whether landowner management plans prepared by the State Forester are exempt from Highlands regulations.

RESPONSE: The Highlands Act specifically exempts from the RMP and NJDEP regulation any forestry activities that take place to an approved woodland management plan or forest management plan approved by the State Forester.

COMMENT: Several comments complained that the Forestry Technical Advisory Committee (TAC) report was not referenced sufficiently in the Draft RMP and the Ecosystem Technical Report and the TAC recommendations were not reflected in the Draft RMP and Ecosystem Technical Report. It was stated that the Draft RMP and the Technical Report ignore field-tested, peer-reviewed science in deference to political goals. One comment stated that the TAC report was not consistent with Ecosystem TAC member input during the TAC charrette.

RESPONSE: The 2007 Draft RMP balances forest protection with forestry activities. Chapter IV (Goals, Policies, and Objectives) does not reference specific technical documents. The Ecosystem Technical Report will be finalized as part of the RMP adoption process, and will address TAC comments as appropriate.

LAND USE CAPABILITY MAP ZONE STANDARDS

COMMENT: A few comments questioned how the Land Use Capability Map zone standards relate to the Forest

Resource Area and the Forest Integrity Area.

RESPONSE: The 2007 Draft RMP addresses this issue in Chapter IV, Subpart a.

MISCELLANEOUS

COMMENT: One comment was received regarding the placement of Oxford Township within a Forest Resource Area, while large areas of the town are not forested. It was stated that the Village Center, as well as the Cambridge East condominium complex (all lots within Block 33.01) and the Spring Meadows Major Subdivision (approximately 200 developed residential lots within Blocks 33 and 33.01-33.05), are not forested.

RESPONSE: The Forest Resource Area includes those areas that incorporate the highest integrity forest resources, but as such can include non-forested areas. Forest integrity metrics were applied to the 2002 LU/LC. Any land development post 2002 would be considered existing land uses in the context of 2007 Draft RMP polices. The 2007 Draft RMP clarifies that a variety of policies and objectives in Chapter IV apply to the forested portions of the Forest Resource Area.

EDITORIAL CHANGES TO DRAFT PLAN TEXT

COMMENT: Numerous comments were received regarding specific editorial changes to the Draft RMP text. Suggested changes included a diverse set of concerns regarding textual edits for the following: Woodland Management Plans Farmland Assessment Act and Rules, monitoring and inspection programs, forestry exemption in the Highlands Act versus requirement of management plans for forested properties in the Draft RMP, changing specific forestry words, carbon sequestration, disturbance, upland forest section too long/confusing, disagree with statement that sustainable forestry becomes more difficult as woodlot size decreases, benefits of active forest management, needs to discuss and honor forestry exemption within policies, remove several Draft Plan areas of action to protect forest resources, remove text linking habitat reduction to forestry activities, remove sustainable forest management policies that give priority to ecological and watershed integrity, total replacement of forest stewardship policies, remove references to amending Farmland Assessment program, add policies to Conformance (e.g., tree cutting ordinance and exemption to existing forestry ordinances), modify Long-Term Goals policies, remove policies for coordinating with agencies about developing stewardship standards, creating Highlands certification program, and standardizing data collected from monitoring reports, update history of Highlands forests, encourage publicly-owned lands to have approved forest management plan.

RESPONSE: The Highlands Council considered all suggested changes and incorporated appropriate edits to the 2007 Draft RMP. See Chapter IV, Subpart a and Chapter V.

EDITORIAL CHANGES TO ECOSYSTEM TECHNICAL REPORT TEXT

COMMENT: Numerous comments were received regarding specific editorial changes to the Ecosystem Technical Report text. Suggested changes included a diverse set of concerns regarding textual edits for the following: defining forestry-related words and utilizing the Dictionary of Forestry (Helms 1998), criticism for portraying timber harvesting as negative, focusing on managing small properties for fragmentation effects, criticism of the financial burden to landowners associated with increased reporting/inspections, need clarification of an “approved logger,” need to clarify/correct text on Farmland Assessment program (e.g., income requirements, data collection), criticism of proposal to amend income requirement of Farmland Assessment, report needs to discuss and honor forestry exemption, need to correct information presented about inspection/monitoring programs, criticism of use of Landscape Project data and 2002 data, need to clarify/correct funding mechanism information, should promote silviculture as Best Management Practice, should promote management for carbon-neutral commodity production, deer/invasive species control and valuation, lacks references to NJ Forestry and Wetlands Best Management Practices Manual, correct data on number of appurtenant woodlands and clarify subjectivity to stewardship programs, clarify/correct tracking of lands managed under Forest Management and Stewardship Plans, clarify/correct Forest

Stewardship Program, clarify/correct Sustainable Forest Management Practices Data section of report, clarify/correct Background, clarify/correct Sustainable Forest Management Practices Data and Policy Gaps, clarify/correct Benefits of Urban and Community Forestry Planning, need to outline clear goals for proposed amendment to Farmland Assessment Act, criticism of why ecological integrity improvement should be required as part of Forest Management Plan, need third-party verification of sustainable forestry, state that landowner cooperatives cannot improve efficiency and viability of forest industry in NJ and have nothing to do with capital and infrastructure, need to quantify management activities on public and private land, criticism of inclusion of species of concern as rare species and clarification on defining Significant Natural Areas.

RESPONSE: The Highlands Council considered all suggested changes and incorporated appropriate edits to the Technical Report.

EDITORIAL CHANGES TO LAND USE CONDITIONS AND SMART DESIGN GUIDELINES TECHNICAL REPORT TEXT.

COMMENT: One comment was received regarding specific editorial changes to the Land Use Conditions and Smart Design Guidelines Technical Report text. Comments specifically addressed recommended text replacement to the Technical Report regarding wood as a sustainable design material.

RESPONSE: The Highlands Council considered all suggested changes and incorporated appropriate edits to the Technical Report.

EDITORIAL CHANGES TO HISTORIC, CULTURAL, SCENIC, RECREATION, AND TOURISM TECHNICAL REPORT TEXT.

COMMENT: One comment was received regarding specific editorial changes to the Historic, Cultural, Scenic, Recreation, and Tourism Technical Report text. Comments specifically addressed recommended text replacement to the Technical Report regarding wood harvests and short-term impacts on viewsheds.

RESPONSE: The Highlands Council considered all suggested changes and incorporated appropriate edits to the Technical Report.

EDITORIAL CHANGES TO LAND PRESERVATION AND STEWARDSHIP TECHNICAL REPORT TEXT

COMMENT: One comment was received regarding specific editorial changes to the Land Preservation and Stewardship Technical Report text. Comments specifically addressed recommended text replacement to the Technical Report regarding protection of wildlife through deer management, hunting, managing forests for habitat creation of species-specific conservation plans.

RESPONSE: The Highlands Council considered all suggested changes and incorporated appropriate edits to the Technical Report.

CRITICAL HABITAT

LANDSCAPE PROJECT

COMMENT: Several comments maintained that utilization of Landscape Project Version 3 was inappropriate because the mapping is inaccurate, incomplete, not scientifically-reviewed, lacks ground-truthing, lacks species occurrence data, lacks consideration of land alteration/disturbance, or is inconsistent with current NJDEP policy.

COMMENT: One comment stated that farms are inaccurately labeled as grassland habitat in the 2006 Draft RMP, without considering the affects of crop rotation, necessary for farm viability.

RESPONSE: The Highlands Council utilized the most current version of the Landscape Project, provided from NJDEP Endangered Nongame Species Program (NJDEP-ENSP). All mapping is based on species occurrence data and surrounding habitat requirements. The 2007 Draft RMP includes the ability for modification to critical habitat boundaries due to site habitat suitability or existing land uses, as approved by the Highlands Council in coordination

with NJDEP-ENSP.

COMMENT: A few comments expressed concern that including Rank 1 (suitable species habitat) in the mapping was over-reaching critical habitat protection needs.

COMMENT: A few comments opposed inclusion of species of special concern within all “rare” species or suggested that “rare” species be limited to specifically rare in the Highlands Region.

RESPONSE: Critical habitat was used in delineating Zone Boundaries in the Land Use Capability Map Series in the 2007 Draft RMP. Rank 1 habitat was not used in the mapping. Landscape Rank 3-5 (State Threatened, State Endangered, Federally Listed) and Landscape Rank 2 (State Special Concern) with a Highlands Conservation Rank (how critical the Region is to the continued existence of the species within the state) of 2-3 (Significant, Critically Significant) were used in the mapping.

CRITICAL HABITAT RESOURCE AREA

COMMENT: Some comments indicated that specific municipalities were inaccurately mapped as entirely within the Critical Habitat Resource Area.

COMMENT: A few comments recommended that the Resource Area be expanded to capture specific critical habitat in certain towns.

COMMENT: One comment questioned why the Critical Habitat Resource Area is not characterized by just threatened and endangered species instead of including rare species?

RESPONSE: The 2007 Draft RMP maps critical wildlife habitat, significant natural areas, and vernal pools, and does not use a density map of these spatial files to identify a Resource Area. All policies relating to the protection of critical habitat are specific to the critical habitat feature, not a Resource Area. This change was made from the 2006 Draft RMP to address concerns that the Resource Area (based on density mapping) included lands that did not actually contain a critical habitat feature.

COMMENT: A few comments expressed concern regarding the regulations/ prohibitions on property use in areas subject to Resource Area standards, and if landowners would be compensated for loss of use.

RESPONSE: Protection of the Region’s critical habitat is mandated by the Highlands Act. The protection policies in the 2007 Draft RMP comply with the Act. There are provisions with the 2007 Draft RMP allowing for some modification to critical habitat resources where necessary to ensure that a landowner is not denied all use of the property. However, a landowner may also apply to NJDEP for a Takings Waiver (N.J.A.C. 7:38-6.4).

COMMENT: One comment noted a potential inconsistency between the areas designated Significant Natural Areas and Critical Habitat Resource Areas. Commenter stated that all of Washington Township (Morris) is designated as Critical Habitat Resource Area; however, comment questioned why there is only one Significant Natural Area (Hacklebarney State Forest). Commenter stated that there are a number of Significant Natural Areas in Washington Township, and questioned whether the mapping criterion is limited to State-owned areas?

COMMENT: One comment questioned how a Significant Natural Area is defined.

COMMENT: Some comments expressed concern that the Draft Plan does not capture Significant Natural Areas for northern Passaic County.

RESPONSE: Significant Natural Areas are represented by spatially-modified NJDEP-Natural Heritage Program Priority Sites for the Region. The definitions of all critical habitats are located in the Draft Ecosystem Technical Report. Please note that the 2007 Draft RMP does not use the Critical Habitat Resource Area map, as discussed above.

HABITAT CONSERVATION PLANS

COMMENT: Some comments suggested Habitat Conservation Plans include enhancements addressing invertebrate

habitat, preserving large unfragmented areas, preventing development, and working to manage nuisance/invasive species, all based on sound science and which include Best Management Practices.

COMMENT: A few comments suggested limiting the number of plans required by the Regional Master Plan. One comment requested that the RMP promote farm viability and habitat protection.

COMMENT: A few comments suggested that the RMP provide specific guidance for a Regional Habitat Conservation and Management Plan.

COMMENT: One comment suggested that the RMP promote the establishment of bird habitats in backyards, corporate parks, and golf courses, and emphasize the use of native vegetation.

COMMENT: Several comments supported the need for continued survey and modeling efforts for listed species to continue to refine understanding of the most important areas for conservation. In particular, modeling for Indiana Bat and Small-whorled Pogonia should be applied to the Highlands Region to determine priority areas, since available information about the distribution of these species in New Jersey is currently incomplete.

COMMENT: One comment stated that the RMP should prioritize restoration and land acquisition efforts that protect or promote the recovery of federally listed species.

COMMENT: A few comments question how conservation plans or restoration efforts will be implemented and funded.

RESPONSE: The Highlands Council's *Critical Habitat Conservation and Management Program* (in Chapter V of the Final Draft Plan) will promote consistent standards for the protection, restoration and acquisition of critical habitat in the Highlands Region. The Program will generate a Habitat Conservation and Management Guidance document that will provide details for conservation and management of critical habitats in municipal master plans. The Habitat Conservation and Management Guidance document, may include, but not be limited to, performance and design standards for development within or adjacent to critical habitat, restoration of the ecological functions and processes of impaired or disturbed critical habitat, procedures for modifications to vernal pool boundaries, prevention of habitat fragmentation through open space preservation, corporate, non-profit, and community involvement in creating, protecting, and restoring habitat.

COMMENT: One comment requested the Highlands Council coordinate with the U.S. Fish and Wildlife Service regarding habitat mapping for federally listed species because Rank 5 Landscape Project patches do not include federally listed plants.

COMMENT: One comment recommended that National Wildlife Refuges be incorporated as a required element of the various Highlands plans that cover all or part of a Refuge watershed.

COMMENT: One comment recommended that the document "Best Management Practices (Standard Recommended Conservation Measures) to Protect Federally Listed Species in New Jersey's Highlands Region," prepared by the United States Fish and Wildlife Service, be incorporated into the Highlands Council's standard Low Impact Development Best Management Practices. The comment suggested that these practices include measures to protect migratory birds such as seasonal restrictions to protect nesting birds, and compensatory mitigation requirements to prevent net losses of aquatic or upland habitats for priority bird species.

COMMENT: A few comments recommended that the Highlands Council preserve grassland species.

COMMENT: One comment recommended that the Highlands Council pursue opportunities to coordinate with the United States Fish and Wildlife Service to support and implement approved recovery plans for federally listed species.

COMMENT: A few comments requested that any nomination procedure for new Significant Natural Areas include the same standards as NJDEP-Natural Heritage Program in placing areas on the Natural Heritage Priority Sites list. One comment requested that the nomination and rebuttal process for Significant Natural Areas be publicly vetted, include immediate notification to the landowner, and be ground-truthed and financed by the Highlands Council.

COMMENT: One comment suggested that the Highlands Council form a Migratory Bird Working Group to develop a priority species list including both game and non-game bird species of conservation concern that are highly dependent on the Highlands Region. The comment recommended that the Highlands Council pursue opportunities to support and implement approved conservation plans for migratory birds, such as Partners in Flight, the Atlantic Coast Joint Venture, the North American Bird Conservation Initiative, the North American Waterbird Conservation

Plan, and the New Jersey Wildlife Action Plan. One comment suggested priority be given to acquisition and restoration of designated Important Bird Areas, Waterfowl Focus Areas, and Priority Wetlands.

COMMENT: One comment suggested that the RMP should support the Cats Indoors campaign by promoting local ordinances to prohibit free-roaming cats.

COMMENT: One comment held that the RMP should provide policies to reduce potential flight hazards for migratory birds, such as requiring Avian Protection Plans and ensuring consistency with the Suggested Practices for Avian Protection on Power Lines for new or replacement power lines. Commenter suggested requiring consistency with the United States Fish and Wildlife Service tower siting guidelines especially on communication towers greater than 200 feet tall, and during project review for proposed wind turbines, glass windows in existing buildings, indoor and outdoor lighting, and new proposed buildings of certain height.

COMMENT: One comment suggested that the RMP should promote participation in citizen science for birds, such as Breeding Bird Surveys, Christmas Bird Counts, and Project Feeder watch.

COMMENT: A few comments requested that towns include local agricultural advisory committees during creation of critical habitat ordinances.

COMMENT: A few comments suggested that a Regional Habitat Conservation and Management Plan be consistent with proposed state Threatened and Endangered Habitat Protection Rules, as well as recovery plans for federal species.

COMMENT: One comment suggested that the Highlands Council include cultivated vegetative cover in the RMP sections describing vegetation.

RESPONSE: The Highlands Council will discuss these issues during coordination with local, state, and federal agencies and non-profit groups for drafting of the Habitat Conservation and Management Plan Guidance Document.

VERNAL POOLS

COMMENT: Several comments recognized the importance of vernal pools.

COMMENT: A few comments expressed support for the 1,000 foot vernal pool buffers.

RESPONSE: The comments are acknowledged by the Highlands Council, but no response required.

COMMENT: One comment highlighted a vernal pool mapping error in Kinnelon Borough.

COMMENT: A few comments questioned the scientific basis for 1,000-foot buffers around vernal pools. One comment suggested that landowners affected by 1,000-foot buffers receive compensation for loss of value. One comment suggested a gradation of buffers around pools based on adjoining land disturbance/alteration while another comment suggested smaller buffers overall. One comment expressed concern that protecting vernal pool buffers will breed mosquitoes and lead to brush fires.

COMMENT: One comment maintained that vernal pools are not equally protected across the Highlands Region.

RESPONSE: Highlands Council mapping of vernal pools was provided by NJDEP as certified vernal pools. The 2007 Draft RMP includes the ability for modification to vernal pool 1,000-foot boundaries due to site species-specific habitat requirements, habitat suitability, or existing land uses, as approved by the Highlands Council and NJDEP-ENSP. The basis for the 1,000 foot buffer and for modifications of the buffer are discussed in the Technical Report Addendum.

COMMENT: One comment questioned the number of vernal pools identified in the Highlands Region.

RESPONSE: The number of certified vernal pools is reported in the Draft Ecosystem Technical Report, and will change over time as NJDEP certifies additional vernal pools.

PLANNED COMMUNITY ZONES

COMMENT: A few comments expressed concern that growth within Planned Community Zones would pose a threat to rare species.

COMMENT: A few comments expressed concern that sensitive resources, occurring in an area less than one square mile, should be delineated and removed from Planned Community Zone or Specially Planned Areas.

COMMENT: Several comments requested clarification about approved uses/activities within Zone standards. One comment specifically requested the distinction between degrees of development that will trigger certain prohibitions.

COMMENT: A few comments requested clarification about the relaxation of protection standards.

COMMENT: One comment expressed opposition to prohibitions on development in the Conservation Zone where critical habitat may be present.

COMMENT: A few comments expressed support for policies that allow for expansion of critical habitat buffers, and requested stricter policies to prevent further habitat degradation.

RESPONSE: In the 2007 Draft RMP, all policies relating to the protection of critical habitat are specific to the critical habitat feature, not a Zone. Chapter IV, Subpart d of the 2007 Draft RMP outlines all policies and objectives for protection of critical habitat. Further, the 2007 Draft RMP now is based on a 75 acre minimum mapping unit, not one square mile, and includes identification of an Environmentally-Constrained Sub-zone of the Existing Community Zone (which replaces the Planned Community Zone or Specially Planned Areas terms from the 2006 Draft RMP).

PROTECTION POLICIES

COMMENT: Several comments argued that prohibitions on uses in critical habitat areas will result in the illegal taking of property. A few comments expressed opposition to strict regulatory standards.

COMMENT: One comment requested a designation of tiers for critical habitat.

COMMENT: One comment opposed restrictive language regarding disturbance to habitat and mitigation for disturbance of habitat.

COMMENT: A few comments held that the issues addressed in the Draft RMP regarding protection of vernal pools, significant natural areas, and critical habitat from the threats posed by fragmentation, overabundant deer, and invasive species are all critical.

RESPONSE: The 2007 Draft RMP includes revised policies and objectives in Chapter IV regarding these issues, addressing situations in which scientifically defensible changes can be made to critical habitat areas (both increasing and decreasing), and under which a landowner can justify minimal disturbance of critical habitat to avoid a taking of property. The 2007 Draft RMP also includes the identification of priority areas for preservation through the acquisition of development rights.

COMMENT: A few comments requested a statement of exemption for Preservation Area farms from RMP policies. One comment recommended that all Planning Area farms follow New Jersey Department of Agriculture rules. One comment recommended that farms with the presence of Threatened and Endangered species not be required to limit farm use.

RESPONSE: There are 17 exemptions provided by the Highlands Act. These exemptions do not include one for Preservation Area farms, but such farms are subject to special standards regarding the creation of impervious cover that are less stringent than for other major developments, requiring the implementation of farm conservation or resource management system plans to mitigate the impacts of new impervious surfaces. Any changes to the Highlands Act require legislative action, not under the authority of the Highlands Council. All Highland Preservation Area municipalities and those Planning Area municipalities that conform to the RMP are required to implement the RMP. The presence of critical habitat does not preclude existing uses, only proposed changes in use that constitute a non-exempt Highlands development.

COMMENT: One comment requested that water quality standards and water allocation procedures account for the needs of federally listed species.

COMMENT: One comment maintained that all river and stream segments that support dwarf wedge mussels should include a protective zone extending at least one quarter mile upstream.

RESPONSE: All Highlands Open Waters receive a 300-foot buffer from the centerline of the stream or from the

defined bank if one exists. This buffer size is protective of water quality needs of in-stream aquatic species.

IMPLEMENTATION

COMMENT: Some comments addressed the need for the Highlands Council to accommodate both humans and wildlife during implementation of the Regional Master Plan.

RESPONSE: The 2006 Draft RMP and 2007 Draft RMP have policies and objectives that seek to balance smart growth with resource protection.

COMMENT: A few comments requested that the Highlands Council coordinate with New Jersey Department of Agriculture and the United States Department of Agriculture, Natural Resources Conservation Service on RMP implementation.

RESPONSE: The Highlands Council has and will continue to coordinate with appropriate State and federal agencies.

NJDEP PROPOSED THREATENED & ENDANGERED HABITAT PROTECTION RULES

COMMENT: A few comments questioned the NJDEP Proposed Threatened and Endangered Habitat Protection Rules, specifically about whether the Highlands Council has anticipated changes to RMP policies upon adoption of the proposed rules.

RESPONSE: NJDEP has not publicly released the proposed Threatened and Endangered Habitat Protection Rules. Upon public release, the Highlands Council will work with NJDEP and other groups to ensure appropriate protection requirements for the Region's critical habitat.

MISCELLANEOUS

COMMENT: One comment requested that NJDEP Division of Fish and Wildlife be excluded from managing Highlands wildlife or from advising the Highlands Council on wildlife-related issues.

COMMENT: One comment recommended the extermination of wildlife that is not native to the Highlands Region.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

COMMENT: One comment stated that in Draft RMP Section II.C.5 (Wildlife), the dwarf wedge mussel is missing from the list of federally listed species. The comment also held that the acreages and percentages in the table of rare, threatened and endangered species do not correlate as intended.

RESPONSE: Any confirmed errors in the Draft Ecosystem Technical Report will be revised.

LAND PRESERVATION AND STEWARDSHIP

LAND PRESERVATION PROGRAMS

COMMENT: One comment stated that since current farm preservation and Green Acres programs are voluntary, based on willing buyers and willing sellers, the money that is being spent on the salaries and the bureaucracy of the staff of the Highlands Council be used in these programs instead.

RESPONSE: The comment is acknowledged by the Highlands Council.

STEWARDSHIP

COMMENT: One comment noted that private community entities, such as homeowners associations, should be utilized to provide stewardship for their lands held in common.

RESPONSE: The 2007 Draft RMP includes a section on Cluster Development that addresses stewardship and

retention of undeveloped land (open space and agriculture) by homeowner's associations (see page 243 for the section on Cluster Development).

COMMENT: One comment asked where the methodology for determining the Conservation Priority Areas can be found in the Draft RMP.

RESPONSE: The 2007 Draft Technical Report Addenda outlines the indicators used for determining the Conservation Priority Areas (see page 9 for the Conservation Priority Areas Indicators), which is revised from the 2006 Draft RMP.

COMMENT: One comment inquired as to the Council's position on the continued ban of off-road vehicles from all State park land.

RESPONSE: The Highlands Council recognizes the use of off-road vehicles on lands where their use is prohibited. The Council will work to address this issue with municipalities and counties through the Plan Conformance process.

COMMENT: One comment suggested the following wording, which should be incorporated under Goals for Land Preservation and Stewardship: "An interconnected system of publicly & privately preserved lands and farms to achieve and maintain multiple benefits (farming, watershed protection, biodiversity, recreation, wildlife habitat, others)," as recommended by the Land Preservation Technical Advisory Committee. Additionally "active management" was implied in use of the term "preservation" by the Technical Advisory Committee.

RESPONSE: The 2007 Draft RMP includes Objective 1H11a that speaks to designating and identifying Special Environmental Areas that create an interconnected system of contiguous resources (see page 120 for Land Preservation and Stewardship Goals, Policies, and Objectives).

COMMENT: A few comments argued that the Highlands Council should recognize land trusts in the development of land preservation strategies for the Highlands, both as a potential partner in land preservation, and as an effective steward of preserved lands held in fee or through conservation restrictions.

RESPONSE: The 2007 Draft RMP recognizes land trusts, specifically under Chapter V. Programs for Land Preservation (see page 184 of the 2007 Draft RMP), and the January 2007 Draft Land Preservation and Stewardship Technical Report identifies available land trust programs and funding.

COMMENT: A few comments said the RMP should discuss the entire spectrum of preservation strategies, only one of which is public acquisition. The RMP should provide for incentives for private landowners who own important natural resource areas, such as forests, to become good environmental stewards

RESPONSE: The 2007 Draft RMP includes discussions on preservation strategies in addition to public acquisition such as clustering, the Highlands Development Credit (HDC) Program (Transfer of Development Rights program), and incentives for Best Management Practices (see Chapter V. Programs).

COMMENT: One comment stated with respect to stewardship, the Draft Land Preservation and Stewardship Technical Report (Jan. 2007) referenced in Section 7.2 (Stewardship Goals), reiterates the 1992 NY- NJ Highlands Regional Study goals as stewardship goals for the Regional Master Plan. However, these goals do not include all of the goals set by the Highlands Act. The Highlands Act's priorities for protection of "habitat for flora and fauna," "ecological viability," and "ecosystems, species, and communities," which are referred to in the Technical Report's introduction, should be explicitly stated as Stewardship Goals in the Regional Master Plan.

RESPONSE: The 2007 Draft RMP includes all of the goals in the Highlands Act. Although the language is not exactly the same as the language in the 1992 NY-NJ Highlands Regional Study, the goals, policies and objectives for Land Preservation and Stewardship in the 2007 Draft RMP reflect priorities for protection in Conservation Priority Areas and Special Environmental Areas (see page 118 for Land Preservation and Stewardship Goals, Policies, and Objectives).

COMMENT: One comment noted indicators should be developed and required to measure and monitor resource changes, as stated in the Land Preservation and Stewardship Technical Report (Section 7.3, Stewardship and Conservation Strategies). Some specific monitoring indicators to include in the RMP are: forest regeneration of trees and shrubs/deer browse intensity; aquatic invertebrates and trout production capacity; interior forest breeding birds through point counts and other common survey techniques; and invasive species.

RESPONSE: One of the goals of the RMP is to monitor and track long-term successes of the RMP (see page 208, 2006 Draft RMP and page 337, 2007 Draft RMP Monitoring).

COMMENT: One comment inquired as to who will hold steward easements, and who will oversee and monitor land use restrictions.

RESPONSE: The entities that will oversee and monitor land use restrictions will be addressed through future RMP programs and activities. In addition to collaborating with the NJ Department of Environmental Protection (NJDEP) Green Acres program and the NJ Department of Agriculture (NJDA) State Agriculture Development Committee (SADC); the Highlands Council will collaborate and coordinate with all federal, State, county, municipal, and nonprofit entities that oversee and monitor land use restrictions.

COMMENT: Some comments argued that both stewardship and monitoring must be critical components to any effort to protect Highlands's resources, and that the RMP should place greater emphasis on land stewardship/best management practices together with detailed guidance for each plan component.

RESPONSE: The 2007 Draft RMP includes broader discussions on stewardship and best management practices (see Chapter V. Programs, Natural Resources and Agricultural Resources).

DEFINITIONS

COMMENT: Some comments maintained that the definition of open space needs to be clarified as "open space" and "preserved" land seem to be used interchangeably, yet they can have very different meanings and purposes. Urban "open space" and military installation "open space" are mapped together as open space even though they may contain numerous buildings and could be converted to other uses.

COMMENT: A few comments held that the mapping of open space should clearly differentiate between "permanently preserved open space" that includes those lands that have been acquired for permanent protection and "current open space," those lands at present serving "open space" values, but which may convert to non-open space uses in the future, including privately owned recreation lands, large privately owned lots, cemeteries, military installations, and others.

RESPONSE: The 2007 Draft RMP maps military land separate from other types of open space, and distinguishes preserved farmland and land with state conservation easements from protected open space (see the map on page 39 Highlands Open Space). Protected open space in the 2007 Draft RMP is all municipal, county, state, and federal open space. Open space purchased with funding assistance from the NJDEP Green Acres program is protected and monitored. The protected open space must be used solely for passive or active recreation or conservation purposes.

COMMENT: One comment suggested that the term "consistency" be preceded by the word "substantially" in this section of the RMP and the technical report to in order to allow flexibility on the part of the Highlands Council in dealing with the variety of applications, land uses and properties it will be regulating.

RESPONSE: The Highlands Council collaborates and coordinates with all federal, State, county, municipal, and nonprofit entities that oversee land preservation and stewardship and will continue to do so through the Plan Conformance process.

PLANS/MAPPING

COMMENT: Some comments noted that the Draft Plan includes existing state, county and municipal open space

resources and preserved farms, high priority acquisition areas and adopted Planning Incentive Grant (PIG) sites. Some comments stated that the RMP should serve as a coordinating framework for prioritizing and directing open space preservation efforts with the State, counties, municipalities and nonprofits. Opportunities for “non-opt-in” jurisdictions to review and refine the RMP should be provided.

RESPONSE: The 2007 Draft RMP acknowledges collaboration with federal, State, county, municipal, and nonprofit entities and will coordinate preservation efforts with these groups (see Chapter V. Programs Land Preservation, page 178). The Highlands Council welcomes all entities to review and provide updates to the open space inventory in the RMP.

COMMENT: One comment questioned whether conforming municipalities have to conduct recreation and open space inventories, which may inhibit the use of certain lands and require Green Acres approval for various activities such as running a utility line through a property?

RESPONSE: The 2006 Draft RMP and the 2007 Draft RMP Policy 112 requires conforming municipalities to maintain current Recreation and Open Space Inventories (ROSI) (see page 120, 2006 Draft RMP and page 121, 2007 Draft RMP).

COMMENT: One comment asked why the Highlands Council believes it is “anticipated that county, municipal and non-profit land holdings are under-reported.” At least with regard to governmental holdings, it should be a matter of record defining what is owned and the preserved status? Commenter questioned how the “under-reporting” affects the overall master plan and future actions?

RESPONSE: The January 2007 Draft Land Preservation and Stewardship Technical Report discusses under-reported land holdings due to the number of funding sources available to acquire open space (see page 34 section 8.3 Comprehensive Mapping and Uniform Data Collection of Preserved Lands). The land preservation goals of the 2007 Draft RMP include identifying and maintaining an inventory of all preserved lands (see page 118 Policy 1H1). The Highlands Council will coordinate with government and non-government entities to maintain this inventory.

COMMENT: One comment stated that the New Jersey Department of Agriculture (NJDA) and the State Agriculture Development Committee (SADC) would like to review the data involved with mapping the Conservation Priority Area and coordinate it with Strategic Targeted mapping. Commenter held that since the Farmland Preservation Program is discussed in this section, it should be clarified that agricultural priority areas are mapped separately and are not included in the Conservation Priority Area map, and land acquisition, conservation easements, planning requirements, etc. should be coordinated with the NJDA and the SADC.

RESPONSE: The Highlands Council coordinated with the NJDA and SADC in mapping the conservation priority areas and will continue to coordinate with its state agency partners. The 2007 Draft RMP was modified to include separate sections and maps for Conservation Priority Areas (see page 183) and Agricultural Priority Areas (see page 221).

PRIORITIZATION/IDENTIFICATION

COMMENT: Some comments stated that it is important to know which parcels are deemed significant for purchase in fee or conservation easement. Some comments recommended that the RMP use existing State and county priorities and protocols to streamline data collection for the Highlands Region. It was indicated that the Draft Plan states that the Highlands Council will prioritize lands for preservation based on resource values and criteria; however, the Draft RMP is not specific about the method that will be used for this prioritization to take place. It was also stated that the Highlands Council should identify specific ground water recharge areas that should be high priority for land preservation.

RESPONSE: The Highlands Council coordinates with State agencies and counties to prioritize land acquisition. The specific method for prioritizing land acquisition will be addressed through future RMP programs and activities. The 2007 Draft Technical Report Addenda outlines the indicators used for determining the Conservation Priority Areas

and include recharge areas (see page 9 for the Conservation Priority Areas Indicators). The Highlands Council will provide a confidential list of priority parcels for acquisition to the NJDEP and SADC as required by the Highlands Act.

COMMENT: A few comments asked whether the Highlands Council intends to ignore the acquisition priorities of local and county government or if they will be allowed meaningful input on priority considerations. Some comments also questioned whether the Highlands Council's priority list will supersede local open space priorities by blocking municipal, county and State contributions to local open space funds?

RESPONSE: The 2007 Draft RMP Land Preservation and Stewardship Goals, Policies, and Objectives recognizes coordination and collaboration with local and state governments in prioritizing land acquisition and leveraging open space funding to preserve the Highlands Region (see page 118).

COMMENT: One comment maintained that major trails like the Appalachian Trail, Highlands Trail, Patriots' Path and others should be a top priority for acquisition and conservation.

RESPONSE: The 2007 Draft RMP recognizes prioritizing open space systems that create an interconnected system of contiguous resources (see page 120 for Land Preservation and Stewardship Goals, Policies and Objectives, Objective 1H11a).

COMMENT: A few comments noted that a parcel-specific target land acquisition list can cause problems for desired acquisition, and become vulnerable to political pressures by landowners and others. Commenter also stated that it is unclear what the Highlands Council preservation priority goals are for preserved land: quantity of open space, land preserved or type, quality of resources protected, etc.

RESPONSE: The 2007 Draft RMP explicitly states the goals, policies and objectives for land preservation (see page 118 Land Preservation and Stewardship). The land acquisition priority list is a requirement of the Highlands Act. The Highlands Council will provide a confidential list of priority parcels for acquisition to the NJDEP and SADC as required by the Highlands Act.

COMMENT: One comment supported local open space and recreation planning, incorporating regional objectives.

RESPONSE: The 2007 Draft RMP acknowledges the importance of regional preservation planning.

COMMENT: One comment stated that the RMP supports acquisition of highest quality resource areas; however, a provision for preserving key connector lands should be included, even though they may individually be of lower quality.

RESPONSE: Key connector parcels will be taken into account as the 2007 Draft RMP includes Objective 1H11a that speaks to designating and identifying Special Environmental Areas that create an interconnected system of contiguous resources (see page 120 for Land Preservation and Stewardship Goals, Policies and Objectives, Objective 1H11a).

COMMENT: One comment held that each municipality will need a full toolbox of ordinances, goals and objectives for their master plans, and coordination and sharing of their land preservation activities.

RESPONSE: The 2006 Draft RMP recognizes the Highlands Council will serve as a regional clearinghouse for information related to land preservation activities.

COMMENT: One comment argued that the State should be paying for land acquisition costs and not placing the burden on the shoulders of the landowners, taxpayers, municipalities and the counties within the Highlands Region.

RESPONSE: The comment is acknowledged by the Highlands Council.

COMMENT: One comment maintained that the only way a municipality can get funding in the Planning Area is if they write a density component, and accept it in their Land Use Plan. Thus, a municipality agreeing to conform has

two choices: one, ignore the density component in which case they will not get the funding from the Garden State Preservation Trust Fund for their Planning Area; two, the municipality does agree to take preservation dollars, in which case they have to accept additional density.

RESPONSE: Land preservation funding opportunities are available to all municipalities in the entire Highlands Region from government and non-government entities. The January 2007 Draft Land Preservation and Stewardship Technical Report identifies available land preservation programs and funding. The Highlands Council will provide additional benefits and incentives to municipalities that pursue the RMP conformance process (see page 288 of the 2007 Draft RMP for RMP Conformance, Consistency and Coordination).

COMMENT: One comment asked why privately owned recreation and open space lands such as youth clubs, hunting clubs and other recreation lands are included in the open space inventory, as these lands have no protections and may become developed lands at anytime

RESPONSE: Privately owned lands that are used for active or passive recreation or conservation purposes are considered open space because in most instances the open space is protected and restricted solely for these purposes. However, they are categorized separately from lands subject to permanent preservation.

COMMENT: One comment argued that the RMP should evaluate and prioritize lands within close proximity to Designated Centers as park lands or lands otherwise dedicated to public use and recreation.

RESPONSE: The Highlands Council acknowledges the comment. The method for determining the priority list for acquisition will be addressed through future RMP programs and activities.

FUNDING/EQUITY

COMMENT: Some comments argued that money generated from a source water protection fee or any such related fee, should be used exclusively for Highlands Region land preservation and compensation purposes and not for any other purpose. Some comments also stated that if a water use fee were to be enacted, part of that money should go towards land stewardship. Additional comments recommended increased water rates in order to allow utilities to increase revenues that would be used by the utility to purchase and protect watershed lands on which it depends, a portion of which should be earmarked specifically for stewardship activities initiated either by the utility itself or by the utility's management partner.

RESPONSE: The 2007 Draft RMP proposes the establishment of a water user fee to offset the costs of RMP implementation (see pages 301 and 340 in Chapter VI. Implementation).

COMMENT: One comment noted that the Technical Report (in Section 8.1, Stable and Adequate Land Acquisition Funding Assistance), provides an excellent overview and analysis of funding sources to ensure the acquisition of critical Highlands properties, which should be incorporated into the Regional Master Plan. The RMP should also contemplate the financial requirements for ensuring the long-term responsible stewardship of the critical Highlands Resources.

RESPONSE: Due to the amount of material in the RMP, the technical reports serve as addenda to the RMP and are not meant to be duplicative. Natural Resource Programs in Chapter V. of the 2007 Draft RMP include stewardship and best management practices that will enhance the preservation of the Highlands Region. The 2007 Draft RMP also proposes the establishment of a water user fee to offset the costs of RMP implementation (see pages 301 and 340 in Chapter VI. Implementation).

COMMENT: A few comments noted the Highlands Council should issue a policy statement on exactly how it envisions the scope of the just compensation requirement, and an estimate of the amount of funding and sources of funding necessary to a provide just compensation to owners in the no build zones and targeted areas.

RESPONSE: The 2007 Draft RMP includes Policy 1H5 and related objectives (see page 119) that describe the establishment of dedicated funding sources.

COMMENT: One comment supports the Highlands Council in its efforts to support stable sources of funding for land preservation, including a water consumption fee; however, agricultural water use should be exempt from such fees.

RESPONSE: The 2007 Draft RMP also proposes the establishment of a water user fee to offset the costs of RMP implementation (see pages 301 and 340 in Chapter VI. Implementation).

COMMENT: One comment stated it should be noted in the Land Preservation section that the Farmland Preservation element is included in a separate section.

RESPONSE: The 2007 Draft RMP notes in the Land Preservation section that Agriculture Resources is a completely separate section (see page 178).

COMMENT: Some comments stated alternate sources of funding should include Natural Resource Damage claims made by NJDEP, and that costs associated with specific stewardship projects that protect or enhance critical resources should be eligible for these funds. Some comments suggested that revenue derived from violations of the Highlands Act should also be available for protecting critical Highlands Resources. Some comments argued that tourism opportunities should be further explored as a primary economy of the Highlands Region, and implementation and sustainable funding strategies should be reviewed to provide a realistic timeline for the creation and development of recreation areas.

RESPONSE: The 2007 Draft RMP includes goals, policies, and objectives that describe the establishment of dedicated funding sources and the promotion of open space opportunities (see page 118 Land Preservation and Stewardship Goals, Policies, and Objectives). The funding sources noted in the comments are appropriate for preservation and management of Highlands's resources.

GARDEN STATE PRESERVATION TRUST RENEWAL/APPRaisal

COMMENT: One comment suggested that the dual appraisal process be maintained for a period of not less than five years after the time which a functioning and funded Highlands Transfer of Development Rights program is enacted. Commenter held that the five year sunset provision should only run if the Transfer of Development Rights program can be demonstrated as economically viable in accordance with the same standards set forth in C: 40-55D-123 of the New Jersey Municipal Land Use Law.

COMMENT: Some comments supported, and have introduced legislation, extending the dual appraisal methodology used by the Garden State Preservation Trust Fund for lands in the Highlands Region beyond the June 30, 2009 expiration date. Individual property owners should not feel obligated to make a hasty decision about their property; therefore appraisal dates should be extended.

RESPONSE: The 2006 Draft RMP and the 2007 Draft RMP support the extension of the dual appraisal methodology (see page 119, 2006 Draft RMP and page 120, 2007 Draft RMP).

COMMENT: Some comments supported the Draft RMP's endorsement of the reauthorization of the Garden State Preservation Trust and urged the Highlands Council to work vigorously to ensure its reauthorization this year.

RESPONSE: The Highlands Council acknowledges the comment.

OPEN SPACE LAND DIVERSIONS

COMMENT: One comment stated that there should be some mechanism in place by which to allow open space diversions that are inconsistent with the RMP under provisions related to advancement of the public health, safety, and general welfare. Commenter maintains that currently, any diversion from Green Acres requires Statehouse Commission approval, however, instead of an application being submitted to two different entities, the Highlands Council should submit its assessment and recommendations to the Statehouse Commission.

RESPONSE: The 2006 Draft and 2007 Draft RMPs include language regarding coordination with the NJDEP to review applications for Green Acres diversions for consistency with the RMP (see page 121, 2006 Draft RMP and page 119, 2007 Draft RMP, Objective 1H6b).

EDUCATION/RESEARCH

COMMENT: One comment recommended that a Land Summit be organized and hosted by the Highlands Council so that State, county and local agencies and land trusts can come together and strategize about acquiring properties, making the best use of public open space dollars.

RESPONSE: The Highlands Council acknowledges the comment and will continue to collaborate with all government and non-government entities to strategize land acquisition priorities.

COMMENT: One comment emphasized that there are many areas within the Highlands Region that have a local or regional identity and whose resources need protection from unmanaged growth and sprawl.

RESPONSE: The Highlands Council acknowledges the comment.

OTHER METHODS OF PRESERVATION

COMMENT: Some comments maintained that open space conservation can be accomplished more effectively by using an easement purchase program rather than a fee simple purchase program.

RESPONSE: The Highlands Council acknowledges the comment.

COMMENT: One comment supported selling open space properties that were acquired through fee simple purchase to private landowners with deed restrictions as a way to secure funds to buy more open space.

RESPONSE: The methods for leveraging funding for open space acquisitions will be addressed through future RMP programs and activities. The technique described would require State House Commission approval wherever Green Acres funds were used for the purchase, and would be highly dependent on the nature of the resources on the property. It is unlikely to be appropriate in most cases. However, this technique is routinely used for agricultural lands purchased through the fee simple part of the farmland preservation program.

COMMENT: A few comments proposed that the Highlands Council develop a program to allow for the purchase of development easements from forest landowners, modeled after the farmland preservation program. Such a program should be under the authority of the NJDEP, which has experience in the protection of forest resources.

RESPONSE: The 2007 Draft RMP describes programs to protect and preserve forest resources in Chapter V. Programs Forest Resource Management and Sustainability (see page 169).

COMMENT: One comment proposed that the Highlands Council adopt a policy for the development of a program to sell "agricultural rights" of farmland purchased in fee-simple by the government to farmers. Commenter held that by selling the agricultural rights of a farm to farmers, young/new farmers would be able to enter the business with some security in the future use of the land.

RESPONSE: The State Agriculture Development Committee coordinates the New Jersey farmland preservation program. SADC is evaluating methods by which the sale of farmland to farmers can be increased without undermining the fundamental success of the preservation program. The Highlands Council will continue to work closely with the SADC to prioritize and leverage funding to preserve agricultural lands.

AGRICULTURAL RESOURCE PROTECTION AND SUSTAINABILITY

CLUSTER

COMMENT: Some comments stated the site-specific standards require mandatory clustering or lot averaging for any development of agricultural land. This requirement is impossible to evaluate without septic system standards, as public water and wastewater infrastructure cannot be used. Can this level of clustering be achieved with a septic system standard of 0.83 mg/L, as public water and wastewater infrastructure apparently cannot be used in Protection and Conservation Zones? The requirement to cluster to 80% to preserve farmland may not leave sufficient land for lots to percolate. This language should be revised for communities without wastewater. Clustering of residences, both in and out of the Highlands Region, will depend on the availability of suitable alternative wastewater disposal systems. A policy promoting, and guidelines for, the use of such systems should be a significant part of the Highlands Regional Master Plan.

RESPONSE: The Highlands Council believes preservation cluster development with a minimum of 80 percent open space will provide for a development that allows agriculture to continue. The clusters should use public sewer systems where feasible and appropriate to maximize the amount of open space and eliminate the impact of septic tank systems. The Cluster Program is discussed in the 2007 Draft RMP on pages 243 to 250. The 2007 Draft RMP also includes revised septic system thresholds and a provision for clustering to meet 10 mg/L in the clustered portion of the project while achieving the appropriate LUCM Zone requirement for the full project parcels (see Chapter IV, Goals, Policies and Objectives).

COMMENT: One comment stated clustering on farmland not only violates municipal land use law provisions on clustering, but will create major problems with respect to water quality.

RESPONSE: The Highlands Council believes that both the goals and purposes of the Highlands Act and the Municipal Land Use Law (MLUL) allow for cluster development techniques to be used. Moreover, the MLUL specifically permits residential cluster and planned unit residential clusters and the definitions of open space do not preclude utilizing open space as farmland. However, in a cluster as defined by the MLUL, the remaining open space must be owned by a homeowners association or municipality, and the agricultural use would occur based on a rental or lease of the land to a farmer.

COMMENT: One comment stated that housing and other nonagricultural uses will still be permitted within the Conservation Zone, as long as clustering is used and other general policies and standards are met. A policy that limits uses to only those that “support preservation of farmland or the continued viability of the agricultural industry” contradicts these other representations by staff. A prohibition of non-agricultural land use is directly contrary to the statement and the provisions of the Draft RMP that address standards for development of these non-agricultural land uses via clustering and the 80% preservation set-aside. The use of language such as this will ensure that Planning Area communities will not opt into the Regional Master Plan.

COMMENT: One comment supported the Highlands Council in prohibiting non-agricultural development in the Agriculture Resource Area (within the Conservation Zone) that is not compatible with the protection of agricultural production, protection of important farmland soils, and other natural resource protection, and also prohibiting new water and wastewater infrastructure authorization. However, mandatory clustering of non-agricultural activities in this area is contradictory to the smart growth components of the Draft RMP calling for mixed-use development with available infrastructure. Commenter urged the Highlands Council to remove the provision for cluster development, because it may require new sewage infrastructure or package plants. If better agricultural soils are set aside, development would be located on poorer agricultural soils - the lands least able to handle wastewater from package plants or individual septic systems. If clustering is allowed in an agriculture resource area, only low density cluster development should be permitted, and only if based on natural resource capacity.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion, however, the Council believes that

where development, other than agricultural development is proposed, open space design, which includes clustering, should be required in the Agricultural Resource Area to adequately protect farmland and other natural resource protection requirements. Doing so does not prohibit those uses, but rather requires that they be located and designed in a manner that protects the agricultural uses. See page 125 Draft RMP.

COMMENT: One comment held that mandatory clustering has been proposed as a requirement for the Conservation Zone. This land development technique is not a viable strategy when applied to non-residential development. The ability to cluster development will create competition between clustered developments and agriculture on prime soils. In the Conservation Zone, instead of requiring clustering of residential development, the RMP should prohibit non-farm development; strongly protect prime agricultural soils; regulate all sources of nitrates, including agricultural pollution; and safeguard grassland species, as well as historic, cultural, and scenic values.

COMMENT: One comment stated that in light of the absence of sufficient State funding or a fully operational Transfer of Development Rights program to preserve land in the Highlands, the New Jersey Department of Agriculture (NJDA) believes it is counter-productive to prevent the very lands that may have the opportunity to accomplish equity protection and land preservation through a well-constructed cluster ordinance to be prevented from doing so.

RESPONSE: The Highlands Council believes preservation cluster development with a minimum of 80 percent open space will provide for a development that allows agriculture to continue. Not all of the Conservation Zone consists of prime soils or important farmland soils. The clusters should use public sewer systems where feasible and appropriate to maximize the amount of open space and eliminate the impact of septic tank systems. The Cluster Program is discussed in the 2007 Draft RMP on pages 243 to 250.

COMMENT: One comment stated that Highlands Council staff had indicated that development within the Planning Area can be concentrated or clustered in selected areas in order to preserve more sensitive lands, which is similar to Transfer of Development Rights, although no “receiving district” would be involved.

RESPONSE: The Highlands Council acknowledges the commenter’s statement.

FUNDING/EQUITY

COMMENT: Some comments stated a major concern of farmers opposed to the RMP is that as a result of the loss of value of their land due to the restrictions, they will be unable to raise the funds required to finance their farming operations. In order to address this issue and to meet a principle RMP objective of maintaining a healthy agricultural sector, the Highlands Council should establish a Highlands Farm Bank initially funded with government money to provide loans to farmers to maintain and improve their farming operations, or have the Highlands Council determine a funding method to sustain the farmers such as an alternative source of lending that requires no collateral for those farmers.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion and notes that in the 2006 Draft RMP the Council recommends exploring innovative programs to promote long-term viability of agriculture such as health care, banking practices, housing, and labor.

COMMENT: One comment asked which plans have been prepared by the Highlands Council for the State to pay for conservation easements, and what is the projected cost.

RESPONSE: Equity concerns are specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278. Additionally, the Highlands Council is charged with preparing a cash flow timetable as part of the fiscal component of the RMP. Information regarding the cash flow timetable is provided at pages 85-88, 167, and 282-283 of the 2007 Draft RMP.

COMMENT: One comment noted that the RMP should discuss how agricultural lands will be valued. Currently an easement value is determined, but if the property is zoned strictly for agriculture, then a preservation easement will

create very little loss in value.

RESPONSE: Equity concerns are specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278. Moreover, the Highlands Council believes preservation cluster development with a minimum of 80 percent open space will provide for a development that allows agriculture to continue and provide for landowner equity. The Cluster Program is discussed in the 2007 Draft RMP on pages 243 to 250.

COMMENT: One comment does not support the extension of the dual appraisal method beyond June 30, 2009. By that time, land values will have normalized and a rational appraisal based on pre-existing conditions will prove very difficult. Additionally, the Internal Revenue Service does not allow for the deduction of donated values based on the current method. Their refusal to recognize this method indicates that it is an incorrect, legally questionable technique.

RESPONSE: The Highlands Council specifically advocates for extending the dual appraisal method in the Draft RMP at pages 127.

COMMENT: One comment noted that there are not nearly enough State financial resources to preserve the farmland in the Highlands Conservation Area.

RESPONSE: The Highlands Council acknowledges the comments, and continues to work to secure a dedicated funding source to assist in implementing the RMP. To that end, the Highlands Council persists in advocating for the imposition of a water user fee as set forth on pages 119, 179, 185, 301, and 340 of the 2007 Draft RMP.

COMMENT: One comment suggested that the Highlands Council include a policy statement in the Regional Master Plan, addressing farms in the 8-year program as priority farmland preservation projects, irrespective of whether or not the farm is included in the RMP resource assessment. More expansive RMP policies are needed to allow for State Agricultural Development Committee (SADC) farmland preservation priority consideration of working, economically viable farms that may not be included in the Agricultural Resource Area or the Agricultural Priority Area in the Regional Master Plan. By not including these farms in the RMP as priority areas, there will be an increase in development pressure to convert these remaining farms to non-farm land uses, thereby eliminate these farm resources located in close proximity to the existing population in the Region.

RESPONSE: The Highlands Council will collaborate and coordinate with agencies (in particular the NJDA and SADC), local governments, and local organizations to target and preserve natural and agricultural spaces in support of the Draft RMP. Farms in the 8-year program were included as a factor in determining Agricultural Resource Areas and Agricultural Priority Areas.

COMMENT: One comment noted the very first component of the Highlands Act should be the achievement of a funding source and addressing equity through Transfer of Development Rights and through the State Agricultural Development Committee program.

COMMENT: One comment said the Highlands Council should cite the many sections of the Highlands Act that promote the equitable treatment of and fairness to landowners, in this section of the Regional Master Plan. The Highlands Council should demand the implementation of a funding source for lost land values as a result of the Highlands Act, Transfer of Development Rights Bank start up costs, and grants to develop and implement the newly required plans proposed in various sections of the Draft Plan.

RESPONSE: Equity concerns are specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278. Additionally, the Highlands Council acknowledges the comments, and continues to work to secure a dedicated funding source to assist in implementing the RMP. To that end, the Highlands Council persists in advocating for the imposition of a water user fee as set forth on pages 119, 179, 185, 301, and 340 of the 2007 Draft RMP. Equity concerns are specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278.

COMMENT: One comment noted that the Highlands Act, the NJDEP rules for the preservation area, and the Draft RMP do not encourage agriculture. The Draft RMP does not designate any portion of Bernards Township within the Agricultural Resource Area. The Draft RMP identifies southerly portions of the municipality in the 'Agricultural

Priority Area,' however certain priority farms, including perhaps the highest priority farmland preservation project in Bernards Township, are not designated within the Agricultural Priority Area. Will this negatively affect a municipality's ability to compete for farmland preservation funds?

RESPONSE: The Highlands Council has identified the central portion of Bernards Township as being within the Agricultural Resource Area and within that Area has identified Agricultural Priority Areas as set forth in figures on pages 57 and 221 in the 2007 Draft RMP. The Highlands Council will collaborate and coordinate with agencies (in particular the NJDA and SADC), local governments, and local organizations to target and preserve natural and agricultural spaces in support of the RMP. Municipal Plan Conformance provides a higher priority for State funding, but there is no bar to the existence of a local farmland preservation priority that is not identified as a priority for preservation by the RMP.

SOILS

COMMENT: One comment noted that the RMP should strongly protect prime agricultural soils and regulate all sources of nitrates including agricultural pollution.

RESPONSE: Prime soils are a factor in establishing Agricultural Resource Areas and Agricultural Priority Areas, areas designated for protecting important farmland soils and prime soils. The 2007 Draft RMP promotes efforts to increase Integrated Crop Management programs and other innovative management techniques that reduce pesticide and fertilizer in conjunction with agricultural activities. Additionally the Council will identify subwatersheds with elevated nitrate levels, develop management plans for enhancing water quality, and implementing those plans in ways that enhance agricultural viability.

COMMENT: A few comments argued that agricultural soils, including prime soils, soils of statewide importance, unique soils and locally important soils, require strong protection within the Conservation Zone and throughout the Highlands Region. Any limited permissible uses within the Agricultural Resource Area should protect soils for cropland, water recharge, and habitat.

RESPONSE: The Highlands Council considers Important Farmland Soils as a critical agricultural resource in the Highland region. Important Farmland Soils includes Prime, Statewide Importance, Unique and Locally Important soils and permissible development within the Agricultural Resources Areas must meet the applicable standards of the 2007 Draft RMP.

COMMENT: One comment contended that Important Farmland Soils should not be defined to include Prime, Statewide Importance, Unique, and Locally Important soils. The definition of "Important Farmland Soils" is overly broad and marks virtually all soils in the Highlands as "Important Farmland Soils." This policy appears to be a calculated way to prohibit equity protecting measures such as cluster and lot-size averaging in almost the entire Agriculture Resource Area.

RESPONSE: While the Highlands Council considers Important Farmland Soils to be a critical agricultural resource in establishing Agricultural Resource Areas, Prime Soils are an additional determining factor in designating Agricultural Priority Areas for farmland preservation. Additionally, as explained in the 2007 Draft RMP on page 247, all development must be clustered on a portion of a parcel of land proposed for development which has the lowest relative level of natural resource value and minimizes the creation of impervious surfaces and the fragmentation of natural habitats, environmental resources, and continuing agricultural lands, and avoid the creation of awkward or odd-shaped parcels for the remaining open space.

VIABILITY/SUSTAINABILITY

COMMENT: One comment stated that the regulations are detrimental to preserving agriculture. In order to keep agriculture viable there should not be separate standards for lands located inside and outside the Highlands Region.

RESPONSE: The Highlands Act established specific goals in the Highlands Region relating to the protection and

preservation of agriculture including the preservation of farmland; the promotion of compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and the promotion and expansion of those opportunities and use. The Highlands Council believes the goals, policies, and objectives of the Final Draft Plan achieve the goals of the Highlands Act.

COMMENT: Some comments argued that farming is a business, and without policies that encourage “real working farms,” the end result will be preserved farmland owned by “gentlemen farmers.”

RESPONSE: The New Jersey Legislature declared in the Highlands Act that the maintenance of agricultural production and a positive business climate should be encourage to the maximum extent possible wherever appropriate in the Highlands. Additionally, the 2007 Draft RMP proposes the establishment of agriculture preservation priorities in order to preserve, stabilize, and enhance the primary agricultural land base that is being used for or offers the greatest potential for continued, commercially significant agricultural production. These priority areas will be established in consultation with the SADC.

COMMENT: One comment noted that areas in the Highlands Region under the greatest pressure for development should receive priority funding for farmland preservation.

RESPONSE: In order to prioritize lands for farmland preservation in the 2007 Draft RMP, the Highlands Council utilized the results of the agricultural resource assessment to identify those lands within the Highlands Region which have the highest agricultural resource values. Additionally, the Highlands Council will collaborate and coordinate with agencies (in particular the NJDA and SADC), local governments, and local organizations to target and preserve natural and agricultural spaces in support of the RMP.

COMMENT: One comment noted the Highlands Council should address how abandoned agricultural lands should be restored and turned into tillable land that can be used for agricultural production.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion, but suggests that market forces and the maintenance of a viable agricultural economy will be the key factors in restoring agricultural uses.

COMMENT: One comment stated that the Draft RMP does not address the sustainability of agriculture, rather the focus of the Draft RMP is to place farmland in the Conservation Zone based solely on soil classification.

RESPONSE: The 2006 Draft RMP does not place farmland in the Conservation Zone solely on soil classifications. The Conservation Zone includes lands of significant agricultural importance and associated natural resource lands which are adjacent to, or in common ownership with, land used for agricultural purposes. Development potential in the Conservation Zone is limited in location and intensity because of agricultural and natural resource protection requirements and infrastructure restraints.

COMMENT: One comment suggested the Highlands Council should seriously consider some policy statements and bright line standards for agricultural sustainability in the Region. Some of the issues to be addressed are: water quality, soil health, erosion, organic farming, consumptive and depletive water use practices, Integrated Pest Management practices, farm conservation and resource system management plans, agricultural wetlands, riparian buffers, and nutrient management.

RESPONSE: The 2006 Draft RMP addresses agricultural sustainability in Long Term Goals, Local Participation Strategies, and Coordination and Consistency Strategies on pages 126 and 127 and many of the topics the commenter listed are addressed in existing agricultural programs. Additionally the 2007 Draft RMP states that the Highlands Council will identify subwatersheds with elevated nitrate levels, develop management plans for restoring water quality and implement those plans. See Water Quality Restoration Program on page 205 of the Final Draft Plan.

COMMENT: One comment contended that agricultural activities that worsen the public trust resource of water are not sustainable, that the use of water value to count toward farmland assessment income appears to be proposed, and noted that water is not owned by the landowner but is a trust resource. Monetizing the public’s resource to yield

benefits to private parties should not be contemplated. It was posited that monies received to meet the costs incurred in conservation activities under the Wildlife Habitat Incentive Programs, Conservation Reserve Program, and Conservation Reserve Enhancement Program can be used to meet farmland assessment requirements. It was further suggested that any use of such credits are tied to a structured program and a transparent and accountable plan. It was proposed that a much more important amendment to the Farmland Assessment Act would be to increase the roll-back period to ten years from the current three. The Highlands Council must be careful to ensure that sustainable agriculture doesn't dominate the primary goal which is to protect water supply and quality in the Conservation Zone. RESPONSE: The Highlands Council acknowledges the commenter's statements.

COMMENT: One comment expressed concern that trails running through farmlands are disruptive and destructive to the farming operation, to the animals, and potentially dangerous to the public.

RESPONSE: The current SADC Farmland Preservation Program does not permit trails through preserved farmland and the 2006 Draft RMP does not propose placing trails through farmland.

COMMENT: One comment held that the actions of municipalities can have a more positive or negative effect on agricultural viability than any other factor. The Highlands Council has included policies that look to prevent agricultural operations from changing.

RESPONSE: The Highlands Council acknowledges the commenter's statement. The 2006 Draft RMP recommends developing educational and technical training programs for county and municipal officials to promote a viable and environmentally sustainable agriculture industry; educating the public on the economic, cultural and resource value of a viable agriculture industry; and promoting the municipal use of an Agriculture Advisory Committee as a resource to meet the goals of the 2006 Draft RMP.

COMMENT: One comment maintained that changes in crops, cropping practices, or other land management for farming purposes cannot be limited to existing "agricultural uses" because of the need to rotate crops to protect the soil.

RESPONSE: The Draft RMP does not limit changes in crop, crop management, or changes in "agricultural uses," as defined by the Highlands Act. However the 2006 Draft RMP does limit the change from agricultural uses to a non-agricultural uses or non-agricultural development. "Agricultural development" is also defined in the Act.

COMMENT: One comment suggested adding language to recognize that the United States Department of Agriculture, Natural Resources Conservation Service is adamant that their design standards from the United States Department of Agriculture Field Office Technical Guide are national policy. These science-based design standards and guidelines shall not be adjusted, amended or made to conform to any special local or state policy when designing and cost-sharing for farm conservation practices.

RESPONSE: The Highlands Council anticipates coordinating with and working cooperatively with the United States Department of Agriculture, Natural Resources Conservation Service and utilizing their science-based design standards and guidelines. It should be noted that NRCS does have New Jersey-specific standards in the Technical Guide for specific practices where that is appropriate.

COMMENT: One comment expressed concern that the Highlands Council is denying a whole generation the right to farm, stating that stream buffers and other environmental regulations are rendering property worthless.

COMMENT: One comment noted working farms should be exempt from the Highlands Plan's regulations; they have nothing to do with directly affecting water supplies.

RESPONSE: The Highlands Act established specific goals in the Highlands Region relating to the protection and preservation of agriculture including the preservation of farmland; the promotion of compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and the promotion and expansion of those opportunities and use. The Highlands Council believes the goals, policies, and objectives of the Final Draft Plan achieve the goals of the Highlands Act. Existing agricultural areas are not prohibited from continuing despite their

location, but the 2006 Draft RMP does encourage implementation of best management practices.

COMMENT: One comment stated that the development of programs to support sustainable agriculture was mandated by the Highlands Act. Other than to define this as largely the site-specific practices needed to protect natural resources, the subject was ignored, and as a result, the viability of farming as a business in the Highlands Region is further threatened.

RESPONSE: The 2006 Draft RMP addresses farm viability in Long Term Goals, Local Participation Strategies, and Coordination and Consistency Strategies on pages 126 and 127.

COMMENT: One comment held that although agriculture was specifically exempted in the Highlands Act, the Draft RMP includes a number of restrictions that are in conflict with this exemption, such as 125% recharge requirements, a ban on change of use, vagueness of the buffer requirements for agriculture, significant changes in forest management practices that are in conflict with existing practices, the emphasis on soils and contiguous parcel size as the basis for the agricultural zone, and mandated use of recycled water.

COMMENT: One comment asked if agriculture is truly exempt from the Highlands Act; the legislation reads like agriculture was exempt under certain rules and guidelines, however, this is not outlined in the Draft RMP.

RESPONSE: The Highlands Act does include the legislative directive that the Highlands Act not compromise the New Jersey Right to Farm Act. In addition, to further ensure that agriculture in the Highlands Region may continue to grow, the Highlands Act excludes agricultural use and agricultural development from regulation by the NJ Department of Environmental Protection. However, even though agricultural development is excluded from NJDEP regulation in the Preservation Area under the Highlands Act, any agricultural development projects in the Preservation Area which increase impervious cover by 3% or more are still subject to review by local soil conservation districts and trigger the requirement for implementation of farm conservation plans.

COMMENT: One comment said farms do not need to be contiguous in order to be viable, but the agricultural industry could use assistance in developing an agricultural infrastructure that matches modern markets and practices. New Jersey farms were formerly commodity operations that either raised livestock or food for livestock. That infrastructure no longer exists, but marketing, storage, and transportation infrastructure to support modern operations which target direct consumer sales is severely deficient. Agricultural infrastructure problems must be addressed, even though those infrastructure needs are in conflict with the preservation goals in the Draft Plan.

RESPONSE: The Highlands Council acknowledges the commenter. The Highlands Council under the 2006 Draft RMP will develop technical guidelines for development of a Farmland Preservation Plan that will include, but not be limited to, local efforts to support direct marketing opportunities, i.e. farmers markets and road stands, tourism, and community supported agriculture. Additionally, the 2006 Draft RMP supports efforts to increase farmer's access to local markets.

GENERAL DRAFT PLAN

COMMENT: One comment stated the Draft RMP is not a land use plan that balances protection of the environment with economic opportunities. It is an environmental regulatory strategy that goes beyond the intent of the legislation and in some cases completely ignores the legislation. Additionally, the Draft RMP was released without an equity policy and the agricultural resource protection and sustainability fails to lay out the policy for those farms that are in the protection zone. Language needs to be added that emphasizes the changing and dynamic nature of the agricultural industry and the need for regulatory flexibility to allow farmers to adapt to new and changing markets and agricultural practices.

RESPONSE: The Highlands Council believes preservation cluster development with a minimum of 80 percent open space will provide for a development that allows agriculture to continue. The clusters should use public sewer systems where feasible and appropriate to maximize the amount of open space and eliminate the impact of septic tank systems. The Cluster Program is discussed in the 2007 Draft RMP on pages 243 to 250. Equity concerns are

specifically addressed in the 2007 Draft RMP at pages 160-164 and 273-278.

COMMENT: One comment noted the Draft RMP is missing local participation strategies and Coordination and Consistency Strategies for Agriculture.

RESPONSE: Agriculture Local Participation Strategies and Coordination and Consistency Strategies are located on pages 126 and 126 of the 2006 Draft RMP.

COMMENT: One comment stated that with the information presently available, it is impossible to assess with any certainty what data were used to prepare the maps in the Draft RMP or what operations were performed on the data. There is no conclusion statement or discussion suggesting any new approaches to specifically be applied to the Highlands Region or how these various programs are to be used in the Region. There is no discussion of available funding.

RESPONSE: While not discussed in detail in the 2006 Draft RMP, the Draft Technical Addenda describes the data and the processes that were used in preparing the 2007 Draft RMP maps. The *Sustainable Agriculture Technical Report* that was developed in support of the 2006 Draft RMP contains a comprehensive review of existing funding sources. Both were located on the Council's website. Program specifics are discussed in the 2007 Draft RMP on pages 169 to 284.

COMMENT: One comment urged the Highlands Council to strengthen the Draft RMP to further conserve forests and prime farmlands surrounding Musconetcong and all other rivers and tributaries in the Highlands. Commenter urged that Prime Agricultural Soils be strongly protected within the Conservation Zone and throughout the Highlands Region. Commenter noted that cluster development has a negative effect upon grassland bird species, and threatened and endangered species. Commenter also recommended that non-farm development be prohibited in the Conservation Zone, proposing that farms should be preserved through a combination of Farmland Preservation and Transfer of Development Rights.

RESPONSE: The 2006 Draft RMP is a region-wide plan and the protection standards for natural resources apply throughout the Highlands Region. The Highlands Council acknowledges the commenter's opinion, however, the Council believes that where development, other than agricultural development is proposed, open space design, which includes clustering, should be required in the Agricultural Resource Area to adequately protect farmland and other natural resource protection requirements. See page 125 of the 2006 Draft RMP.

COMMENT: One comment noted that farmland preservation efforts have been successful in large part due to the inclusion of exception areas on protected farms and recommended that these exception areas continue. These exception areas allow for limited, inter-generational rural development and have been endorsed and approved by the State Agricultural Development Committee (SADC) and County Agricultural Development Boards (CADBs).

RESPONSE: Exception areas under the SADC are still permissible under the Highlands Act. However, these exception areas are subject to the Highlands Act exemptions. As a result, farms that consist of multiple individual tax lots potentially qualify for single family dwelling exemptions under the Act which may be considered an exception area by the SADC.

COMMENT: One comment argued that the Draft RMP lacks input from the Agricultural Technical Advisory Committee, the New Jersey Department of Agriculture, and the Forest Service.

RESPONSE: The Highlands Council did include input, suggestions, and advice from recommendations made by the Council's Agricultural and Forestry Technical Advisory committees. Additionally the Council has and will work closely with the NJ Department of Agriculture.

ZONE STANDARDS

COMMENT: One comment noted that there are no Protection Zone or Planned Community Zone standards for Agricultural Resource Areas, and that it is unclear how the open space design standards of the Agricultural Resource Area will relate to the Zone standards. One comment strongly recommended that the Highlands Council take the approach of having one policy for the entire Agricultural Resource Area, regardless of the zone.

COMMENT: One comment stated that there are many questions and concerns about how the zone standards may potentially affect agricultural viability. How the standards for the agricultural resource area will be related to the specific zone standards was questioned.

RESPONSE: The 2007 Draft RMP recognizes that the nature of agriculture in the Highlands Region is variable; Agriculture in the Protection, Conservation, Existing Community Zones and the Environmentally Constrained Subzones is dependent on the natural resources in need of protection in the zones. Additionally the 2007 Draft RMP established review standards for the development of additional water and wastewater infrastructure in an Agricultural Resource Area in the Protection Zone within the Preservation Area and the Agricultural Resource Area within the Conservation Zone. Additionally the Highlands Act established specific goals in the Highlands Region relating to the protection and preservation of agriculture including the preservation of farmland; the promotion of compatible agricultural, horticultural, recreational, and cultural uses and opportunities; and the promotion and expansion of those opportunities and use. The Highlands Council believes the goals, policies, and objectives of the 2007 Draft RMP achieve the goals of the Highlands Act.

COMMENT: A few comments held that agriculture is supposed to be exempt in the Highlands Act as well as the NJDEP Highlands rules, but the Draft RMP places restrictions on farmland because “critical resources” may be located on the property. It was stated that the Highlands Council should not have the right to supersede the county and/or State decision making process for farmland preservation nor should it have the chief role in determining basic agricultural policies and programs. It was stated that these decisions should remain with the expert farmers, New Jersey Department of Agriculture and the New Jersey Farm Bureau.

RESPONSE: Issues regarding the regulation of agricultural practices are discussed in preceding responses. The 2007 Draft RMP proposes the establishment of agriculture preservation priorities in order to preserve, stabilize, and enhance the primary agricultural land base that is being used for or offers the greatest potential for continued, commercially significant agricultural production. In order to prioritize lands for farmland preservation in the 2007 Draft RMP, the Highlands Council utilized the results of the agricultural resource assessment to identify those lands within the Highlands Region which have the highest agricultural resource values. Additionally, the Highlands Council will collaborate and coordinate with agencies (in particular the NJDA and SADC), local governments, and local organizations to target and preserve natural and agricultural spaces in support of the RMP.

COMMENT: One comment stated that a municipality is required to include all land in the agricultural Conservation Zone in their Farmland Preservation Plan, whether the owners wish to participate or not and whether the land is actually being farmed or not. It was held that there is no evidence in the Draft RMP showing that land in the agricultural Conservation Zone is actually being farmed or that it is privately owned, leaving land preservation a questionable option.

RESPONSE: There is no mandate in the 2006 Draft RMP requiring a municipality to include all land in the agricultural Conservation Zone in their Farmland Preservation Plan. The 2006 Draft RMP does state that the Council will develop technical guidelines pertaining to the development of a Farmland Preservation Plan. Additionally all participant in the SADC Farmland Preservation Program must be willing sellers; inclusion in a preservation plan does not require a landowner to preserve their property.

NO BUILD AREAS

COMMENT: One comment urged that the Highlands Council identify a special area within which development shall

not occur. It was held that agricultural lands are not adequately protected and that the Highlands Council should implement limited development in centers and remove the ability for cluster development on farmland.

COMMENT: One comment urged the Highlands Council to boldly define the areas of contiguous farmland and prime agricultural soils and designate them as off limits to development. It was maintained that prohibiting all non-farm related residential development is the only way to ensure that contiguous large tracts of farmland are preserved.

COMMENT: One comment stated that the piecemeal development of farmland has unfolded across the state and no rules currently in place in the Highland's Planning Area will break this pattern. It was urged that an action plan be developed in order to preserve these lands.

RESPONSE: The Highlands Council believes preservation cluster development with a minimum of 80 percent open space will provide for a development that allows agriculture to continue. The clusters should use public sewer systems where feasible and appropriate to maximize the amount of open space and eliminate the impact of septic tank systems. The Cluster Program is discussed in the 2007 Draft RMP on pages 243 to 250. In addition, the 2007 Draft RMP includes Policy 1H11 that provides a method for future identification of "no build" areas as authorized under the Highlands Act.

DATA

COMMENT: One comment held that the Draft RMP states "areas with significant agricultural lands and important farmland soils were also evaluated. A determination was made as to their quality and importance to the Highlands," and questioned where the results of this evaluation and determination are published.

RESPONSE: The Land Use Capability Map figure, the Agricultural Resource Areas Map figure, and the Agricultural Priority Areas figure of the 2006 Draft RMP are visual representations of the quality and importance of the agricultural resources in the Highlands Region. Additionally on page 122 of the 2006 Draft RMP, a description of the factors that were used in defining the Agricultural Resource and Priority Areas in discussion. On page 50 of the 2006 Draft RMP a list of the indicators and process used to create the Land Use Capability Map is also included.

COMMENT: One comment suggested that a study of productivity based on the resource assessment be included in the Regional Master Plan.

RESPONSE: One of the Agriculture Long Term Goals in the 2006 Draft RMP is for the Highlands' Council is to develop indicators to serve as an assessment tool in meeting agricultural goal and policies. A study of productivity utilizing these indicators may be advisable. Currently the USDA National Agriculture Statistical Service captures productivity data on farms in the Highlands Region.

COMMENT: One comment asked whether pending farmland preservation applications were considered as part of an analysis. It was urged that the RMP be updated with this recent preserved farmland data.

RESPONSE: SADC data used by the Highlands Council in designating the Agricultural Resource Areas and the Agricultural Priority Areas include pending farmland preservation applications.

COMMENT: One comment suggested that every farm management unit should also be identified by Block and Lot numbers.

RESPONSE: The Highlands Council anticipates that Block and Lot numbers will be used to identify farm management units in the development of the agricultural lands inventory that is required by the 2006 Draft RMP.

COMMENT: One comment suggested that United States Department of Agriculture has developed a Farm Typology that could be applied to the Highlands Region with the objectives of informing policy design to assist the business of agriculture.

RESPONSE: USDA Farm Typology for a diverse agricultural sector will be considered in developing standardized data collection and developing indicators in assessing the goals and policies of the 2006 Draft RMP.

INCENTIVES

COMMENT: Some comments suggested providing incentives to meet the goals of the program and make New Jersey farmers partners in the process by providing them with funding for conservation practices, including Transfer of Development Rights. It was held that the New York Watershed Agricultural Council is an example of such a successful agricultural conservation program. It was suggested that the Highlands Council should “encourage” land use that supports preservation of farmland and the agricultural industry with incentives, better right to farm protections, tax incentives, economic development initiatives, relief from permit fees, and cost sharing programs that can add up to 100% of the cost of conservation practices

RESPONSE: The Agriculture Coordination and Consistency Strategies on page 127 of the 2006 Draft RMP anticipates the use of a wide variety of incentives to meet the goals and policies of the 2006 Draft RMP.

COMMENT: One comment held that changing the Farmland Assessment Act is not the most productive way to achieve what is desired: financial support for woodland owners for improvement to the health and quality of their forests including wildlife and invasive control. It was suggested that opening the door to changes in Farmland Assessment would instead put the program at great risk of being gutted by lawmakers who do not understand its value and who are looking for ways to lower property taxes. It was urged that the Highlands Council instead advocate to the legislature for property tax credits to be given to qualified woodland owners to compensate them for control of invasive species, white-tailed deer reduction programs, and for practices to improve water quality on well managed agricultural lands.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion.

IMPERVIOUS COVER

COMMENT: One comment noted that the impervious coverage limit for farms should be the same as if the land were residentially built. It was maintained that a farmer receives tax breaks and may even receive payment to preserve land. It was suggested that the Highlands Council limit farmers to an impervious coverage of 2% and a pasture management ratio of one animal unit per acre.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion; however, the Highlands Act provides for specific thresholds regarding new impervious surface in agricultural development.

COMMENT: One comment urged that a 5% maximum impervious surface cover be set in order to protect prime soils in agricultural easements.

RESPONSE: The Highlands Act requires the Highlands Council to create incentive for landowners to preserve farmland and permanently limit impervious surface to 5% in Section 6w.

COMMENT: One comment stated the site specific standards for agriculture prohibit development, but it was suggested that if a landowner wants to develop and exceeds 3% of agricultural development activities and 9% of impervious cover, then he/she will need to have a United States Department of Agriculture Farm Conservation Plan.

RESPONSE: The Site Specific Standards of the 2006 Draft RMP recommend prohibiting non-agricultural development in the Agricultural Resource Areas. The Highlands Act requires that an increase in agricultural impervious cover of 3% or more requires a farm conservation plan and an increase of 9% or more requires a resource management systems plan.

COMMENT: One comment noted the RMP should discuss and address how impervious coverage limitations factor into all the goals, what limitations an impervious coverage restriction places on those goals, and how these limitations will be mitigated.

RESPONSE: The 2007 Draft RMP provides more detailed language regarding impervious surfaces and their impact on ground water recharge and stormwater management, in Chapter IV, Goals, Policies and Objectives. Impervious

surface is an indicator of environmental impacts but not a direct measure; the 2007 Draft RMP policies and objectives focus on the actual impacts wherever possible.

COMMENT: One comment urged the Highlands Council to work with the State Agricultural Development Committee and the Garden State Preservation Trust to establish an incentive program for any landowner in the Highlands Region seeking to preserve land under the farmland preservation program who would agree to permanently restrict the amount of impervious coverage to a maximum of five percent of the farm's total land area. It was stated that Section 6.w., specifically requires the Highlands Council to develop such an incentive program, but it is not mentioned in the Draft RMP.

RESPONSE: Language reflecting Section 6.w. of the Act is now in the Final Draft Plan.

EDUCATION/ RESEARCH

COMMENT: One comment held that the Highlands Council should advocate for and financially support more educational activities on resource issues and productivity improvements for farms, especially in coordination with the Rutgers Cooperative Extension Service.

RESPONSE: The 2006 Draft RMP in the Agriculture Local Participation Strategies and Coordination and Consistency Strategies supports education and agricultural conservation practices.

COMMENT: One comment noted that there seems to be many misconceptions circulating both in the public and press and urged the Highlands Council to address this misinformation by holding a landowner/farmers forum before the end of the comment period.

RESPONSE: The Highlands Council anticipates that there will future informational forums in order to educate landowners, farmers, municipal officials and Highlands residents.

COMMENT: One comment suggested that the Highlands Council promote, establish, and use municipal Agriculture Advisory Committees that represent the variety of commodities and farming scales in the community as a resource to meet the goals of the Regional Master Plan.

RESPONSE: The 2006 Draft RMP promotes the establishment and use of municipal Agricultural Advisory Committees as a resource to meet the goals of the Plan.

DEFINITIONS/GLOSSARY

COMMENT: One comment stated that the Draft RMP needs to define what is meant by a "concentration of preserved farmland." It was held that the RMP needs to define what is "compatible" with the Highlands agriculture standards and how those standards differ from current agricultural standards.

RESPONSE: "Compatible" is a term used in the Highlands Act which remains undefined by the Act. Compatibility is a question of fact. The Highlands Council intends to work closely with the NJDA and the SADC as well as with CADBs and local Agriculture Advisory Committee, in determining what activities are compatible with agricultural activities.

COMMENT: One comment suggested the term "open space design" should be added to the glossary.

RESPONSE: A definition of "Open Space/Conservation Design Development" has been added to the 2007 Draft RMP.

COMMENT: One comment noted that the Highlands Council, through its Agriculture Committee, must work with the New Jersey Department of Agriculture in order to determine how the term "compatible agriculture" should be used.

RESPONSE: The Highlands Council and its Agriculture Committee has and will continue to work with and

coordinate with the NJ Department of Agriculture.

COMMENT: One comment requested the definition of “agricultural impervious cover.”

RESPONSE: The definition of “agricultural impervious cover” is in Section 3 of the Highlands Act.

EASEMENTS

COMMENT: One comment requested that all forest conservation easement programs be developed through NJDEP, not the State Agriculture Development Committee, because NJDEP has significantly more expertise in this area.

RESPONSE: The Highlands Council acknowledges the commenter’s opinion and in the 2006 Draft RMP supports the development of a forest easement program that can be utilized by the NJDEP Green Acres Program and the SADC.

COMMENT: One comment stated that encouraging private and public owners to lease lands to farmers should only be pursued when the lands are suitable for agricultural uses and do not contain important or sensitive natural resources.

RESPONSE: The Highlands Council in the 2006 Draft RMP encourages private and public owners of agricultural lands within the Conservation Zone to lease open lands to farmers and to manage lands in a manner that is compatible with adjoining agricultural uses. All activities undertaken pursuant to the 2006 Draft RMP should be consistent with the goals and policies of the Plan.

COMMENT: One comment supported dedicated funding in order to purchase lands in fee and conservation easements in the Agricultural Resources Area. It was added that the terms and conditions of purchased easements must be protective of the natural resource objectives of the Highlands Act. It was suggested that the Highlands Council carefully examine concerns raised about the Internal Revenue Service, regarding the deductibility of donated easements or bargain sale amounts to the State Agricultural Development Committee due to the lack of control on activities allowed under the easements.

RESPONSE: The Highlands Council acknowledges the comment’s statements.

AGRICULTURAL RESOURCE AREA/AGRICULTURAL PRIORITY AREA

COMMENT: One comment would like to see more specific information about the methodology used in identifying the farms with the “highest agricultural resource value.” The RMP must be specific about what factors are going to be used to differentiate land prioritization for compensation.

RESPONSE: While not discussed in detail in the 2006 Draft RMP, the Draft Technical Addenda describes the data and the processes that were used in preparing the Draft RMP maps. The *Sustainable Agriculture Technical Report* that was developed in support of the 2006 Draft RMP contains a comprehensive review of existing funding sources. Both are located on the Council’s website. Program specifics are discussed in the 2007 Draft RMP on pages 169 to 284.

COMMENT: One comment asked what the criteria were for the Agricultural Priority Area. Commenter questioned whether locations reflect active farms and how to verify this information? It was pointed out that it is difficult to see connections between the Land Use Capacity Map and the Agricultural section of the Regional Master Plan. The status of Forestry under Resources was questioned as well as other farmland assessment uses, such as animal husbandry. It was stated that within the Agricultural Resource Area, there is no map of farm soils.

RESPONSE: The 2006 Draft RMP on page 122 sets out the criteria for the Agricultural Priority Areas. Additionally a soils map is included in the *Sustainable Agriculture Technical Report*.

COMMENT: One comment supported the delineation of the Agricultural Resource Area and stated that the

methodology used to define the critical agricultural lands in the Highlands Region is well documented and is understandable.

RESPONSE: The Highlands Council acknowledges the commenter's statement.

COMMENT: One comment recommended that Agricultural Resource Area and Agricultural Priority Area mapping be coordinated with the State Agricultural Development Committee's Strategic Targeting Project Planning Incentive Grant (PIG) project areas and other mapping information generated by that agency.

RESPONSE: The Highlands Council has and will continue to work closely with and coordinate with the SADC and NJ Department of Agriculture in implementing the Draft RMP goals and policies.

COMMENT: One comment suggested that a policy be added to state that any farmland owner whose land is not designated as part of the Agricultural Resource Area has the ability to petition for inclusion in the Agricultural Resource Area.

RESPONSE: The Agricultural Resource Area is a density mapped area that incorporates the most densely and closely located agricultural areas, recognizing that more isolated agricultural units may exist throughout the region.

AGRICULTURAL LAND USE PLANNING

COMMENT: One comment recommended the use of agricultural zoning in order to get funding and priority.

RESPONSE: The 2006 Draft RMP establishes Agricultural Priority Areas which establishes priorities for preservation and funding are based on the land with the highest agricultural resource values.

COMMENT: One comment noted that planning approaches deemed to be agriculture-friendly include exclusive agricultural zoning and current use zoning.

RESPONSE: The Highlands Council acknowledges the commenter's statement.

COMMENT: One comment suggested a much more complete inventory or analysis of farmland should be completed addressing the following issues among others:

1. What effect does agriculture have on water quality and quantity?
2. What kinds of crops are grown and how many acres are devoted to them in the Highlands? What kinds of livestock are produced and in what numbers? How much animal waste is produced annually and how is it disposed?
3. What is the current level of soil and water conservation projects/programs, what programs are in use, what are the funding levels, what are the eligibility requirements, etc? Are funding levels currently meeting existing conservation needs?
4. How much of the Highland Region's farmland is currently covered by Natural Resources Conservation Service/Soil Conservation District approved conservation plans? Are the plans current and do they address issues of concern?
5. Do these plans adequately address the goals of the Highlands Council?
6. What are the expected farming/agriculture trends of the future? What crops will be grown, what types of livestock will be raised, etc?
7. Will the existing conservation programs adequately provide for the needs of the future? If not, what changes are needed in program emphasis and funding levels?
8. How much irrigation water does agriculture use, what are the sources and what kinds of water conservation practices are being employed?

RESPONSE: The Highlands Council anticipates developing a more comprehensive agricultural inventory and indicators to serve as an assessment tool in meeting the agricultural goals and policies of the 2006 Draft RMP and acknowledges the comment's statements.

RIGHT TO FARM

COMMENT: One comment noted the Highlands Council needs to thoroughly consider in the RMP how the Right to Farm Act and the Highlands Act and the NJDEP regulations can work together in a way that promotes agriculture viability and diversity.

RESPONSE: The Highlands Act states that “in order to preserve the agricultural industry in the region, it is necessary and important to recognize and reaffirm the goals, purposes, policies, and provisions of the "Right to Farm Act," P.L.1983, c. 31 (C.4:1C-1 et seq.) and the protections afforded to farmers thereby.” The Highlands Council in the 2006 Draft RMP requires that conforming municipalities and counties revise master plans and development regulations consistent with the Right to Farm Act and will coordinate with the CADB's concerning sustainable agriculture, farmland preservation, Right to Farm issues, and agricultural viability in the Highlands Region.

COMMENT: Some comments stated that the Right to Farm Act is specifically mentioned in the Highlands Act as having superior weight than the Highlands Act. It was held that the Highlands Act requires the Highlands Council to keep the protections afforded by the Right to Farm Act intact. It was contended that the Draft RMP contains significant restrictions on farming, including: wellhead protection areas, 300-foot buffers, and water allocation. It was suggested that conforming municipalities adopt Right To Farm ordinances, consistent with the State Agricultural Development Committees model Right to Farm ordinance, and other supportive ordinances that consider the unique needs of the agricultural industry.

RESPONSE: The Highlands Council in the 2006 Draft RMP requires that conforming municipalities and counties revise master plans and development regulations consistent with the Right to Farm Act and will coordinate with the CADB's concerning sustainable agriculture, farmland preservation, Right to Farm issues, and agricultural viability in the Highlands Region.

MANAGEMENT PLANS/MONITORING

COMMENT: One comment asked who is going to oversee agriculture.

RESPONSE: The Highlands Council will work with and coordinate with the NJ Department of Agriculture and the State Agriculture Development Committee in implementing the goals and policies of the 2006 Draft RMP.

COMMENT: One comment maintained that proper management of nutrient pollution from agricultural areas should be mandatory, particularly where intensive practices in the Agricultural Resource Area have resulted in greater pollution problems than smaller agricultural areas might experience. It was suggested that the Highlands Council establish base line water quality monitoring requirements for agricultural pollutants and specific standards, to assess the impact of agriculture, especially in the Conservation Zones. It was suggested that the Highlands Council develop a strong monitoring system to ensure that agricultural practices do not degrade water quality in the future, and also provide oversight of best management practices to ensure that the coordination with New Jersey Department of Agriculture and NJDEP does in fact result in the protection of the Highlands water quality.

COMMENT: One comment noted that because greater pollution has accumulated in intensive agriculture areas, farmers will have to modify their practices so that water quality is restored and enhanced. It was suggested that the Highlands Council assist farmers in implementing Natural Resources Conservation Service and Farm Service Agency practices on their farms.

COMMENT: One comment recommended that all agricultural land users or owners have and implement a farm conservation plan that addresses as a minimum, soil and water conservation concerns (other resource concerns could include animals, plants and air quality). It was stated that by law, conservation plans are only required if new impervious area “triggers” are reached. It was added that a much more encompassing farm conservation program needs to be implemented.

RESPONSE: The Highlands Council under the 2007 Draft RMP will identify subwatersheds with elevated nitrate levels, develop management plans for restoring water quality and work to implement those plans in coordination with

appropriate entities. See Water Quality Restoration Program on page 205 of the 2007 Draft RMP. Additionally, the 2007 Draft RMP promotes efforts to increase Integrated Crop Management programs and other innovative management techniques that reduce pesticide and fertilizer in conjunction with agricultural activities. Additionally the Council will identify subwatersheds with elevated nitrate levels, develop management plans for enhancing water quality, and implementing those plans in ways that enhance agricultural viability.

COMMENT: One comment stated that a Forest Management Plan should be required to be prepared and implemented to get a farm assessment, with the goal of improving forest habitat and improving recharge. It was added that the RMP should create a mechanism to inspect forest management plans and to enforce the provisions in them.

COMMENT: One comment argued that Woodland Management Plans or Forest Management Plans should not have to conform to the resource protection standards of the Regional Master Plan. It was stated that these plans are developed by foresters and should inform the protection standards. It was added that Farm Conservation Plans and Resource Management System plans should be encouraged but not required in the Planning Area.

RESPONSE: In the 2006 Draft RMP, as a Forest Resource Long-Term Goal, the Highlands Council included implementing a tracking program to record and monitor Forest Management Plans. Additionally the 2006 Draft RMP encourages owners and operators of farmland with woodlots to obtain approved Forest Management Plans to conform to the protection standards. Currently, forested lands that desire a farmland assessment, are required to have an approved Forest Management Plan. Farm Conservation Plans and Resource Management System plans are required in the Preservation Area when certain imperious cover thresholds are crossed. Use of these Plans in the Planning Area is consistent with the resource standards in the Highlands Region.

AIR QUALITY

MODEL ORDINANCES AND STANDARDS

COMMENT: Several comments recommended that the Highlands Council establish model ordinances and standards, and that site-specific and center-based design standards be encouraged with the goal of reducing harmful air pollutants.

COMMENT: One comment suggested that the Highlands Council develop model ordinances and guidelines applicable for the use of green building materials, renewable energy sources, and other areas related to air quality enhancement. One comment suggested that the Highlands Council identify the impacts of the Draft RMP on greenhouse gas emissions.

RESPONSE: The 2007 Draft RMP addresses center-based site design standards with the goal of reducing harmful air pollutants. It also encourages the use of guidelines or regulations that promote the use of renewable energies and conservation through LEED-based building codes, center-based growth, alternative modes of transportation to enhance air quality and to reduce carbon dioxide emissions linked to global warming.

COORDINATION

COMMENT: Several comments indicated that coordination with NJDEP and New Jersey Department of Transportation is needed in order to develop permanent air quality monitors in each of the seven Highlands counties, and to add monitoring for volatile organic compounds, carbon monoxide, and phosphoric acid for standardized testing.

RESPONSE: The 2007 Draft RMP states that the Highlands Council will coordinate with State agencies and counties to ensure operation of a monitoring program that provides a regional and sub-regional analysis of air quality conditions based on monitoring sites.

TRANSPORTATION, LAND USE AND AIR QUALITY

COMMENT: Several comments suggested that the Highlands Council focus efforts on increasing non-automobile related trips, promoting mass transit viability, smart growth center-based development, and expansion of bus and rail services in order to improve air quality.

COMMENT: One comment recommended that the Highlands Council stress all initiatives that would have the effect of reducing air pollution in the Highlands Region, and particularly address the reduction in emissions by automobiles and trucks.

COMMENT: One comment argued that development in the Highlands Region will continue to erode air quality and the RMP should serve to focus broader attention on air quality issues in coordination with government agencies, local governments, and the general public.

RESPONSE: The Highlands Council acknowledges the fact that reducing vehicle emissions has a positive impact on air quality. The transportation section of the 2007 Draft RMP includes greater detail on the Council's efforts to reduce vehicle miles traveled, and promote and expand bus and rail transit throughout the Highlands Region.

GENERAL AIR QUALITY

COMMENT: A few comments expressed concern that power plants located outside the State have a significant adverse affect on air quality to the Highlands Region.

RESPONSE: The Highlands Council has stated in both the 2006 Draft RMP and 2007 Draft RMP that it supports State and federal initiatives which will reduce air pollution in Warren County and the Highlands Region due to out-of-State power plant air pollution.

COMMENT: One comment maintained that the role of forests in air quality protection needs to be recognized and stated.

RESPONSE: The role of forests in air quality protection is recognized in both the 2006 Draft RMP (see section on *Forest Integrity and Stewardship*) and the 2007 Draft RMP (see *Chapter II. Analysis of the Highlands Region - Subpart a. Highlands Forest Resources*).

COMMENT: One comment argued that it might be helpful to measure asthma in children of the Highlands Region and use the figure as a benchmark.

RESPONSE: Comment was considered and no change was made to the 2007 Draft RMP by the Highlands Council.

COMMENT: One comment asked whether the Highlands Council has model plans, measures, or other means to minimize mold.

COMMENT: A few comments expressed concern that the Highlands Act does not adequately address indoor air quality.

RESPONSE: The commenter is correct that the Highlands Act focuses on the impacts of land uses and other human action on environmental resources, the appropriate designation of sites for redevelopment and new development, and other similar issues, and not on indoor air quality. However, policies and objectives aimed at smart growth and energy-efficient development will provide some benefits to indoor air quality in redevelopment and development projects.

HISTORIC, CULTURAL & SCENIC RESOURCE PROTECTION

HISTORIC AND SCENIC INVENTORIES

COMMENT: Some comments focused on the need to conduct and maintain a thorough inventory of historic, cultural, and scenic resources throughout the Highlands, and that these resources be identified and mapped within

each of the overlay zones. It was suggested that the inventory of historic and cultural resources be drawn from existing State, county, and local resources, as well as through the assistance of trained professionals, municipal historic preservation commissions, and the Highlands Council's historic and cultural technical advisory committee. Scenic resources should be gathered through a nomination process and should represent regional resources.

RESPONSE: The 2007 Draft RMP includes in Chapter IV a series of policies and objectives related to assembling and maintaining inventories of historic and scenic resources within the Highlands Region. The basis for the Highlands Historic and Cultural Resource Inventory is the Highlands Region Cultural Resources, prepared by the State Historic Preservation Office, listing 606 sites, districts and landmarks. The 2007 Draft RMP provides for mechanisms to update and maintain the list through historic and archaeological surveys, site plan and subdivision project review requirements, and other identification techniques. The Highlands Scenic Resource Inventory consists of 131 scenic resource areas, owned by federal, State and county entities. This initial inventory serves as the baseline from which to develop and maintain a listing of scenic resources within the Highlands. A nomination and evaluation procedure will be established to support the development and maintenance of a Highlands regionally significant scenic resource inventory. The Highlands Council will also develop guidelines to assist municipal and county entities in identifying and protecting scenic resources within their communities.

COMMENT: Some comments focused on the role of municipal and county government in identifying and protecting historic, cultural, and scenic resources. It was pointed out that the existing State, county, and municipal inventories should have been utilized in the preparation of the Draft RMP. It was suggested that future efforts should include close coordination with towns and counties, thereby allowing counties to take the lead in working with local governments in historic, cultural, and scenic preservation efforts, requiring inclusion of scenic resource areas within municipal Conservation Plan and Open Space Plan master plan elements, and encouraging the creation of local historic preservation commissions.

RESPONSE: The Highlands Council will establish programs and procedures that will assist municipal and county government entities in identifying and protecting the historic, cultural and scenic resources within the Highlands. Municipalities and counties will be encouraged to include scenic resources in their open space and recreation plan elements of municipal and county master plans. Municipalities will be encouraged to establish a Historic Preservation Commission or similar entity to provide advice and recommendations on land planning and development decisions.

STRATEGIES FOR PRESERVATION

COMMENT: Numerous comments called for the RMP to employ a broader array of strategies, techniques, funding programs, planning tools, and regulations to preserve and protect the cultural, historic, and scenic resources of the Highlands Region. It was suggested that rural historic districts, cultural landscapes, scenic byways, and main streets be promoted. It was suggested that the Highlands Council advocate on behalf of economic development associated with historic and cultural sites, the Main Street Program, restoration, redevelopment and infill projects, and cultural tourism. It was suggested that historic preserves, such as the Morristown National Historic Park, be expanded in the Highlands Region. It was proposed that education and advocacy be used by the Highlands Council in protecting historic, cultural, and scenic resources. It was suggested that the Highlands Council work in close coordination with the State Historic Preservation Office.

RESPONSE: The 2007 Draft RMP includes a broader array of tools to facilitate the protection of historic and scenic resources within the Highlands. The goals, policies and objectives for historic, cultural, archaeological and scenic resource management in Chapter IV provide for protection and preservation of these resources and put in place minimum standards and requirements for conforming municipalities and counties to implement. The Historic Protection Program and the Scenic Resource Protection Program establish procedures for identification of resources, provide for protection mechanisms, and advocate for education and outreach relative to the value of these resources. The policies of the 2007 Draft RMP provide for close coordination with the New Jersey Historic Trust and the State Historic Preservation Office.

COMMENT: A few comments suggested that an integrated approach for preservation of natural and cultural resources be used because cultural resources and natural resources are inseparable and ought to be regulated together.
RESPONSE: Both natural and cultural resources are recognized as important features of the Highlands Region and are addressed in the 2007 Draft RMP. The Sustainable Regional Economy Program advocates agri-tourism, eco-tourism, and heritage tourism and provides for programming these various resources into a comprehensive tourism approach.

COMMENT: A few comments focused on regulatory mechanisms for protecting historic, cultural, and scenic resources. One comment advocated utilizing the NJDEP Highlands Rules for designated scenic resources within the Highlands Region, as well as adopting their definition of scenic resource areas. The comment also suggested that the 131 scenic resource areas that were identified as a baseline in the Draft RMP be afforded immediate protection.
RESPONSE: The NJDEP Highlands Rules only apply to lands within the Preservation Area of the Highlands Region. The 2007 Draft RMP provides for identification, protection, and management of historic, cultural and scenic resources for all areas within the Highlands Region. The 131 scenic resource areas identified as the baseline Highlands Scenic Resource Inventory are all publicly-owned lands and will be evaluated for protection and management as part of the Scenic Resource Protection Program.

COMMENT: A few comments suggested that incentives, not regulations, would be the best method for encouraging historic, cultural, and scenic resource protection in the Highlands. It was suggested that tax and monetary incentives be provided to landowners who voluntarily preserve these resources.

RESPONSE: There are existing federal tax incentives for historic preservation. Heritage tourism programs in the Highlands will support preservation and positive economic contributions from these preservation efforts.

SCENIC RESOURCES

COMMENT: A few comments recommended the creation of a Highlands Scenic Protection and Design Advisory Board to make recommendations regarding scenic review procedures, proposed designations, protective standards and guidelines, and review and make recommendations on development applications within the Highlands.

RESPONSE: The proposed Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources provides for the creation of a Highlands Scenic Design Advisory Board to help evaluate scenic resources.

COMMENT: Several comments focused on the nomination of scenic resources to a Highlands Scenic Resource Inventory. Varying approaches were suggested including a process similar to the historic nomination process utilized by the State Historic Preservation Office, developing an analytical methodology to evaluate scenic resources, procedures to involve the public and local officials, and hiring professionals to prepare nominations according to strict guidelines. A few comments objected to nominations without the approval of a landowner or to additional regulations associated with a scenic resource designation. One comment suggested that only government owned land should be designated and regulated as a scenic resource.

RESPONSE: The Highlands Council has prepared and circulated for public comment a draft Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources. The procedure provides an approach for nominating resources to the Highlands Scenic Resource Inventory and is an initial step in the development of the Council's scenic resources program.

PRESERVATION CONCERNS

COMMENT: Several comments expressed concern that municipal governments are not adequately equipped or motivated to protect the historic, cultural, and scenic resources within their borders.

RESPONSE: The Highlands Council will provide support to assist municipalities in complying with the goals,

policies and objectives relative to historic and archaeological protection. The Council, in coordination with the State Historic Preservation Office, will provide a historic preservation manual to provide guidance, technical assistance and information on potential funding sources for historic preservation initiatives.

COMMENT: Several comments expressed concern about the development pressures being felt in locations outside of the Highlands Preservation Area. It was stated that many of the Highlands Region's historic and cultural resources are located in already developed areas, particularly the Highlands Planning Area, and are at greater risk from future development and redevelopment. It was added that areas that may be transfer of development rights receiving areas are in jeopardy due to increased development density.

RESPONSE: The preservation and protection mechanisms which are part of the goals, policies, objectives and programs of the 2007 Draft RMP are intended to be applied throughout the Highlands, in both the Preservation and Planning Areas. It is the policy of the Council to ensure that human development does not adversely affect the character or value of resources listed on the Historic and Cultural Resource Inventory. The Historic Resource Protection Program in Chapter V encourages municipal governments to adopt guidelines and/or regulations to address the issue of teardowns in older established communities. Additionally, the Council will provide site development standards for all projects, including redevelopment projects.

NEED FOR ADDITIONAL EMPHASIS

COMMENT: Numerous comments suggested topics related to historic, cultural, and scenic resources that required greater emphasis or were perceived to be missing from the Draft RMP. A few of these referred to the intent of the Highlands Act regarding scenic and aesthetic resources and the directive to include recreation resources as part of the Resource Assessment component of the Regional Master Plan. It was stated that a comprehensive assessment of cultural, historic, aesthetic, and scenic resources appears to be lacking, and that links between ecological, agricultural, and historic preservation should be emphasized. The Highlands Council should develop a regional preservation plan. It was stated that the issue of protecting deteriorating sites on public lands has not been addressed. The Draft RMP provides no strategies for minimizing degradation of historic, cultural, or scenic resources during development activities, and ridgeline protection is needed in the Highlands Region to prevent development from destroying forested ridges.

RESPONSE: The 2007 Draft RMP provides greater emphasis on protection and preservation methods associated with historic and scenic resource protection. The Sustainable Regional Economy Program advocates agri-tourism, eco-tourism, and heritage tourism and provides for programming these various resources into a comprehensive tourism approach. Additionally, the Historic Resource Protection Program provides for identification of historic resources through surveys, historic preservation plans, and development plans and plan review. The Highlands Council will provide, as part of the Scenic Resource Program, strategies to protect scenic ridgelines, including the identification of key provisions for a ridgeline protection ordinance.

COMMENT: A few comments suggested that the Highlands Council should support the addition of Passaic and Bergen Counties to the Crossroads of the American Revolution National Heritage Area.

RESPONSE: The Highlands Council has not taken a position on the boundaries of the Crossroads of the American Revolution National Heritage Area.

COMMENT: A few comments pointed out that the Highlands Region is not a cultural area; therefore it is unlikely to find resources that are unique to the Highlands Region. It was suggested that the Highlands Council should investigate local aspects such as the average farm size, the location of development, and the density of development.

RESPONSE: Cultural and scenic resources exist throughout the Highlands Region and their identification is integral to the Historic Resource Protection and the Scenic Resource Protection Programs. The Council will support local entities in identifying and categorizing these resources.

COMMENT: Some comments expressed strong support for the general approach of historic, cultural, and scenic resource protection, and text edits were suggested to bolster the level of emphasis and protection for these resources.
RESPONSE: The Council acknowledges the support for historic and scenic resource protection. Text edits were incorporated in the 2007 Draft RMP as appropriate.

COMMENT: A few comments provided additional details about the history of the Highlands Region and suggested this information be included in the Regional Master Plan.
RESPONSE: The history section has been re-written in the 2007 Draft RMP . Text edits were incorporated as appropriate.

MISSING INFORMATION OR INAPPROPRIATE APPROACH

COMMENT: A few comments felt that the section of the Draft RMP dealing with historic, cultural, and scenic resources inappropriately joined historic and cultural resources with scenic resources. A new section, along with suggested text, was proposed as “Scenic and Recreation Resource Assessment and Protection.”
RESPONSE: Historic resource protection and scenic resource protection are addressed jointly in the 2007 Draft RMP for goals, policies and objectives, but are separated into two programs – Historic Resource Protection and Scenic Resource Protection – in Chapter V.

COMMENT: A few comments pointed out that although site specific standards were referenced in the Draft RMP none appeared in the document.
RESPONSE: Site specific standards will be provided through the various programs associated with the 2007 Draft RMP.

COMMENT: A few comments suggested that regulation of historic and scenic resources is not related to the overriding goal of protecting water quality and quantity. A few comments raised opposition to the requirement to include a cultural and historic resource investigation as part of site plan and subdivision reviews.
RESPONSE: The Highlands Act requires the regional master plan to “protect the natural, scenic, and other resources of the Highlands Region,” as well as preserving “historic sites and other historic resources.”

QUESTIONS

COMMENT: A few comments contained specific questions. 1) How many acres are within the 131 scenic resource areas identified in the Draft RMP? 2) How will the Highlands Council regulate the minimal practicable degradation of historic, cultural, and scenic resources?
RESPONSE: The 131 scenic resource areas are comprised of federal, State and county open space and serve as the baseline for the Highlands Scenic Resource Inventory. Those lands contain approximately 145,000 acres. The 2007 Draft RMP provides for a holistic approach to historic and scenic resource protection. The Highlands Council will establish development standards and guidelines to provide greater clarity on how these resources may be protected.

GENERAL SMART GROWTH

COMMENT: Some comments addressed the issue of balancing growth and economic development with preservation and conservation goals in the Highlands. It was stated that the Draft RMP is perceived to be too restrictive, heavily weighted toward resource protection and does not adequately provide for realistic growth potential. It was held that the Draft RMP made no connections between development activity and water quality. Areas that have been targeted for growth are already developed and thus afford a limited amount of new growth potential. It was added that the RMP should focus on how the Highlands Region can realize its full economic potential while protecting its resources. It was suggested that limitations on growth and economic development have a negative impact on property taxes and the ability for municipal government to maintain services and public school budgets, as well as transfer of development rights and the ability to transfer development opportunities from the Preservation Area to the Planning Area.

RESPONSE: The 2006 Draft and 2007 Draft RMP establishes a framework for future growth and economic development in or adjacent to existing developed areas where adequate public facilities are available. Directing growth to areas that already have some level of development makes more efficient use of existing infrastructure and supports the protection of environmentally sensitive areas. Potential growth areas are represented by redevelopment areas, brownfield sites, grayfield sites, cluster development, and infill in existing communities. The economic development discussion is contained in the Sustainable Regional Economy Program (as addressed in the 2007 Draft RMP, Chapter V. Programs). The comment regarding limitations of growth and economic development opportunities has been acknowledged by the Highlands Council.

COMMENT: One comment held that the Draft RMP is an assessment of economic growth opportunities which should include consideration of public investment priorities, infrastructure investments, economic development, revitalization, transportation, and other growth mechanisms. It was stated that tourism as an instrument of economic growth will offer limited increases in the municipal tax base.

RESPONSE: The 2007 Draft RMP contains discussions related to infrastructure, economic development, revitalization, and growth mechanisms in the Transportation, Future Land Use, and Sustainable Economic Development Programs (Chapter V. Programs). The comment regarding tourism as an instrument of economic growth is acknowledged by the Highlands Council.

COMMENT: Clarification was requested for the Regional Master Plan's vision of growth in the Highlands Region. One comment requested additional detail regarding the vision for local goods and service establishments in a municipality. Several questions were asked: What if there is no public infrastructure? What happens to commercial establishments that are not in conformance with the Regional Master Plan, i.e. septic system density, FAR, etc.? Will they be considered as non-conforming uses and prohibited from expanding?

RESPONSE: The economic development discussion has been expanded and is contained in the Sustainable Regional Economy Program (2007 Draft RMP, Chapter V. Programs). The expansion of public utilities (water and wastewater) is discussed in the Water Resources and Water Utilities Program. Generally speaking, conformance with the RMP occurs at the municipal level, not at a specific site usage. An existing commercial building would not be found to be out of conformance with the RMP.

COMMENT: Several comments expressed disappointment that the Draft RMP ignored State Plan designated centers. The Draft RMP references desirable densities of 2 units per acre for areas with available public water, 3 to 5 units per acre for identified centers, and 5 units per acre in Transfer of Development Rights receiving areas. It was maintained that these densities will not support the character of towns, villages, or hamlets within the Highlands Region.

RESPONSE: State Planning Centers are recognized in the 2007 Draft RMP; however, the development of the RMP and LUCM utilized a "blind to the line" approach. This approach ensures that the regional resource and infrastructure

assessments are not predicated on their location within any political subdivision, but rather are conducted for the entire Highlands as a unified region. The comment regarding existing regional densities is acknowledged by the Highlands Council.

COMMENT: A comment held that the Draft RMP does not adequately recognize employment opportunities and their role in relation to building communities.

RESPONSE: The economic development discussion has been expanded and is contained in the Sustainable Regional Economy Program (2007 Draft RMP Chapter V. Programs).

COMMENT: A few comments inquired about the status of the build-out model. It was suggested that the model be made available to municipalities at a local scale. It was also suggested that the Draft RMP could not be fully evaluated if the analysis of future conditions (including the build-out model) was not completed. It was questioned whether the build-out model analysis would meet the requirements of Executive Order 109 and the Wastewater Management Plans.

RESPONSE: The Highlands build out analysis utilizes a set of project assumptions that are evaluated via GIS (spatial software) to determine the nature and extent of “buildable areas.” These areas represent lands that are not developed, publicly-owned, or environmentally constrained. A build out analysis calculates the impacts on the region, if it were to be “built out” according to zoning. The Highlands build out analysis is an immediate mandatory required element of municipal Plan Conformance. Conforming municipalities must adopt by reference several items, including the Highlands Build out analysis, which will be provided at a local scale. It is anticipated that the Highlands build out analysis and 2007 Draft RMP data will provide much of the information needed to complete the requirements related to the Wastewater Management Plan Environmental Constraints/Build Out Analysis under N.J.A.C. 7:15.

COMMENT: Several comments focused on advocacy for sustainable and community design concepts, including renewable energy solutions, green building techniques, and the creation of walkable and transit-friendly communities.

RESPONSE: The Smart Growth Manual and Community Development Design Guidebook (as addressed in the 2007 Draft RMP, Chapter V. Programs) will address these topics.

COMMENT: One comment recommended a transit “capture area” around train stations. It was added that in portions of the Highlands Region, commuters live beyond the one mile radius and drive to train stations. It should be noted that the impact of rail transit on the built environment extends beyond the distance that a pedestrian will travel.

RESPONSE: The transportation layers that were used in the 2006 Draft RMP have been updated with the Baseline Transportation and Transit Layers. This analysis identified regional roadway-transit networks that serve as broad north-south and east-west geographical bands representing significant regional roadway linear miles, NJ Transit rail and bus routes, and private carrier bus lines. The full approach is discussed in the Technical Report Addenda November 2007.

COMMENT: A few comments focused on funding mechanisms to support smart growth methods and to counter-balance negative impacts from limiting economic growth. Water pricing was suggested as a means to share the costs of preservation.

RESPONSE: Funding mechanisms associated with the implementation of the RMP are discussed in the 2007 Draft RMP, Plan Conformance section of the Regional Master Plan Conformance, Consistency and Coordination discussion (Chapter VI, Implementation). Plan Conformance is intended to align municipal and county plans, regulations and programs with the goals, requirements and provisions of the RMP. The comment regarding water pricing is acknowledged by the Highlands Council.

COMMENT: Several comments advocated smart growth practices and complained that the Draft RMP does not contain policies that will result in this preferred type of growth, but rather has policies that support sprawl. It was

suggested that development standards in the Planned Community Zone be less restrictive, and encourage smart growth and well-planned growth. The Draft RMP makes no distinction between highway commercial retail development and downtown retail development. It was stated that maximum impervious surface coverage standards when applied to highway corridor development preclude creative development patterns and promote sprawl, thus the RMP should identify center type growth opportunities and facilitate their successful implementation.

RESPONSE: Future Land Use Programs in the 2007 Draft RMP outlines programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs), and contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.

COMMENT: Several comments focused on housing issues, especially affordable housing. Questions were raised about the relationship between the Highlands Council and the Council on Affordable Housing (COAH); as well as the overall impact that the RMP will have on the provision of affordable housing in the Highlands Region. It was noted that the policy allowing the five 100% Preservation Area municipalities to develop 100 percent affordable developments within their borders should be extended to other Highlands towns that have the majority of their land area within the Preservation Area. Concern was raised that land in the Preservation Area would become very expensive, precluding low and moderate income housing and resulting in only large, expensive housing. It was added that the Draft RMP policies are exclusionary and exacerbate an existing shortfall of affordable housing in the Highlands.

RESPONSE: The Highlands Council acknowledges the comments regarding the shortfall of affordable housing in the region. Policies and strategies relating to the provision of affordable housing in the Highlands Region are contained in the Housing and Community Facilities Program (Chapter V. Programs) of the 2007 Draft RMP. The readopted NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) contains an additional waiver for the construction of a 100 percent affordable housing development. The waiver provides municipalities with an opportunity to address their constitutional obligations under the State Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and to provide needed affordable housing opportunities for low- and moderate-income New Jersey residents in townships that are entirely contained within the Preservation area. The Highlands Council cannot amend NJDEP rules.

COMMENT: One comment disagreed with the Draft RMP policy making the provisions and standards related to regional growth voluntary. It was suggested that if a town opts-in to the plan, it should be required to conform to all policies of the various components.

RESPONSE: 2007 Draft RMP policy has established that “(Policy 6B6) Provisions and standards relating to regional growth activities which increases the intensity of development shall be discretionary for conforming municipalities and counties.”

COMMENT: One comment maintained that development should not be allowed in the Preservation Area because it was intended to all be preserved.

RESPONSE: Development activities in the Preservation Area are limited, with the exceptions being very low density development on septic systems, exemptions and waivers. The Highlands Act provides for seventeen (17) exemptions from the provisions of the Act. If a project or activity falls within one of the seventeen exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the New Jersey Department of Environmental Protection (NJDEP), the Regional Master Plan, and any municipal master plan or development regulations that are revised to conform to the Regional Master Plan. In addition to the exemptions, the Highlands Act also provides NJDEP with the authority to grant waivers from its Highlands rules on a case by case basis under certain circumstances. Under this authority, NJDEP may issue waivers (a) where a project or activity is necessary in order to protect public health and safety; (b) for redevelopment in previously developed areas as identified by the Highlands Council, provided that the areas are either a brownfield site designated by NJDEP or a

site at which at least 70% of the area thereof is covered with impervious surface; or (c) necessary to avoid a taking of property without just compensation.

COMMENT: A few comments addressed the regulation of specific uses, i.e., telecommunications facilities, solar panels, and windmills. It was suggested that that these be addressed in the Regional Master Plan.

RESPONSE: The comment was considered and no change was made to the 2007 Draft RMP by the Highlands Council; development of such uses as telecommunication facilities, solar panels, and windmills will depend upon the local zoning, and Highlands project review.

COMMENT: Several comments pointed out that the smart growth component failed to identify vacant, unconstrained land in the planning area; densities for development, redevelopment, and voluntary receiving areas; and minimum standards for density, intensity, and septic system density for municipalities and counties outside the preservation area, including for center-based development.

COMMENT: Several comments pointed out information that was missing from the Draft RMP or where the Draft RMP was weak. It was stated that an infrastructure capacity analysis was referenced in the Draft RMP but does not appear in the document. It was stated that the build-out model and the financial analysis were also not included. It was stated that the smart growth component does not include any density numbers or guidance as to how to calculate for septic density. It was stated that the Draft RMP does not include text or illustrative guidelines for future development.

RESPONSE: The 2007 Draft RMP addresses the aforementioned topics:

- Infrastructure capacity analysis is addressed in the 2007 Draft RMP, Chapter II. Analysis of the Highlands Region, Part 2. Water Resources. Additional discussion is included in the Technical Report Addenda sections on Water Resources and Utility Capacity;
- The Highlands build out analysis will be released upon final adoption. The build out analysis is an immediate mandatory required element of municipal Plan Conformance. Conforming municipalities must adopt by reference several items, including the Highlands Build out analysis. The Fiscal Impact Analysis may be addressed in the future;
- While all growth is discretionary according to RMP policies, target density thresholds are discussed on page 153 and the Project Review Standards Program (beginning on page 317) outlines minimum density requirements for new development relating to utility (water and wastewater) service where growth does occur;
- Future Land Use Programs outlines programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs of the 2007 Draft RMP), contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.
- The Redevelopment Program of the 2007 Draft RMP contains a discussion of the Redevelopment and Infill Analysis Tool (page 256). The tool identifies parcels that are developed, vacant (adjacent to developed), economically underutilized, oversized residential lots, and sites with existing local planning conditions such as designated redevelopment areas, urban enterprise zones, foreign trade zones and Centers designated in accordance with the State Development and Redevelopment Plan and will be available to municipalities and counties during Conformance.
- The septic system density discussion is contained within the Technical Report Addenda, in the section on Septic System Densities for the Highlands Region.
- In the 2007 Draft RMP the Highlands Council has identified specific areas of the Highlands Region that have the potential to serve as voluntary receiving zones. A map of these areas is shown on page 277 of the 2007 Draft RMP. A detailed discussion of how the Highlands Council identified these areas is found in the Technical Report Addenda at pages 87-93.

COMMENT: One comment observed that overlay zones and redevelopment areas have not been included in the

land use analysis, both of which are additional land use tools and are especially important for the possible Transfer of Development Rights Receiving Areas. It was stated that these are areas similar to zone districts that the municipality has targeted for redevelopment or mixed-use development and should not be ignored.

RESPONSE: Municipalities may use overlay zones and the designation of redevelopment areas through municipal Plan Conformance as mechanisms to create TDR receiving areas. The 2007 Draft RMP does not specify the mechanism for designating and controlling growth areas, as they may vary by municipality.

COMMENT: One comment asked if the impacts of the development restrictions based on the Conservation and Protection Zone in the Planning Area have been analyzed. It was stated that the Draft RMP is lacking strategies and details to guide development in appropriate locations. It was added that also missing are low impact development standards, as well as any growth standards based upon new water availability.

COMMENT: A few comments held that the RMP should encourage the adoption of a community design plan element and model regulations should be made available to municipalities. It was pointed out that providing ordinances with the RMP may be inconsistent with the Municipal Land Use Law where the municipal master plan is adopted first by the Planning Board and the ordinances and development regulations to implement the municipal master plan are then adopted by the municipal governing body. In the Highlands Region, case plans and ordinances must be in the same document.

RESPONSE: The impacts of development restrictions throughout the region are evaluated in the Highlands build out model. The economic development discussion was expanded in the 2007 Draft RMP and is contained in the Sustainable Regional Economy Program. Future Land Use Programs outlines programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs of the 2007 Draft RMP), which contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.

COMMENT: Several comments contained text edits suggested for clarification of tables and terms and to correct data inconsistencies. It was suggested that appropriate comparisons should be made between jobs, housing, and population for similar time periods.

COMMENT: A few comments pointed to what appeared to be errors in the data.

RESPONSE: The comment is acknowledged by the Highlands Council.

COMMENT: Several comments contained questions related to specific items in the document., examples include:

- How much development is exempt from the Highlands? What is its impact and where is it?
- Can structures be rebuilt after a fire or other catastrophic situation?
- What is the floor area ratio (FAR) for the Planned Community Zones?
- How does the Highlands Council intend to maintain a Developed Land Inventory?
- Is the Highlands Composite Zoning Map based solely on principal permitted uses or does it include conditional uses?
- According to the plan, at least one of the five factors must contribute to at least 75 contiguous acres in order to be a Core Developed Area. How was the 75 contiguous acre standard developed?

RESPONSE: The Highlands Council Abstract, *An analysis of the impact and implications of Highlands Act exemptions*, September 20, 2007, discusses the impact of exemptions in the Highlands. Additionally, the Highlands build out analysis will evaluate the impacts of exemptions on future development in the region.

The Highlands Act provides for seventeen (17) exemptions from the provisions of the Act. If a project or activity falls within one of the seventeen exemptions, the project or activity is exempt from the Highlands Act, the Highlands Preservation Area rules adopted by the New Jersey Department of Environmental Protection (NJDEP), the Regional Master Plan, and any municipal master plan or development regulations that are revised to conform to the Regional Master Plan. Depending on the site specific details, the following exemptions may apply in the Preservation and

Planning Areas to rebuilding after a fire or other catastrophic situation;

- Construction of a single family dwelling for own use or family use;
- Construction of a single family dwelling on existing lot; and
- Reconstruction of buildings or structures within 125% of the footprint.

Overlay zones for the 2007 Draft RMP do not include FAR values. The Project Review Standards Program (beginning on page 317) outlines minimum density requirements for new development relating to utility (water and wastewater) service.

The Developed Land Inventory will be updated and maintained as a result of conformance and periodic data-based updates.

The composite zoning map is based on principal permitted uses.

75 acres is considered to be regionally significant for identifying a landscape of contiguous developed areas. This threshold value was also used in the development of the LANDS Land Use Capability Zone Map in the 2007 Draft RMP.

REGIONAL DEVELOPMENT AND REDEVELOPMENT

GENERAL COMMENTS

COMMENT: A few comments suggested that a comprehensive regional plan needs to address how and where growth will occur in the Planning Area. It was suggested that population and economic projections for the Highlands Region should be prepared and compared to existing conditions. Several comments asked how future growth in the Highlands Region can be projected if growth is discretionary and subject to county and municipal input during conformance. It was asked whether caps on development would be implemented.

RESPONSE: The 2007 Draft RMP establishes a framework for future growth and economic development in or adjacent to existing developed areas where adequate public facilities are available. Directing growth to areas that already have some level of development makes more efficient use of existing infrastructure and supports the protection of environmentally sensitive areas. Potential growth areas are represented by redevelopment areas, brownfield sites, grayfield sites, cluster development, and infill in existing communities. Development will be limited in the Highlands Region based on enhanced environmental standards adopted by the New Jersey Department of Environmental Protection and through implementation of the RMP. Population and employment projections will be prepared as a part of the build out model. The Highlands Council acknowledges that it is difficult to make population projections since growth is discretionary. In response, the build out model incorporates several runs based on different scenarios.

COMMENT: One comment suggested that smart growth standards be mandatory.

RESPONSE: The 2007 Draft RMP encourages smart growth approaches to land development, but RMP policy states that “(Policy 6.B.6) Provisions and standards relating to regional growth activities which increases the intensity of development shall be discretionary for conforming municipalities and counties.”

COMMENT: One comment asked how wind energy projects would be prevented from being inadvertently prohibited due to development restrictions.

RESPONSE: Renewable energy projects are supported by 2007 Draft RMP policy, provided that the proposed project will be located in an area that is appropriate for development (GOAL 9A). The ability to initiate any development project is dependent upon site specific details.

COMMENT: One comment asked whether snow making is a permitted activity in the Conservation Zone.

COMMENT: Numerous comments asked for details regarding the site specific requirements, including permissible uses and the degree of flexibility for each of the overlay zones. How active recreational facilities will be treated was questioned?

RESPONSE: The 2007 Draft RMP does not specify permitted activities; rather it is dependent upon the outcome of Highlands Project Review (process outlined beginning on page 314) that addresses resource-based thresholds and impacts.

COMMENT: Some comments stated that the RMP should support transit-oriented development around train stations and major bus facilities and redevelopment in designated centers.

RESPONSE: The 2007 Draft RMP policy does so, in Policies 5E1, 6B3 and 6H2.

COMMENT: Some comments suggested that the Land Use Capability Map abstract be incorporated into the Regional Master Plan.

RESPONSE: The 2007 Draft RMP consists of three major elements, a policy guidance document that provides a statement of the goals, policies and strategies necessary to implement the Highlands Act; a series of technical reports and guidance documents that provide the bases supporting the policies and standards contained in the Plan; and an implementation framework which introduces the process for plan conformance and implementation of the Plan. The LUCM abstract is incorporated into a technical report, and was released as part the Technical Report Addenda in November 2007.

OVERLAY ZONES

COMMENT: One comment asked why seemingly similar lands might be captured in different overlay zones. Examples given included two ski areas; Mountain Creek Ski Area and Hidden Valley Ski Area.

RESPONSE: The Highlands Council used the **Land Use ANalysis Decision Support (LANDS)** model to develop LUCM overlay zones. This model provided a comprehensive evaluation of both resource constraints and development opportunity at a regional scale. Full details regarding the LANDS approach for overlay zone assignment are contained within the Technical Report Addenda, Development of the LANDS Model.

COMMENT: Some comments inquired about Highlands Council protocol for Land Use Capability Map changes.

RESPONSE: The process for making adjustments to the LUCM is discussed in RMP Updates and Map Adjustments, beginning on page 295 of the 2007 Draft RMP.

COMMENT: A few comments said that overlay zones should follow property lines to reduce confusion and uncertainty about applicable standards and criteria; while others suggested that zones should be based solely on the physical attributes of the area. One comment inquired how local master plans were incorporated into the planning and policy formation of the Draft RMP.

RESPONSE: Full details regarding the LANDS approach for overlay zone assignment are contained within the Technical Report Addenda, Development of the LANDS Model. Overlay zones did not follow administrative boundaries (including property boundaries), other than the Highlands Region. The Highlands Council compiled municipal zoning information from the 88 Highlands municipalities as of November 2005. The 1,304 individual municipal zones in the Region were consolidated into Highlands Composite Zones, which informed several RMP

related analyses.

COMMENT: A few comments mentioned that the Planned Community Zone appears to be based on areas with an existing pattern of development identified using Land Use/Land Cover data. It was suggested that tax records and aerial photography be used to help identify the nature of developed lands.

RESPONSE: Tax records and aerial photography were not used in the development of the LUCM. Full details regarding the LANDS approach for overlay zone assignment are contained within the Technical Report Addenda, Development of the LANDS Model. The Redevelopment Program of the 2007 Draft RMP contains a discussion of the Redevelopment and Infill Analysis Tool (page 256). The tool identifies parcels that are developed, vacant (adjacent to developed), economically underutilized, oversized residential lots, and sites with existing local planning conditions such as designated redevelopment areas, urban enterprise zones, foreign trade zones and Centers designated in accordance with the State Development and Redevelopment Plan and will be available to municipalities and counties during Conformance.

COMMENT: Some comments questioned how the RMP will address issues of sprawl and overdevelopment.

RESPONSE: Through passage of the Highlands Water Protection and Planning Act, the Highlands Council was charged with the task of developing a Regional Master Plan to restore and enhance the significant values of the abundant and critical resources of the Highlands Region. Overall, the Highlands Act, and the 2007 Draft RMP is a response to sprawling land use patterns that cause fragmentation and loss of lands that serve as the source of drinking water supplies. The Future Land Use Programs outline programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs of the 2007 Draft RMP), which contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.

COMMENT: One comment suggested that natural and cultural resources within the Planned Community Zone be inventoried so as to ensure their protection.

RESPONSE: 2007 Draft RMP policy contains the Policies 4B1 and 4A1, and Objective 6B1a related to the inventory of scenic, historic, cultural resources and the identification of sensitive environmental resources.

COMMENT: A few comments suggested that development in the Conservation Zone be limited to farms. It was suggested that clustered residential development not be permitted, as it does not promote smart growth principles. One comment suggested that extending water and sewer lines into the Preservation Area for clustering is inconsistent with the Highlands Act, and that any clustering should be done in or next to centers in the Planning Area.

RESPONSE: 2007 Draft RMP policy for development in the Conservation Zone is to “limit through Plan Conformance, local development review and Highlands Project Review the use and development of lands within the Conservation Zone to agriculture use and development, including ancillary and support uses, redevelopment of existing developed areas, and environmentally-compatible low density land uses that are to the maximum extent possible achieved in compact development patterns, to be designed and developed in a manner which is compatible with the long term use of adjacent land for agricultural purposes.” The Cluster Development Program (page 243) outlines the programmatic approach to cluster development.

COMMENT: One comment suggested that due to the restrictions imposed in the Conservation and Protection Zone, future development will have to include redevelopment and development on unconstrained vacant lands. It was added that vacant parcels are small and scattered and as a result, smaller and less expensive structures may have to be torn down and replaced with larger more expensive structures.

RESPONSE: The comment is acknowledged by Highlands Council.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN & DESIGNATED CENTERS

COMMENT: Several comments inquired as to why town centers were excluded from the Land Use Capability Map. It was suggested that the RMP should encourage the use of center design standards and recognize that environmentally sensitive areas within designated State Plan Commission centers are not suitable for development.

RESPONSE: The development of the 2007 Draft RMP and LUCM Series utilized a ‘blind to the line’ approach. This approach ensures that the regional resource and infrastructure assessments are not predicated on their location within any political subdivision, but rather are conducted for the entire Highlands as a unified region. Center based development approaches are a cornerstone to 2007 Draft RMP policy. The 2007 Draft RMP recognizes State Plan designated centers as opportunities for residential, commercial, and industrial development, redevelopment and economic growth in the Planning Area. The 2007 Draft RMP includes a figure showing the spatial boundaries of the State Designated Centers in the Highlands Region, their expiration date, and overlay zone.

COMMENT: One comment recommended that the RMP explain where and why it differs from the State Development and Redevelopment Plan, and the Land Use Capability Map should show areas of inconsistency.

RESPONSE: The Highlands Act stipulates that “Within 60 days after adopting the regional master plan, the council shall submit the plan to the State Planning Commission for endorsement pursuant to the rules and regulations adopted by the State Planning Commission.” (C.13:20-8) The process of gaining Plan Endorsement from the State Planning Commission will provide the opportunity for a discussion relating to the similarities and differences between the adopted RMP and the State Development and Redevelopment Plan.

GROWTH AND ECONOMIC DEVELOPMENT

COMMENT: Several comments held that the encouragement of redevelopment, including brownfield redevelopment, is a good policy. It was stated that the NJDEP should provide a Highlands permitting process for brownfields redevelopment without compromising remediation standards.

RESPONSE: The comment is acknowledged by Highlands Council.

COMMENT: One comment held that development restrictions associated with the Draft RMP will hinder economic viability, and there should be one set of preservation and planning requirements for the entire State.

COMMENT: A few comments expressed concern that the RMP overlays will affect the ability to achieve local community development objectives. One comment recommended that the RMP include policies that protect the rights of residents and landowners by permitting the continued evolution of neighborhoods under current zoning regulations.

RESPONSE: The 2007 Draft RMP seeks to protect the natural and cultural resources of the region while striving to accommodate a sustainable economy – the core of smart growth principles. The Sustainable Economic Development Program (page 278) contains the 2007 Draft RMP approach to supporting and monitoring the continued and enhanced economic health of the region. The Highlands Act charged the Highlands Council with the preparation of a regional master plan for the Highlands Region. Preservation and planning work in areas outside of the Highlands Region will continue to be under the jurisdiction of local, county, and state planning entities.

COMMENT: A few comments pointed out that site-specific standards for the Planned Community Zone include a requirement that anyone submitting an application for a project in that zone identify areas suitable for higher density. It was stated that densities were supposed to be determined by the Highlands Council based on resource constraints and municipal goals and this should not be left to a site plan applicant.

RESPONSE: The approach from the 2006 Draft RMP has been updated, and the Project Review Standards Program (beginning on page 317 of the 2007 Draft RMP) outlines minimum density requirements for new development relating to utility (water and wastewater) service.

COMMENT: One comment suggested that redevelopment opportunities in the Preservation Area not be permitted. One comment said that the approach for identifying redevelopment areas in the Draft RMP/Land Use Capability Map was inconsistent with the requirements of the Highlands Act. The comments also expressed concern regarding lake communities and additional development and redevelopment.

RESPONSE: In the Preservation Area, land development is required to be in accordance with the enhanced environmental standards of the Highlands Rules (N.J.A.C 7:38-6.6) adopted by NJDEP. NJDEP grants waivers from the Highlands rules on a case-by-case basis for several scenarios, including redevelopment in previously developed areas and brownfields. In order to qualify for a waiver from the Highlands Rules, a proposed redevelopment site must be designated as appropriate for development by the Highlands Council. The Highlands Council acknowledges the comment regarding the identification of redevelopment areas. The 2007 Draft RMP includes a Lake Management Area Program (page 187) which seeks to protect, restore and enhance the water quality of Highlands lakes and to protect the unique character of Highlands lake communities. Additionally, the Land Use Capability Zone Map includes a Lake Management subzone.

BUILD OUT MODEL

COMMENT: Several comments inquired about the about the build-out model, specifically what it is and when it will it be released? It was mentioned that the build-out model is an important implementation tool that needs to be completed to help towns understand the impacts of the RMP and the zoning changes required.

COMMENT: One comment mentioned that using the “build-out model to assist municipalities in determining their growth potential” is the opposite of how economic development opportunities should be identified. It was suggested that opportunities for economic development be determined by the lack of environmental resources.

RESPONSE: The Highlands build out analysis utilizes a set of project assumptions that are evaluated via GIS (spatial software) to determine the nature and extent of “buildable areas.” A build out analysis calculates the impacts on the region, if it were to be “built out” according to zoning, as constrained by available water resources, utility capacity and similar factors. The Highlands build out analysis is an immediate mandatory required element of municipal Plan Conformance. Conforming municipalities must adopt by reference several items, including the Highlands build out analysis.

COMMENT: One comment mentioned that the Draft RMP contains a policy stating that 80% of net water availability shall be reserved for the Planned Community Zone. This policy does not make sense without the context of a build-out analysis. It was questioned why the Highlands Council would recommend taking capacity away from existing users and allocate it to future users who may not even exist?

RESPONSE: The policies relating to net water availability have been modified in the 2007 Draft RMP, and are contained within the Goals, Policies, and Objectives beginning on page 137 with Goal 2K. The allocation to the Planned Community Zone is not included.

REDEVELOPMENT

COMMENT: Several comments suggested that the RMP needs to expand upon the description of redevelopment (including brownfield, greyfield, and redevelopment sites) to provide the methodology that will be used to delineate a redevelopment site within the waiver process. It was recommended that particularly the 70% impervious surface coverage standard be described. Some comments stated that it should be limited to not more than those sites with existing water or sewer and impervious surface of 70% or greater. The following questions were asked: Is the aggregation of properties allowed? Will flexibility be allowed? Will surrounding character of lands be considered?

RESPONSE: The 2007 Draft RMP contains the Highlands Redevelopment Program (page 250), which helps interested parties, municipalities, counties, state, and federal agencies understand where redevelopment opportunities are targeted, and how to achieve redevelopment within each zone and in the Planning and Preservation Areas. Additionally, the Procedures for Highlands Redevelopment Site Approval provide additional clarification for the

redevelopment process. The surrounding character of land is considered as part of the Highlands Redevelopment Site Approval Process. This process is intended to ensure that redevelopment sites are appropriate for development; not all such sites are in locations conducive to redevelopment, especially where redevelopment could harm surrounding environmentally sensitive resources. In the Preservation Area, aggregation is allowed provided that the area must have at least 70% impervious coverage and be appropriate for redevelopment according to the Highlands Council. In the Planning Area, aggregation of multiple sites into one larger redevelopment area is allowed, provided that the larger area is previously developed (grayfield) and appropriate for redevelopment, according to the Highlands Council. The Highlands Council may exercise flexibility on a case-by-case basis.

COMMENT: One comment suggested that the definition of greyfield should be changed to that used by the Greyfields Task Force; “underperforming or abandoned shopping centers or office parks.”

RESPONSE: The 2007 Draft RMP presents brownfields and grayfields as two types of sites which commonly possess characteristics worthy of investigating for purposes of redevelopment. The definition of a brownfield is “any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been or there is suspected to have been, a discharge of contaminant.” The 2007 Draft RMP defines grayfields as “sites usually containing industrial or commercial facilities exhibiting signs of abandonment or underutilization in areas with existing infrastructure, but generally not known to be contaminated”. The Council determined that it was useful to differentiate the 2 types of underutilized developed areas by defining them in terms of contamination; brownfields generally have or are perceived to have contamination, while grayfields sites are not complicated with issues of contamination.

COMMENT: One comment asked where existing contaminated sites are located and what are the remediation standards?

COMMENT: One comment suggested that the RMP needs a policy to implement controls over the quality of fill dirt and soils that are used during a construction project to insure the protection of ground water resources.

RESPONSE: Potentially contaminated sites have been inventoried in the Highlands Contaminated Site Inventory and sites will be confirmed during Conformance. The remediation of contaminated sites must be conducted in accordance with the criteria required by NJDEP’s Technical Requirements for Site Remediation (N.J.A.C. 7:26E).

COMMENT: One comment noted that it appears that the draft RMP is encouraging greenfield development over the remediation of contaminated sites, which defeats the purpose of utilizing formerly developed sites to absorb the development pressure. It was also suggested that it is impractical to assume a brownfield site would be returned to a greenfield site at great cost to either a redeveloper or taxpayer. One comment mentioned that brownfield remediation should be a top priority for the Highlands Region as it strives to improve water quality.

RESPONSE: The intention of the Highlands greenfield policy is not to discourage traditional redevelopment outcomes, but rather to recognize that in some cases, remediation and conversion to greenfields may be the most appropriate option for a site, based on the surrounding conditions, as discussed in Policies 6J2 and 6J3 of the 2007 Draft RMP.

MISSING ELEMENTS

COMMENT: One comment stated that the Smart Growth component is weak in community design concepts. It was added that the RMP should encourage the adoption of a community design plan element and work with the Office of Smart Growth to develop model plans and ordinances.

COMMENT: Several comments stated that the Highlands Act requires model minimum standards, including density standards, maximum dwelling unit and population density thresholds, minimum lot size requirements, development capacity, growth potential, and permitted uses. It was stated that these details are not currently a part of the Draft RMP, which makes land use impacts difficult to understand and means that the RMP is not ready for adoption. There was concern that pushing the identification of these standards off until Plan Conformance would create

consequences when unknown standards and regulations are incorporated into local development regulations.

RESPONSE: The Future Land Use Programs of the 2007 Draft RMP outlines programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs), contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.

COMMENT: One comment suggested that the RMP needs to incorporate a comprehensive planning element for the placement and location of wireless telecommunications facilities. It was recommended that the Highlands Council review N.J.A.C. 7:50-5.4(c).

RESPONSE: The comment was considered and no change was made to the 2007 Draft RMP by the Highlands Council. Such facilities will be addressed through Highlands Project Reviews.

COMMENT: A few comments suggested that the RMP must include a determination of the “amount and type of human development and activity which the ecosystem of the Highlands Region can sustain” and the RMP include the identification of existing developed lands capable of sustaining development activities and investment. It was stated that the identification of Planned Community Zones and Specially Planned Areas is insufficient in fulfilling this requirement. It was suggested that the Highlands Act also call for the identification of undeveloped areas in the Planning Area which are not significantly constrained by environmental limitations. It was stated that the RMP must include areas that are identified for increased density and serve as Transfer of Development Rights receiving areas.

RESPONSE: The Highlands build out analysis utilizes a set of project assumptions that are evaluated via GIS (spatial software) to determine the nature and extent of “buildable areas.” These areas represent lands that are not developed, publicly-owned, or environmentally constrained. These “buildable areas” are potentially available for development and, based on the project assumptions, will be evaluated for physical, economic and environmental impacts of such development within the Region. The Highlands build out analysis is an immediate mandatory required element of municipal Plan Conformance. Conforming municipalities must adopt by reference several items, including the Highlands Build out analysis. In the 2007 Draft RMP the Highlands Council has identified specific areas of the Highlands Region that have the potential to serve as voluntary receiving zones. A map of these areas is shown on page 277 of the 2007 Draft RMP. A detailed discussion of how the Highlands Council identified these areas is found in the Technical Report Addenda at pages 87-93.

COMMENT: Several comments maintained that a discussion of economic vitality of the Highlands Region is missing. It was suggested that the 2007 Draft RMP focus on how the Highlands Region could realize its full economic potential while also protecting its resources. It was suggested that economic monitoring begin immediately. The following question was asked: What is the vision for local goods and service establishments in a municipality; approaches for a lack of infrastructure; and the nature of how commercial establishments that are not in conformance with the Regional Master Plan, i.e. septic density, FAR, be considered; will they be prohibited from expanding?

RESPONSE: The Sustainable Regional Economy Program of the 2007 Draft RMP (page 165) serves as a comprehensive mechanism for supporting and monitoring the continued and enhanced economic health of the Highlands Region. The program includes tools, incentives and assistance which are available to support municipalities and counties through the Plan Conformance process and in support of all Highlands stakeholders. The focus is on the objective of long-term, sustainable economic viability, not short-term economic activity.

MISCELLANEOUS COMMENTS/QUESTIONS

COMMENT: One comment held that the Highlands Act calls for the identification of transportation, water, wastewater, and power infrastructure which would support or limit development and redevelopment.

RESPONSE: The Transportation Program (page 227), the Water Resources and Water Utilities Program (beginning page 196), and the Technical Report Addenda November 2007 discuss the 2007 Draft RMP’s approach with regard to the identification of these resources.

COMMENT: One comment suggested that the assumptions and methodologies of the dasymetric mapping are flawed because they assume that no one lives in lands considered undevelopable; when in fact, they do. It was suggested that a determination of density be used incorporating actual housing locations using recent aerial photography and MOD IV tax records.

RESPONSE: A dasymetric mapping analysis was used to refine Census information for the Highlands. The dasymetric mapping reallocated population within the Census boundaries (block and block group) based upon environmental constraints to development (such as Highlands Open Waters or steep slopes), existing land uses (such as high or low density residential), and other features (such as preserved land and road right of ways) that would likely give some indication of areas of inhabitation. There are instances where people live in environmentally constrained areas, such as steep slopes. However, despite the discussed drawbacks to the methodology, the dasymetric mapping analysis was successful at providing a more accurate picture of where and at what density people live within a generalized census boundary.

COMMENT: One comment asked if there was any merit to mapping “where affordable housing is” and “where it is proposed,” to enhance the zoning and build-out analysis. The following question was asked: if a town does not want the type of growth recommended in the Regional Master Plan, is it subject to builders remedy lawsuits?

RESPONSE: The Regional Land Use Conditions and Smart Design Guidelines Technical Report contains a discussion of COAH requirements in the Highlands, including COAH participation for Highlands municipalities, including third round participants and number of affordable housing units that have been constructed. The protection afforded by COAH from a builder’s remedy lawsuit is not related to conformance with the 2007 Draft RMP. Highlands Council policy is that “(Policy 6.B.6) Provisions and standards relating to regional growth activities which increases the intensity of development shall be discretionary for conforming municipalities and counties.”

COMMENT: A few comments asked for an explanation of the relationship between the Highlands Council and other State agencies, county and local planning agencies; and in particular the Council on Affordable Housing, Office of Smart Growth and the State Development and Redevelopment Plan, and county planning agencies and their strategic plans?

RESPONSE: Federal, State, and Regional Agency Coordination of the 2007 Draft RMP (Page 300) addresses this topic.

COMMENT: One comment asked the following questions: What and how much development is exempt from the Highlands Act? What is its impact and where is it? How does this relate to resource protection?

RESPONSE: The Highlands Council Abstract, an Analysis of the Impact and Implications of Highlands Act Exemptions, September 20, 2007, discusses the impact of exemptions in the Highlands. Additionally, the Highlands build out analysis evaluates the impacts of exemptions on future development in the region.

COMMENT: One comment pointed out that the RMP will negatively affect areas just outside of the Region by effectively pushing development to those areas.

RESPONSE: The Highlands Act charged the Highlands Council with the preparation of a regional master plan for the Highlands Region. Development in areas outside of the Highlands Region will continue to be under the jurisdiction of local, county, and state planning entities.

HOUSING AND COMMUNITY DEVELOPMENT

COUNCIL ON AFFORDABLE HOUSING

COMMENT: Several comments suggested that environmentally sensitive areas are being threatened with builders remedy lawsuits in communities that have not met their affordable housing mandates. It was requested that court

ordered inclusionary developments be halted until final adoption of the Regional Master Plan. Another comment suggested that Council on Affordable Housing sites are more appropriate for brownfield redevelopment and areas where infrastructure and mass transit exist.

RESPONSE: The comment addresses a regulatory component, no change to the 2007 Draft RMP. The Highlands Council acknowledges the comment regarding siting of affordable housing projects, but has no authority to impose a moratorium.

COMMENT: A few comments suggested that the Highlands Council should work with the Council on Affordable Housing (COAH) to develop revisions to the COAH rules that would enable greater flexibility and shared housing agreements between Highlands Region communities that are now substantially prevented from addressing their prior affordable housing requirements and/or following through with their COAH approved Housing Elements/Fair Share Plans as a result of the Highlands Act and/or the Regional Master Plan. COAH rules should also be revised to provide greater flexibility to municipalities to meet their requirements when the municipalities seek to voluntarily opt into the Regional Master Plan. One comment suggested that developers are already pressing for waivers to allow inclusionary development in Preservation Area towns, and without alternative methods of meeting this obligation towns will likely be forced to accommodate such developments. Given the constraints imposed by the Highlands Act, related NJDEP rules, and the Highlands RMP, a regional rather than local approach to meeting affordable housing needs, allowing the sharing of responsibilities, housing credits and developer fees, should be considered by COAH and pursued by the Highlands Council.

COMMENT: A few comments stated that municipalities should be encouraged to adopt growth share ordinances to ensure that development provides for affordable housing, whether on-site or off-site, or through the payment of fees. Payments in lieu of construction, which can be assessed at a level sufficient to finance the cost of developing affordable units, may be a better alternative for some municipalities than development fees. One comment stated that the need for development fee ordinances is not a Highlands Council responsibility and should be removed from the Regional Master Plan.

COMMENT: A few comments suggested that review and comment on Fair Share Plans regarding “site suitability, growth projections, and other issues” should be left to the Council on Affordable Housing. It was added that review by the Highlands Council would just add time to an already lengthy process, and alternately, other comments suggested that the Highlands Council could review Housing Elements and Fair Share Plans submitted to Council on Affordable Housing for consistency with the Regional Master Plan.

RESPONSE: The Highlands Council 2006 Draft (pages 145 – 148) and Final Draft Regional Master Plan (pages 260 -266 and 300 - 306) Housing and Community Facilities Program policies speak to the coordination and consistency with the Council on Affordable Housing (COAH) as well as other agencies such as NJDEP and the Office of Smart Growth in ensuring that regional affordable housing needs are met for all income levels.

COMMENT: Several comments stated that the Highlands Council should develop information and guidance regarding NJDEP Highlands rules, Highlands Act exemptions, exclusions, maps, documents, recommendations to promote affordable housing, and organizations and/or developers who work with municipalities on housing obligations. It was stated that guidance must be provided for Preservation Area communities, focusing on how they are to meet their existing and future affordable housing requirements. It was suggested that the Highlands Council provide grant assistance to innovative planning programs, such as cooperative endeavors involving two or more municipalities, and bonus credits for 100% affordable developments.

RESPONSE: The 2007 Draft RMP’s Local Participation Program (page 307) discusses the Highlands Council’s variety of outreach approaches in order to provide details regarding the 2007 Draft RMP, disseminate technical information, address individual comments and concerns, and meet the constituents of the Highlands Region. The Highlands Council will develop an interagency partnership with COAH in support of a conforming municipality’s substantive certification plan development and regional affordable housing needs. The Plan Conformance Program (page 288) outlines the planning grants that are available to conforming municipalities. The Highlands Council also has funds available for the purpose of assisting constituent municipalities in planning for their affordable housing

requirements in accordance with the COAH, including substantive certifications and third round obligations (\$12,500 per municipality for substantive certification applications and \$7,500 per municipality for third round submissions).

COMMENT: A few comments pointed out that due to the Appellate Court Opinion on January 25, 2007, the Council on Affordable Housing Round 3 rules are in flux. One comment asked if the Highlands Council could develop a mechanism whereby Planning Area municipalities are provided with adequate assurances that in the event the outcome of the Appellate Court Opinion imposes significantly increased housing obligations (than are presently required), then the municipality will be allowed to renegotiate the terms of conforming its Planning Area with the Regional Master Plan, including the right to withdraw from conformance.

COMMENT: A few comments maintained that the Highlands Act requires the Council on Affordable Housing to consider the adopted RMP for third round allocations, but recognizes the protected status of affordable housing projects approved by Council on Affordable Housing or the courts. It was stated that the Highlands Council must offer protection for municipalities from third round Council on Affordable Housing obligation in recognition of a lack of sites appropriate for development. The Highlands Council should take steps to make builder's remedy litigation non-existent in the Highlands Region.

RESPONSE: The Highlands Act (N.J.S.A. 13:20), NJDEP Preservation Area Rules (N.J.A.C. 7:38) and Council on Affordable Housing Substantive Certification Rules (Chapter 94) are legislative aspects that are recognized by the Highlands Council in the 2006 Draft and Final Draft Regional Master Plan policies. Legislative changes and updates will continue to be evaluated by the Highlands Council in support of regional policies and long term planning goals.

COMMENT: Several comments suggested that Council on Affordable Housing's requirement that municipalities petitioning for Round 3 substantive certification must obtain Plan Endorsement could jeopardize a municipality's Housing Element. It was stated that the Highlands Council's disregard of designated centers with affordable housing provisions will threaten petitions for substantive certification. The following question was asked: If a municipality in the protection zone with substantive certification and a Fair Share Plan chooses to opt-in to the Regional Master Plan, will the substantively certified Fair Share Plan be invalidated by the fact that the housing project will be subject to the rules governing the Protection Zone – thus prohibiting the construction of the new affordable housing units?

COMMENT: A few comments held that the RMP should be revised to recognize the sites that Council on Affordable Housing has approved as sites for affordable housing through granted substantive certification. It was suggested that these sites should be included in the Planned Community Zone, and a policy should be established that entitles the sites to water and sewer extensions.

COMMENT: The following question was asked: Will the Council on Affordable Housing's accessory apartment technique be feasible for communities in the Highlands Region without public sewer? It was added that the accessory apartment program entails the creation of an apartment on a property that already contains a principal dwelling unit.

RESPONSE: The Plan Conformance process involves a comprehensive evaluation of local land use conditions, natural and cultural resources, infrastructure and housing needs and does not change the local responsibility of addressing the constitutional requirements for affordable housing under New Jersey State Law.

COMMENT: One comment highlighted two recent court cases regarding affordable housing which should be considered in the RMP housing policy. The decision of the Appellate Division In the Matter of the Adoption of N.J.A.C.19:3, et al and New Jersey Builder's Association v New Jersey Meadowlands Commission, et al., as approved for publication on May 21, 2007 makes it clear that regional planning agencies have a constitutional responsibility to plan and zone for affordable housing. It was stated that the May 21, 2007 Order for Judgment in Dowel Associates v Harmony Township Land Use Board et al. concludes that the Harmony Township Land Use Board improperly denied major subdivision approval to the proposed 315 unit affordable housing project.

RESPONSE: The Highlands Act recognizes the New Jersey constitutional requirement to provide for affordable housing and the 2006 Draft and Final Draft Regional Master Plan policies require that conforming municipalities petition the Council on Affordable Housing for substantive certification.

COMMENT: A few comments held that if growth share is adopted as the method for third round Council on Affordable Housing obligations, Transfer of Development Rights receiving areas will likely incur additional requirements. It was stated that few communities would consider creating a Transfer of Development Rights receiving zone if the affordable housing responsibility is not shared. The costs associated with building one affordable housing residential unit for every 8 residential market units is not covered by the \$15,000 impact fee which covers other municipal impact costs. It was maintained that this issue is even more problematic if commercial units are transferred, since impact fees are not permitted for commercial use, but the development still has Council on Affordable Housing impacts with the regulation that twenty-five new jobs require the building of one affordable housing unit.

RESPONSE: The Highlands Council recognized in the 2007 Draft RMP Landowner Fairness policies (pages 160 – 165) the need for greater flexibility in the establishment of Highlands Development Credit receiving areas in Policy 7G1A by establishing the ability to implement an intra-municipal transfer of development rights for Preservation Area Exempted properties and voluntary receiving zones as approved by the Highlands Council. This policy permits the transfer of units that are permitted through exemptions and as of right development to be transferred within the community and may serve to support a balance approach for development of affordable units in receiving zones. The Highlands Council also supports and recognizes the New Jersey constitutional requirement to provide for affordable housing.

COMMENT: A few comments discussed certification, including one that urged the Highlands Council to require a petition to Council on Affordable Housing versus standard certification as a prerequisite for conformance.

RESPONSE: The Highlands Council 2007 Draft RMP clarified the Council on Affordable Housing (COAH) Conformance requirement in Policies 6O1, 6O4 and 6O5 and in the Housing and Community Facilities Program; indicating that conforming municipalities must prepare and submit a petition for substantive certification to COAH.

ADVOCATING GENERAL HOUSING POLICIES

COMMENT: One comment held that the RMP should promote strategies that allow for the expansion and infill of existing centers or limited new center-based development through cluster or intra-municipal transfer of development rights provisions in rural and environmentally sensitive areas.

COMMENT: Some comments stated that implementation strategies should promote development and redevelopment of affordable housing in centers already designated by the State Planning Commission that support transit, and reduce commuting times and cost, and at locations easily accessible, preferably on foot, to employment, retail, services, cultural, civic and recreational opportunities.

COMMENT: Several comments requested that the Highlands Council allow for a reasonable amount of development so that there is an adequate amount of housing.

RESPONSE: The 2007 Draft RMP establishes a framework for future growth and economic development in or adjacent to existing developed areas where adequate public facilities are available. Directing growth to areas that already have some level of development makes more efficient use of existing infrastructure and supports the protection of environmentally sensitive areas. Potential growth areas are represented by redevelopment areas, brownfield sites, grayfield sites, cluster development, and infill in existing communities. Center based development approaches are a cornerstone to 2007 Draft RMP policy. The 2007 Draft RMP recognizes State Plan designated centers as opportunities for residential, commercial and industrial development, redevelopment and economic growth in the Planning Area. The 2007 Draft RMP includes a figure showing the spatial boundaries of the State Designated Centers in the Highlands Region, their expiration date, and their overlay zone.

COMMENT: Some comments stated that policies should encourage a mix of affordable housing types, both renter and owner occupied, reversing the trend toward large concentrations of low-income households in municipalities, and emphasize preserving the existing affordable housing stock since it is equally as important as providing new affordable housing.

RESPONSE: The 2007 Draft RMP does so in Policies 6O2 and 6O3.

COMMENT: Some comments stated that RMP policies should include lot-size averaging along with the clustering and conservation approaches. It was held that lot-size averaging can be an effective tool to maintain landowner equity and preserve active farmland at the same time.

RESPONSE: Lot-size averaging is considered to be a clustering approach, and is addressed primarily in the 2007 Draft RMP Cluster Development Program (page 243).

COMMENT: One comment argued that the RMP should include smart growth policies for the Conservation and Protection Zones that would allow for some small scale growth, such as hamlets and villages.

RESPONSE: 2007 Draft RMP policy (Policies 6D1 and 6F3) generally guides development away from environmentally sensitive and agricultural lands and promotes development and redevelopment in or adjacent to existing developed lands. The Conservation and Protection Zone do allow for very limited development opportunities provided that it is in accordance with resource protection needs.

APPROACH TO HOUSING NEEDS

COMMENT: Several comments suggested that the Highlands Council should prepare a regional housing analysis that evaluates housing needs for different household types and income levels. It was suggested that this analysis should address the existing ratio of jobs to housing and infrastructure capacity enhancements needed to achieve housing goals. It was added that outstanding earlier round obligations and potential obligations that will need to be met in the third round should be assessed.

COMMENT: Some comments held that the RMP is deficient in realistically addressing affordable and rental housing needs. It was suggested that standards be prepared regarding housing needs for which conforming municipalities must meet. It was held that the Draft RMP is lacking in other site specific standards, including economic growth, minimum density requirement, clustering and conservation development approaches. It was also suggested that energy efficiency and green building standards be addressed through construction codes, not the Regional Master Plan.

RESPONSE: Discussion relating to housing is found in several places of the 2007 Draft RMP in addition to the Housing and Community Facilities Program (Chapter V. Programs). The Draft Regional Land Use Conditions And Smart Design Guidelines Technical Report (January 2007) contains a discussion of residential land use patterns and pertinent issues facing the Highlands Region regarding both market-rate and affordable housing. The Highlands build out analysis calculates the impacts on the region, if it were to be "built out" according to zoning. The build out analysis will be used in Conformance as a tool to assess long term planning needs in support of housing, employment, community facilities and quality of life.

The Future Land Use Programs outlines programmatic approaches for topics including Cluster Development, Redevelopment, the Smart Growth Manual, Low Impact Development Program, and the Community Development Design Guidebook (as addressed in the Chapter V. Programs of the 2007 Draft RMP), contains strategies to achieve well planned growth in the Region, and outlines the agenda for future planning and development standards.

COMMENT: Several comments stated that the RMP not only recognizes, but endorses and sanctions even greater exclusivity of housing opportunities within the Highlands Region. A few comments stated that the Land Use Capability Map and site specific policy standards make the goal of providing an adequate and affordable supply of housing unachievable. By failing to correct this historic exclusionary practice, the Draft RMP violates the fundamental requirements of the exercise of land use regulation under the New Jersey Constitution, as stated in *Southern Burlington County NAACP v. Mt. Laurel Township*, 67 N.J. 151 (1975) ("Mt. Laurel I") and 92 N.J. 158 (1983) ("Mt. Laurel II"). The encouragement of down zoning by the Draft RMP is in direct conflict with the statutory goals of the Highlands Act for the Preservation Area. It was stated that the designation of most of the land

within the Planning Area as Protection and Conservation Zones demonstrates the RMP's insensitivity to the need for affordable housing.

RESPONSE: Policies and strategies relating to the provision of affordable housing in the Highlands Region are contained in the 2007 Draft RMP, Housing and Community Facilities Program (Chapter V. Programs) and additional discussion is contained in the Draft Regional Land Use Conditions And Smart Design Guidelines Technical Report (January 2007). RMP policy does not encourage exclusionary housing or "down-zoning" but does seek to ensure that sensitive environmental resources are not compromised, as required by the Highlands Act. Designation of the Protection and Conservation Zones in the Planning Area are a direct recognition of the Act's requirement that the RMP protect the water quality, water supply, and essential character of the Highlands Region. 2007 Draft RMP policy promotes "affordable housing within new residential and mixed use development, redevelopment, or adaptive reuse projects in the Existing Community Zone and where appropriate throughout the Highlands Region" (Policy 6O3).

COMMENT: A few comments stated that the Draft RMP policies leaves decisions regarding housing growth to the discretion of the municipality. Planning Area municipalities may be found to be in conformance with the RMP even if they decided not to provide for higher density housing.

RESPONSE: Council policy has established in the 2007 Draft RMP that "(Policy 6.B.6) Provisions and standards relating to regional growth activities which increases the intensity of development shall be discretionary for conforming municipalities and counties."

COMMENT: A few comments held that as a result of the Highlands Act, a significant number of Highlands properties fall into a "grandfather clause" that exempts them from many restrictions. The Draft RMP fails to address the repercussions of these additional units, particularly the environmental resource and affordable housing implications. It was stated that the Highlands Council should promote strategies that would concentrate this inevitable development into centers.

RESPONSE: The Highlands Council Abstract, An analysis of the impact and implications of Highlands Act exemptions, September 20, 2007, discusses the impact of exemptions in the Highlands. Additionally, the Highlands build out analysis evaluates the impacts of exemptions on future development in the region. With regard to directing growth towards centers, 2007 Draft RMP policy promotes "compatible growth opportunities that include in-fill development, adaptive re-use, redevelopment, and brownfields redevelopment in existing developed areas." (Policy 6.B.3)

COMMENT: A few comments noted that areas identified by the Draft RMP as Planned Community Zones and Specialty Planned Areas are already developed. There is no analysis within the Draft RMP of lands (including vacant) that may be appropriately developed for housing density that would provide a wide variety of housing stock.

RESPONSE: The Redevelopment Program of the 2007 Draft RMP contains a discussion of the Redevelopment and Infill Analysis Tool (page 256). The tool identifies parcels that are developed, vacant (adjacent to developed), economically underutilized, oversized residential lots, and sites with existing local planning conditions such as designated redevelopment areas, urban enterprise zones, foreign trade zones and Centers designated in accordance with the State Development and Redevelopment Plan and will be available to municipalities and counties during Conformance.

COMMENT: One comment said that the Draft RMP's assessment of statewide housing trends is dated and should be updated to reflect data from new residential construction building statistics.

RESPONSE: The Highlands Council acknowledges the comment; no change was deemed necessary to the 2007 Draft RMP.

COMMENT: A few comments stated that housing demand cannot be determined on a site-specific basis during site plan review, but at a State and regional level.

RESPONSE: The Highlands Council acknowledges the comment.

COMMENT: One comment stated that the Council's build-out analysis fails to address the well documented existing affordable housing shortfalls within the Highlands Region, nor does it address the redirected growth required as a result of the elimination of development opportunities in both the Preservation and Protection areas.

RESPONSE: Discussion relating to housing is found in several places of the 2007 Draft RMP in addition to the Housing and Community Facilities Program (Chapter V. Programs). The Draft Regional Land Use Conditions And Smart Design Guidelines Technical Report (January 2007) contains a discussion of residential land use patterns and pertinent issues facing the Highlands Region regarding both market-rate and affordable housing. The Highlands build out analysis utilizes a set of project assumptions that are evaluated via GIS (spatial software) to determine the nature and extent of "buildable areas." A build out analysis calculates the impacts on the region, if it were to be "built out" according to zoning, as constrained by water and other resources and utility capacity. The build out model incorporates several runs based on different scenarios, which address the redirected growth due to the Highlands Act.

COMMENT: One comment stated that the density analysis undertaken as part of the Land Use Plan assessment shows that less than 1% of the total land area in the Highlands Region meets the transfer of development right minimum density standard of five (5) dwelling units per acre. Therefore, out of all housing stock within the Highlands Region, only 15% is located in communities with densities that would foster smart growth principles of compact housing development endorsed by the Draft RMP.

RESPONSE: The Highlands Council acknowledges the comment. The implementation of the 2007 Draft RMP will affect the future of the Highlands region and provides the tools to foster a region with compact housing development at threshold densities in locations that make sense.

COMMENT: One comment stated that suggestions from the Housing Technical Advisory Committee should be incorporated into Regional Master Plan.

RESPONSE: The Highlands Council acknowledges the comment; no change to the 2007 Draft RMP was deemed necessary.

COMMENT: A few comments stated that relying on market rate development with an inclusionary component is not feasible in the Preservation Area. One comment held that the Draft RMP fails to recognize that the private sector provides the great majority of the State's affordable housing through the creation of inclusionary development.

RESPONSE: Policies and strategies relating to the provision of affordable housing in the Highlands Region are contained in the 2007 Draft RMP Housing and Community Facilities Program (Chapter V. Programs). The Highlands Act and 2007 Draft RMP provide several approaches for achieving affordable housing goals in the Preservation Area. (1) The readopted NJDEP Highlands Water Protection and Planning Act Rules (N.J.A.C. 7:38) contains an additional waiver for the construction of a 100 percent affordable housing development. The waiver provides municipalities with an opportunity to address their constitutional obligations under the State Fair Housing Act (N.J.S.A. 52:27D-301 et seq.) and to provide needed affordable housing opportunities for low- and moderate-income New Jersey residents in townships that are entirely contained within the Preservation area; and. (2) Affordable housing opportunities through the redevelopment of existing developed areas and brownfields.

INTERAGENCY COORDINATION

COMMENT: Several comments stated that the RMP needs a clearly articulated Memorandum of Understanding between the Highlands Council and all state agencies, and in particular Council on Affordable Housing, NJDEP, and New Jersey Department of Agriculture, to address how conflicts between protection of resources and providing affordable housing will be resolved.

RESPONSE: The Federal, State, and Regional Agency Coordination (Page 300) subtopic of the 2007 Draft RMP addresses this topic.

QUESTIONS

COMMENT: One comment asked the following question: Where is the construction of places of worship permissible? Please define what constitutes a church or place of worship as referred to in the Draft RMP.

RESPONSE: The construction of places of worship is discussed in the Highlands Water Protection and Planning Act Rules N.J.A.C. 7:38.

COMMENT: One comment recommended that the RMP include a policy addressing Governor Corzine's June 2006 announcement that affordable housing be a mandatory component of all transit village projects.

RESPONSE: While the June 2006 announcement is not specifically referenced, the Housing and Community Facility Program (page 260) of the 2007 Draft RMP discusses coordination with the New Jersey Department of Transportation and NJTransit to promote the Transit Village Initiative. The initiative focuses on creating and maintaining livable and sustainable communities with transportation playing a key role.

UTILITIES/UTILITY CAPACITY

CAPACITY ANALYSIS

COMMENT: Numerous comments stated that the capacity analysis was incomplete. Numerous comments disputed the capacity values presented in the Draft RMP. The following question was asked: How was the Highlands Council able to designate Land Use Capability Map zones and areas for redevelopment? Numerous comments also thought that utility capacity should translate estimates into allowable development potential, such as square feet or units. A few comments suggested that a build out analysis and capacity analysis be required, which goes to the Highlands Act mandate for "amount and type of human development" the Highlands Region can sustain. Several comments requested capacity totals for the entire Highlands Region, as municipalities need to understand the implications of capacity limitations on future development potential, particularly in the Planning Area where conformance is optional.

COMMENT: Numerous comments highlighted the importance of understanding how much treatment capacity is actually available. It was suggested that a build out analysis in the growth areas with the existing capacity be conducted. One comment questioned the presence of excess treatment capacity at the Wanaque Valley Regional Sewerage Authority.

RESPONSE: Net Water Availability and Utility Capacity results in the 2007 Draft RMP have been modified based on new policies and updated information. This information will be further updated using a refined water use tracking model and water use data as it becomes available from municipalities and utilities. Future efforts will also link water utility capacity to the net water availability of its source subwatershed. Buildout analyses from the Highlands Council will incorporate this information in their models.

COMMENT: One comment maintained that in most areas of the Highlands Region, wastewater and water utilities are not the same entity, therefore they do not have the capability of determining municipal estimates of utility capacity.

RESPONSE: The 2006 Draft RMP and 2007 Draft RMP have utility capacity estimates which have been updated with the best data available. They will continue to be updated as additional information is gathered during the conformance process.

COMMENT: One comment stated that a capacity analysis should include transportation and power infrastructure in addition to water and wastewater.

RESPONSE: A transportation assessment is included in the RMP. Energy infrastructure is not included in the RMP. However, water and wastewater capacity are seen as more direct constraints on development capacity, as there are standards and regulatory programs addressing them.

COMMENT: A few comments disagreed with the procedure for establishing “available” treatment capacity and the implications on contractual agreements.

COMMENT: One comment noted that the NJDEP has its own procedures, such as the Capacity Assurance Program, which determines wastewater capacity.

RESPONSE: The utility capacity analysis is used as regional analysis to determine whether a utility system has the potential to support additional growth. The NJDEP Capacity Assurance Program establishes a threshold at which a utility must assure that it is capability of continuing to meet permit requirements as flows increase.

COMMENT: One comment asked if the 3-month maximum discharge is based on an annual period or is it for the entire period of record.

RESPONSE: The 3-month maximum is based on the entire recent period of record.

COMMENT: Numerous comments stated the policy statements with regard to capacity are not clear and many municipalities will not understand that lands within the purple zone have growth constraints. Numerous comments stated that Land Use Capability Map zones should be mapped based upon capacity as well.

RESPONSE: The Goals, Policies and Objectives of Goal 2K of the 2007 Draft RMP have modified the previous standards regarding how utility capacity can be utilized. The revised LUCM Series does incorporate the extent of existing areas served by sanitary sewer as an indicator.

COMMENT: One comment noted that their approved sewer allocation represents the vast majority of remaining capacity within Clinton Town’s treatment system.

RESPONSE: The Highlands Council acknowledges the comment.

EXTENSION OF UTILITY SERVICE

COMMENT: Numerous comments discussed the extension/connection of existing infrastructure to other areas. One comment held that connections to existing utilities should be prohibited except for public health. Another comment stated that the Draft RMP policies statements contain loopholes that circumvent the intent of the Highlands Act, such as encouraging growth where no capacity exists. It was stated that no utility extension should be permitted into the Preservation Area.

COMMENT: A few comments stated that the extension of sewer to areas adjacent to existing areas served should be broader to include areas that may be near infrastructure. It was suggested that Transfer of Development Rights receiving areas not be allowed in the Preservation Area (Specially Planned Areas).

COMMENT: One comment stated that the clustering provision in the Conservation Zone does not protect cultural resources, scenic character, wildlife habitat (particularly grassland) and important agricultural soils. It was stated that provisions to extend utility service into the Protection Zone are in conflict with the Highlands Act. One comment thought the zone standards should include language “unless approved by the Highlands Council” to allow for flexibility.

RESPONSE: Utility capacity is a critical element in determining development potential. The Goals, Policies, and Objectives of Goals 2J and 2K in the 2007 Draft RMP have modified the previous standards regarding where the extension of infrastructure is permitted, encouraged, and prohibited.

CAPACITY ALLOCATION

COMMENT: Numerous comments disputed the policies reserving allocation for other uses, such as Transfer of Development Rights receiving zones or septic systems. It was stated that in some instances this capacity has been allocated to approved, but not yet connected, projects and these commitments must be honored by the Highlands Council when assessing available capacity.

RESPONSE: The policies and objectives in the 2007 Draft RMP include significant revisions regarding these issues.

Detailed determination of where existing capacity will be allocated will occur through municipal Plan Conformance. See Chapter IV, Objectives 2K1c, 2K1d, 2K3A 2K4A, 2K4b and Policy 2K2 in the 2007 Draft RMP.

COMMENT: A few comments supported the prioritization of available capacity to the Planned Community Zone and public utilities.

COMMENT: One comment suggested that municipal and county conformance, “by reference,” needs to be considered. It was held that this would allow towns to avoid policy conflicts with other State agencies, and Master Plan revisions should only be required to adopt applicable Highlands rules by reference.

COMMENT: One comment provided the following statement: The Rockaway Valley Regional Sewerage Authority (RVRSA) operates an interceptor sewer and wastewater treatment plant that serves all or portions of ten municipalities in Morris County along the Upper Rockaway River (the Town of Boonton, the Township of Boonton, the Township of Denville, the Township of Randolph, the Borough of Rockaway, the Township of Rockaway, the Borough of Victory Gardens, the Town of Dover, the Borough of Wharton and the Township of Mine Hill). The wastewater treatment plant, constructed in the mid 1980's, has a permitted capacity of 12.0 MGD and serves a population of approximately 93,000 residents. The majority of the RVRSA Service Area is within the Planned Community Zone identified in the Draft RMP.

COMMENT: One comment supported the notion of updated Wastewater Management Plans for municipal conformance.

COMMENT: One comment noted the inconsistency of “projected” demand versus “reported” demand on page 151 of the Draft RMP.

COMMENT: One comment stated Mendham Borough needs wastewater planning to accommodate modest increases in treatment capacity for current and future development.

COMMENT: A few comments supported the policy to control non-wastewater flows into the collection system.

COMMENT: A few comments discussed funding of utility infrastructure. One comment thought the Highlands Council and Environmental Infrastructure Trust should coordinate funding for leaking water utilities. Another comment said no public funding should be provided for capacity increase in the Protection and Conservation Zones. A few comments stated that municipalities typically vote down sewer extensions.

RESPONSE: The Highlands Council acknowledges the comments.

COMMENT: One comment suggested that the 20% redevelopment set-aside for utilities may be inconsistent with the Net Water Availability analysis. It was stated that the 20% set-aside reserve for water allocation should be applied to wastewater as well.

RESPONSE: The standards regarding prioritization of water utility capacity have been modified and no longer include the 20% set-aside. See Chapter IV, Objectives 2J1d, 2J4A, 2J5A, in the 2007 Draft RMP.

COMMENT: A few comments expressed concern regarding the zone standards. One comment held they were too restrictive and that affordable housing needs to be considered.

RESPONSE: The Goals, Policies and Objectives of each LUCM Zone were developed to reflect the balance of resource protection and smart growth potential for each zone.

COMMENT: One comment suggested that areas with limited capacity should be precluded from further development.

RESPONSE: The standards regarding prioritization of water utility capacity have been modified. See Chapter IV, Objectives 2J5c, 2J5d and 2K3b, 2K3c in the 2007 Draft RMP. Concentrated development patterns must be supported with public infrastructure, which cannot be supported in the absence of capacity.

COMMENT: One comment asked where “Significant Water of Highlands Region” is defined. It was stated that a “no-discharge” policy should be an anti-degradation standard.

RESPONSE: NJDEP regulates Surface Water Quality Standards and the resulting uses that the antidegradation

policies support. Further, all NJPDES discharge permits and conditions of permits are issued by the NJDEP.

SERVICE AREA MAPPING

COMMENT: Numerous comments noted the inaccuracies of where utility service exists and where it is mapped. One comment stated that the “maps are so egregious that they should be considered worthless.” One comment also expressed concern regarding what effect the utility mapping errors would have on the Land Use Capability Map.

COMMENT: Several comments suggested corrections to the Land Use Capability Map and sewer service area maps. A few comments noted specific blocks and lots to be included or excluded from sewer service areas.

COMMENT: Several comments stated that the Draft RMP service area maps are in conflict with approved Wastewater Management Plans.

COMMENT: One comment stated that if sewer service areas cannot be expanded in critical areas, then no expansion can occur in the Highlands Region.

COMMENT: A few comments expressed concerns that the Highlands Council will change sewer service areas that were approved many years ago and kill projects where considerable public and private investments have occurred. A few comments wanted assurance that the Highlands Council will not modify approved sewer service areas without municipal consent.

COMMENT: One comment expressed concern about an unfinished construction project, its ability to be connected to public sewer, and its placement on the Land Use Capability Map.

COMMENT: One comment noted that an approved New Jersey Pollution Discharge Elimination System permit was not included in the Highlands Council’s inventory of approved sewer services.

RESPONSE: The Highlands Council utilized the most current service area mapping data available, provided from NJDEP, utilities and utility billing records. The 2007 Draft RMP includes the ability for updates to service area mapping. The mapping is based on existing areas served, not NJDEP approved sewer service areas, and therefore are fundamentally different from the sewer service areas in WMPs.

WASTE QUALITY MANAGEMENT PLANS/WASTEWATER MANAGEMENT PLANS

COMMENT: A few comments questioned whether the Highlands Council has the authority to regulate Wastewater Management Plans or treatment facilities, as one comment noted that it is not the designated planning agency for the Highlands Region. Another comment noted that only NJDEP has that jurisdiction.

RESPONSE: See N.J.A.C. 7:38-1.1(k). NJDEP’s rules for the Highlands Preservation Area state that NJDEP shall approve a WQMP amendment only after receiving from the Highlands Council a determination of consistency with the RMP. The RMP determines where sewerage should be allowed (in addition to existing areas served) and NJDEP has jurisdiction over inclusion of such areas in the WMPs.

COMMENT: The following questions were asked: What are the criteria for determining a “failing septic system” or public health and safety concern? Would one, five, or twenty-five failing septic be enough? A few comments wanted the public health areas identified in their future sewer area. A few comments stated that utilities have a right and obligation to serve areas in Future Sewer Service areas.

RESPONSE: The Highlands Council has no minimum number of failing septic before public wastewater can be extended outside of Existing Areas Served. The first issue is whether the failing septic system(s) can be replaced with a new septic system that will meet regulatory requirements. If not, then infrastructure extensions may be considered. In some instance, a single home on a failing septic can easily connect to a nearby sanitary main. In other cases, no sewerage extension will be feasible. Many of those decisions will likely be driven in part by local decisions regarding capital costs. The potential for encouraging growth along the extension will also be a significant concern.

COMMENT: A few comments questioned what impact the proposed Water Quality Management Plan rules will have on the Highlands Council review of Wastewater Management Plans. One comment suggested that it may make

the Highlands Council review “superfluous” because NJDEP rules will supersede Highlands Council rules with regards to Wastewater Management Plans.

RESPONSE: The Highlands Council is coordinating with NJDEP on the proposed N.J.A.C. 7:15 rules. NJDEP’s existing rules under N.J.A.C. 7:38 state that NJDEP shall approve a WQMP amendment only after receiving from the Highlands Council a determination of consistency with the RMP.

COMMENT: One comment stated that the Hackettstown Municipal Utilities Authority (HMUA) is the designated Wastewater Management Plan Planning Agency for its service area in the Musconetcong Watershed. The HMUA does not have legal authority for most of the Executive Order 109 requirements. The HMUA was hopeful that the Draft RMP would provide a basis for the HMUA to update its water and wastewater projections and Wastewater Management Plan. The Draft RMP does not provide any indication of the future needs of the Authority or the anticipated Transfer Development Rights (TDR) impacts upon the utilities.

RESPONSE: Future wastewater projections will be updated as the wastewater management plans are updated. The Highlands Council’s utility capacity will serve as a basis for existing capacity. The Highlands Council will continue to develop regional build-out models that will enable towns to project future development.

MISCELLANEOUS

COMMENT: One comment stated that “permitted capacity, planned need and facilities permitted capacity” should be further defined. The comment asked if these parameters are recognized by the NJDEP.

RESPONSE: Utility terms are defined in the Draft Utilities Technical Report.

COMMENT: One comment expressed concern that the Highlands Council can mandate sewer and water installation and asked how the Highlands Council will decide and pay for the infrastructure.

RESPONSE: Neither the Highlands Council nor the 2007 Draft RMP mandate sewer and water installation. The policies of the RMP regarding wastewater treatment alternatives are based on sound planning principles and the growth models they support.

COMMENT: One comment questioned the placement of its township in the Protection Zone despite the fact that it has adequate utility infrastructure and availability.

RESPONSE: The LUCM Zones were delineated through a series of rules regarding natural resources, existing development and land use, and infrastructure. The existence of utility infrastructure and available capacity was one factor utilized in the LUCM. The Zones have been revised in the 2007 Draft RMP through a revised method and including updated mapping of existing areas served by sewerage.

COMMENT: One comment stated that complying with a requirement to recharge is counter to the historic development of water and sewer infrastructure, which are typically centralized.

RESPONSE: The RMP envisions recharge becoming a region-wide practice that can be applied to a site by site basis from recharge facilities or by municipalities. NJDEP’s proposed Water Quality Management Planning rules at N.J.A.C. 7:15 specifically delete the preference for regionalization of sewerage, recognizing that decentralized public systems can provide more appropriate sewer service in specific situations, and reduce the transport of water between watersheds.

COMMENT: One comment encouraged the coordination between the NJDEP, Office of Smart Growth, and the Highlands Council for planning and evaluation of utility capacity. Recommended was the recognition of Centers as a way to properly channel limited capacity, and it was added that areas not on public utility should have policies promoting alternative treatment technologies for limited growth in rural areas.

RESPONSE: The Highlands Council continues to coordinate with all appropriate state agencies regarding implementation of the 2007 Draft RMP. See Chapter V, Wastewater System Maintenance regarding alternative

treatment technologies.

COMMENT: One comment suggested that the RMP needs to focus more on helping communities deal with wastewater management issues.

RESPONSE: This issue is addressed in Chapter IV, Subpart d and Chapter V in the 2007 Draft RMP.

TRANSPORTATION

MODEL ORDINANCES AND STANDARDS

COMMENT: Some comments expressed concern over a lack of roadway and public transportation improvements proposed or supported in the Draft RMP.

RESPONSE: It is beyond the purview of the Highlands Council to propose transportation improvements, rather, the Highlands Council will review certain transportation improvements proposed by the State, regional agencies, counties and municipalities to ensure consistency with the goals and policies of the RMP.

COMMENT: Some comments maintained that the Transportation Component does not adequately analyze present or future needs of the Highlands Region, or provide comprehensive recommendations for addressing those needs necessary for economic growth. Some expressed concern that the enhanced restrictions of the Protection Zone would affect the construction of train stations, rail and bus-stop park-and-rides, and recreational trails, stating that there should be minimum requirements for public transit in order to provide a balanced transportation system.

RESPONSE: The Highlands Council evaluated regional transportation conditions in a transportation capacity assessment, which was included in the Transportation Technical Report. The assessment helped the Council to identify areas of constraint in order to better inform future transportation improvement needs necessary to support the movement of people and goods. Further, it is a policy of the Highlands Council to promote transit improvements consistent with the goals of the RMP throughout the Highlands Region.

COMMENT: One comment requested reassurance that the final RMP will provide agencies with the flexibility to meet future transit needs in the Highlands Region and to facilitate transit oriented development around existing and future rail stations. It was suggested that the new Mt. Arlington Station be exempt from the Highlands Act, and thus should be confirmed by the Highlands Council as such, and be added to the Highlands Region "Transit Facilities Map" in the Regional Master Plan.

RESPONSE: The 2007 Draft RMP *Transit Network* map reflects the new Mt. Arlington Station which was opened in January 2008 (See pp. 61 of 2007 Draft RMP). Transit oriented development is supported throughout the 2007 Draft RMP (see *Transportation Safety and Mobility* pp. 229 for specifics), based on Highlands Act goal "to promote a sound and balanced transportation system consistent with smart growth strategies."

COMMENT: One comment recommended that the Highlands Council coordinate with appropriate State, regional and local governmental entities regarding any refined analysis of build-out conditions.

RESPONSE: The Highlands Council will continue to coordinate with appropriate State, regional and local governmental entities regarding future analysis of transportation conditions. For additional guidance on Council approach to build-out analyses, please see comments on Fiscal Impact Analysis/Build-out Analysis.

COMMENT: One comment suggested that the Highlands Council improve upon safe and secure movement of persons, goods, and services across the Highlands Region and between various modes of transportation. It was also suggested that the Highlands Council place emphasis on "Intelligent Transportation Systems (ITS)," which can "improve the efficient use of existing capacity where appropriate."

RESPONSE: Safe and secure movement of persons, goods, and services between various modes of transportation is a priority of the Highlands Council (see program on *Transportation Safety and Mobility* in 2007 Draft RMP pp. 229).

COMMENT: One comment recommended that the North Jersey Transportation Planning Authority Regional Transportation Plan be incorporated into the Regional Master Plan, and that the Highlands Council generally expand coordination of its transportation planning, policies, and strategies with the North Jersey Transportation Planning Authority.

RESPONSE: The Transportation Capacity Analysis of the Transportation Technical Report was based on the North Jersey Regional Transportation Model developed by the North Jersey Transportation Planning Authority (NJTPA). The Highlands Council will continue to coordinate its planning, policies and strategies with the NJTPA.

COMMENT: One comment suggested that the Highlands Council recognize and support the needs of the agricultural community through its general policies, and by promoting tourism and agro-tourism throughout the Highlands Region.

RESPONSE: The comment is acknowledged by the Highlands Council. Agriculture and tourism are supported by the Highlands Act as well as the goals, policies and programs of the 2007 Draft RMP.

COMMENT: One comment suggested the RMP require municipalities, in conjunction with the New Jersey Department of Transportation, to provide public transit opportunities and mixed-use development prior to allowing transportation infrastructure expansion.

RESPONSE: The review of transportation projects by Council is a critical step to ensuring that transportation improvements are consistent with the goals and policies of the RMP. Transportation project review will evaluate use of alternative modes of transportation including, transit, bus, pedestrian and bicycle (see pp. 234 of 2007 Draft RMP for more on transportation project review).

COMMENT: One comment recommended the adoption of a new policy whereby the Highlands Council would disapprove any transportation capital improvement projects determined to be inconsistent with the goals and policies of the Regional Master Plan.

COMMENT: One comment recommended that the Highlands Council require a memorandum of understanding on proposed transportation projects which would limit lane mileage and highway capacity on roads leading into the Preservation Area.

COMMENT: A few comments stated that standards be developed in order to reduce impervious surfaces from roads.

RESPONSE: The Highlands Act grants the Council the power to approve, approve with conditions, or disapprove any capital project in the Preservation Area which involves the disturbance of two or more acres of land, or results in a cumulative increase of impervious surface by one acre or more, except in certain cases. The Council's review of capital projects in the Planning Area is non-binding and advisory. Further, the 2007 Draft RMP includes a policy which prohibits through Plan Conformance and Highlands Project Review road improvements in the Highlands Region that are likely to be growth-inducing for lands with limited or no capacity to support human development without adverse impact on the Highlands ecosystem (see *Transportation Safety and Mobility* of 2007 Draft RMP).

COMMENT: One comment suggested that the Highlands Council require towns to perform an evaluation of current parking rules and plans in order to limit the amount of land dedicated to free public parking lots, which could otherwise be used for the purposes of redevelopment.

RESPONSE: The 2007 Draft RMP requires that municipalities develop a circulation plan element in coordination with their land use element, which evaluates transit and shared parking opportunities, and efficient use of land through a comprehensive parking study.

COMMENT: One comment noted that transportation and utility infrastructure need to be in place in order for Planned Community Zones to be functional and viable.

RESPONSE: The comment is acknowledged by the Council, no specific response is required.

COORDINATION

COMMENT: One comment maintained that the 2006 Draft RMP does not contain or acknowledge any of the recommendations that resulted from the planning efforts of any county or municipality in the Highlands Region, particularly the Warren County Strategic Growth Plan.

RESPONSE: The Highlands Council has and will continue to coordinate its planning efforts very closely with all municipalities and counties within the Highlands Region. Some of these efforts include the municipal partnership program planning grants and regular meetings with county planners.

COMMENT: One comment recommended the Highlands Council coordinate with county and municipal planning entities in order to address transportation issues, especially with respect to the Hunterdon County I-78 Corridor enhancements.

RESPONSE: The Highlands Council is a current member of the I-78 Corridor steering committee and will continue to coordinate and provide input to the committee to address relevant transportation, land use and environmental issues in the Highlands Region.

STANDARDS AND POLICIES

COMMENT: One comment suggested the Highlands Council develop a model street connectivity ordinance or applicable guidelines that can be used in Planned Community Zones.

RESPONSE: The 2007 Draft RMP addresses community design and transportation connections in both the *Smart Growth Manual* and *Community Development Design Guidebook*. These documents serve municipalities in their development planning, design and review process (see p. 266 of 2007 Draft RMP for more on municipal guidance).

COMMENT: One comment argued that a Highlands Permit should require a detailed analysis of alternatives in order to demonstrate that a project is designed to the smallest area of impervious surface.

RESPONSE: The comment addresses a legislative Highlands Act condition that is out of the purview of the Highlands Council. Highlands' permits are authorized by the NJDEP, not the Highlands Council.

COMMENT: Several comments questioned whether the Highlands Council intends to provide impervious coverage guidelines or standards for the Land Use Capability Map zones, and how such guidelines would relate to the Residential Site Improvement Standards (RSIS)? Several comments also noted that standards for residential development are regulated by RSIS, not by the Highlands Council.

RESPONSE: The Highlands Act includes certain guidelines or standards with regard to impervious surface limitations which are reinforced in the 2007 Draft RMP. With regard to RSIS, the Council will evaluate the existing RSIS in the context of the Final RMP and develop recommendations for amendments to minimize environmental impacts, as authorized by the Highlands Act.

AIRPORTS

COMMENT: Some comments maintained that transportation options should plan for and address air travel, and suggested that the Federal Aviation Administration (FAA) be included as a review agency for future infrastructure investments in the area.

RESPONSE: The Highlands Council recognizes regional airport facilities as an important part of the transportation system, and will continue to consider the need for future transportation improvements to address air travel. The Highlands Council can also provide comment and make recommendations on any capital project proposed by any State entity or local government unit in the Highlands Region.

ALL TERRAIN VEHICLES (ATVs)

COMMENT: Some comments argued that the transportation section of the Draft RMP and the technical report must better address ATV control and enforcement, and the consequences of not doing so will mean ATV damage to forests, wetlands, and streams. A few comments also held that ATVs must continue to be banned from all State parks, forests, and wildlife management areas.

RESPONSE: The Highlands Council recognizes problems caused by the use of off-road vehicles on lands where their use is prohibited. The Council will work to address this issue with municipalities and counties through Plan Conformance.

TRANSIT AND FREIGHT

COMMENT: A few comments suggested that the Highlands Council support the improvement of the Lackawanna cut-off as a rail trail, and the new transit hubs being proposed along the abandoned rail line are in conflict with the goals of the Highlands Act.

COMMENT: One comment highlighted the importance of public transportation in providing low income families with a viable mode of transportation, and that the Lackawanna Cutoff would help to provide transportation for low income families.

RESPONSE: The comments were considered and no change was made to the RMP by the Highlands Council. The Lackawanna Cutoff will be considered by the Highlands Council at an appropriate date.

COMMENT: A few comments expressed concern that the RMP may affect the State's ability to fully implement its Portfields Initiative, as well as related smart growth planning for freight and commuter transportation through the Highlands Region.

RESPONSE: The Portfields Initiative is a project which involves The Port Authority of New York and New Jersey, and which does not involve any development sites within the Highlands Region. It should also be noted that the Highlands Council is committed to the movement of goods from the roadway network to the freight rail network wherever possible.

COMMENT: One comment suggested that transportation by rail carriers remain exempt from regulation under the Principles of Federal Preemption.

RESPONSE: The Highlands Act includes a list of 17 exemptions which can be found in Section 28. The list includes those which are exempt from the provisions of the Act, the regional master plan, development regulations, or other regulations adopted by a local government unit to specifically conform them to the regional master plan. The Act does not regulate what is transported over rail lines, but does affect the construction of rail lines and ancillary facilities affecting the Highlands.

TRANSPORTATION AND LAND USE

COMMENT: One comment suggested that the Highlands Council consider creating a "Transportation Support Zone" or similar type of zone within the Preservation Area to facilitate the proper utilization of lands in close proximity to existing road and rail infrastructure.

COMMENT: One comment stated that a number of the bus lines in the Highlands Region are provided by private carriers, and the Highlands Council should coordinate with agency partners to ensure that these private operators have the flexibility to expand or move parking facilities to accommodate future customer demand.

RESPONSE: The Highlands Council developed a Baseline Transportation Layer which informed the Land Use Capability Zone Map by identifying regional multimodal opportunities throughout Region's transportation and transit networks. This new layer included major private bus carriers in the Highlands Region, which operate on a daily basis on any of the US, State or County routes used for the analysis.

COMMENT: One comment argued that the Draft RMP does not address areas where any meaningful local job opportunities can be sited, and this is leading to residents of the Highlands Region having to travel further for work, which adds to length and frequency of trips.

RESPONSE: In accordance with the goals, policies and objectives of the 2007 Draft RMP, the Council supports land use patterns that support a balance of jobs to housing as a means of reducing vehicle miles traveled and average trip lengths. The Council has identified lands more suitable for residential and commercial development and redevelopment in the 2007 Draft RMP.

COMMENT: One comment suggested that a Highlands Region build-out analysis would enhance the Council's ability to estimate future traffic impact, as well as the transportation system's ability to absorb that impact.

RESPONSE: The Council's build-out analysis reflects the land use implications of Final RMP implementation. The Council is also looking to update its Transportation Capacity Assessment based upon data resulting from build-out scenarios, likely after adoption of the Final RMP.

COMMENT: One comment held that converting freight lines for commuter trains would help alleviate congestion, and thus support flow of people and goods throughout the Region's centers.

COMMENT: One comment held that reactivating commuter rail lines throughout the Highlands Region in coordination with center-based, transit oriented development is critical to achieving the goals of the Highlands Act. It was also argued that the Draft RMP does not effectively provide implementation strategies for restoring mass transportation opportunities, and must recognize existing Designated Centers as areas where opportunities for the expansion of mass transportation services exist.

RESPONSE: The Highlands Council encourages rail improvements which support mobility and the flow of people and goods in the Highlands Region, where they do not violate resource policies of the RMP. The Council also recognizes the 20 State Planning Commission Designated Centers in the 2007 Draft RMP (see p.291). This Council and State Planning Commission will reassess the designated center boundaries to ensure protection of Highlands resources and identification of appropriate areas for growth and expansion of the transit network.

COMMENT: Several comments maintained that farmers do not want contiguous trails running through their parcels. It was questioned whether acquiring such trails or roads would entail the use of public money spent for private purposes?

COMMENT: One comment expressed concern that the network of trails promoted could become a liability to adjacent private landowners who are left with the job of policing the land against trespassing and vandalism. Trail right-of-ways cause enormous problems for the property owners adjacent to them, and such a plan has no business in a water protection plan.

RESPONSE: The Highlands Act states as a goal of the RMP that extensive and contiguous areas of land be preserved in its natural state, and includes recreation as a specific issue of concern for the RMP. For more information on land preservation in the Highlands Region see section entitled *Land Preservation and Stewardship* in 2007 Draft RMP.

COMMENT: One comment recommended the Highlands Council seek innovative alternatives to address traffic congestion, such as flexible work hours or implementing telecommuting policies.

RESPONSE: The Council encourages the use of alternative options to reduce travel demand and the amount of vehicle miles traveled. During the Plan Conformance process, the Council will work with municipalities and counties to explore various alternatives including flexible work hours and telecommuting in order to address local and regional traffic congestion.

COMMENT: One comment contended that a new rail line is a new highway, and that secondary impacts of such transportation improvements be considered.

RESPONSE: The Council will consider the secondary impacts of all capital transportation projects in the Highlands Region. The 2007 Draft RMP prohibits through Plan Conformance and Highlands Project Review, road improvements for which a study demonstrates that proposed improvements are likely to be growth-inducing for lands with limited or no capacity to support human development.

COMMENT: One comment argued that transit villages be prohibited altogether in the Preservation Area and the Protection Zone, and the Highlands Council should focus efforts on improving existing rail and bus service and promoting bicycle and pedestrian travel.

RESPONSE: The comment addresses a legislative Highlands Act condition which is out of the jurisdiction of the Highlands Council. The Transit Village Initiative is managed by New Jersey Department of Transportation and New Jersey Transit.

COMMENT: One comment recommended that the transportation component include the new federally funded northwest New Jersey bus study announced by the North Jersey Transportation Planning Authority to support regional bus access.

RESPONSE: The Northwest New Jersey Bus Study is a joint effort between North Jersey Transportation Planning Authority and NJ Transit which analyzes opportunities for greater bus service in northwestern New Jersey. This study has been cited in the Transportation Technical Report, and the Highlands Council supports this initiative as way to improve inter-modal connections, and more commuting options for individuals who reside or work in the Highlands Region.

COMMENT: One comment held that the Highlands Council should recommend impervious coverage exemptions for recreational trails, bicycle and pedestrian facilities, and public transit facilities in order to promote a balanced transportation and recreation system as is required by the Highlands Act.

RESPONSE: The comment addresses a legislative Highlands Act condition which is out of the jurisdiction of the Highlands Council. There are 17 exemptions written into the Highlands Act, none of which allow impervious coverage exemptions for recreational trails, bicycle and pedestrian facilities, or public transit facilities.

COMMENT: One comment suggested that more emphasis be placed on the need for multi-use and recreational trails in order to improve public health by providing attractive places to walk.

RESPONSE: The Council has addressed the need for safer, more attractive pedestrian connections in both the 2006 Draft RMP and 2007 Draft RMP. The Council will continue to make pedestrian safety and viability a priority during Plan Conformance.

SMART DESIGN STANDARDS

NEED FOR ADDITIONAL EMPHASIS

COMMENT: Several comments stated that the Draft RMP does not contain many of the site specific standards which will regulate development and achieve the goals of water quality and quantity protection. It was added that an opportunity for review and public input regarding the creation and adoption of the missing standards is not provided. It was stated that the green design practices, low impact development, impervious surface limitations, conservation development and smart growth development principles are encouraged, but lack standards. One comment noted that the lack of smart design controls gives the Draft RMP the appearance of being anti-construction, rather than promoting green construction. Standards will help to achieve smart growth in the Highlands Region.

RESPONSE: The Efficient Use of Water Program contained in the 2007 Draft RMP includes standards for conservation, reuse, and recycling of water. Additional standards will be developed to guide water management, green design, low impact development and other approaches supported by the 2007 Draft RMP.

COMMENT: One comment reported that smart design controls and standards currently exist at the local level, and in some cases is the focus of local development strategies.

RESPONSE: Through Highlands Plan Conformance, municipalities and counties are encouraged to analyze their own planning, zoning and development documents and regulations to assess how well they support the goals, policies and objectives of the RMP.

CONCERNS WITH APPROACH

COMMENT: One comment said that any visioning and/or design charrettes that are intended to “validate and advance the principles contained within the smart design controls” should have been done prior to the release of the Draft RMP.

RESPONSE: The Highlands Plan Conformance process incorporates visioning and self-assessment at the local level to advance planning and decision-making to support smart design and development.

COMMENT: One comment stated that the point of smart growth is to target growth to specific areas that are not constrained and where infrastructure is available or planned.

RESPONSE: The 2007 Draft RMP supports the concepts of smart growth which target areas with existing infrastructure capacity for growth and redevelopment.

PROPOSED POLICIES

COMMENT: A few comments suggested incorporating energy efficient, non-polluting, green building standards (Leadership in Energy and Environmental Design) and practices as required elements in the Regional Master Plan. It was suggested that municipalities be required to provide a full range of renewable energy resources through implementation of the Regional Master Plan.

RESPONSE: The Housing and Community Facilities Program contained in the 2007 Draft RMP supports the implementation of green building and energy efficient technology throughout the Highlands Region. The program addresses increased efficiency in land use, resource management and utilities through green technology and energy efficient design.

COMMENT: One comment stated that design principles for an area must be compatible with existing characteristics in terms of scale, density, materials, and site arrangement.

RESPONSE: The Smart Growth Manual and Community Development Design Guidebook, discussed in the programs of the 2007 Draft RMP, will include design and development practices that are sensitive to community character, scale and history.

COMMENT: One comment stated that unless no alternative can be found, walkable neighborhoods should be required, or strong incentives provided. It was added that the integration of public parks and green space as green infrastructure should also be required in new developments.

RESPONSE: The goals, policies, objectives and programs of the 2007 Draft RMP advocate and support smart growth principles such as walkable neighborhoods, development around centers, and integrated open space.

CONCERNS

COMMENT: One comment expressed concern that municipalities with large tracts of privately owned unimproved land, located along major transportation routes, such as State Highways, Interstate Highways and commuter rail lines, in a PA2 Area, are still free to zone the land into inutility as if it were located in the Preservation Area.

RESPONSE: Compliance with the RMP is voluntary for municipalities with land in the Planning Area, although these municipalities will be encouraged to opt-in. There are incentives and benefits associated with choosing to

voluntarily opt-in to conformance with the goals, policies, objectives and programs of the plan.

COMMENT: One comment stated that many “developments exempt from Highlands Act” may be detrimental to the Highlands environment. They need to be identified and quantified, and methods established to encourage the adoption of Highlands design and building standards.

RESPONSE: The Highlands Council has identified the exempt properties, as per the Highlands Act. Although these properties are exempt from the provisions of the Act, the regional master plan, and any rules or regulations associated with them, the design and development standards prepared for the Highlands Region will be available for voluntary use.

QUESTIONS/CLARIFICATION

COMMENT: One comment requested a definition for “low impact development best management practices for development activities.”

RESPONSE: The 2007 Draft RMP includes a glossary where “Low Impact Development” is defined as “strategies developed to minimize and/or prevent adverse stormwater runoff impacts through sound site planning and both nonstructural and structural techniques that preserve or closely mimic the natural or pre-development hydrology of the site.”

RECREATION AND TOURISM

FEASIBILITY OF RECREATION AND TOURISM FACILITIES

COMMENT: One comment stated that the Preservation Area and Protection Area standards will have a significant impact on the ability for governments to expand and develop needed facilities for both passive and active recreation. It was suggested that exceptions and/or flexibility must be included in the RMP to address public recreational development needs; Americans with Disabilities Act standards also apply in some cases. It was added that exceptions should be available for buffers, vernal pools, steep slopes and other environmental features.

RESPONSE: As part of its support of smart growth principles, the 2007 Draft RMP encourages design of communities with adequate recreation and open space. As with other community elements, recreation facilities are to be incorporated into communities within the context of environmental considerations. The Smart Growth Manual and Community Development Design Guidebook will provide additional advice regarding the location and design of facilities in order to protect environmental features.

COMMENT: Several comments stated that, while the Draft RMP focuses on tourism as an economic driver, it is unlikely that agro-tourism is going to promote enough revenue to support local communities and provide a viable income source for residents of the Highlands Region. It was added that there is a prohibition on the development of resources to maintain existing or planned infrastructure; such as lodging, public rest facilities, hotels, restaurants, roadway improvements, and other infrastructure.

RESPONSE: Agri-tourism is one component of a sustainable agricultural economy. The Agricultural Management and Sustainability Program of the 2007 Draft RMP outlines additional approaches to support agricultural sustainability in the Highlands Region. The Sustainable Regional Economy Program includes a tourism component which will help identify the necessary elements of a sustainable and comprehensive tourism program for the Region and help facilitate the provision of those uses within the context of environmental considerations.

COMMENT: One comment raised concern about staffing at State Parks, as access to natural areas and open spaces are jeopardized because of a shortage of park personnel.

RESPONSE: The Highlands Council acknowledges the concern, although staffing of public parks is not within its purview.

PROPOSED POLICIES AND APPROACHES

COMMENT: A few comments requested additional sources of leadership, guidance, and financial resources be provided to make tourism related industries a viable reality in the Highlands Region.

RESPONSE: The Sustainable Regional Economy Program of the 2007 Draft RMP includes a tourism component which promotes agri-tourism, eco-tourism and heritage tourism. The program includes coordination with the Office of State Tourism and identification of the necessary elements of a sustainable and comprehensive tourism program for the Highlands Region.

COMMENT: A few comments held that open space acquisition efforts should be coordinated to follow a strategy of pursuing properties that will increase and enhance public outdoor recreation opportunities. It was suggested that greenways and trails, such as the Appalachian Trail and the Highlands Trail, should be given more emphasis and protection in the Regional Master Plan.

RESPONSE: Past land preservation in the Highlands has resulted in nearly a third of the Highlands Region protected as permanent open space. The Land Preservation Program of the 2007 Draft RMP focuses on preservation of other critical Highlands resources and establishes a prioritization mechanism to help identify conservation priorities for future land preservation.

COMMENT: One comment stated that the Highlands Region should better be advertised and marketed elsewhere. The idea of merging the existing “Skylands” and “Gateway” and renaming as “Highlands” was considered. Another comment stated that the Highlands Council should be the leader in Highlands Region tourism since these are regional resources.

RESPONSE: The tourism component of the Sustainable Regional Economy Program in the 2007 Draft RMP includes coordination with the NJDEP and New Jersey Commerce, Economic Growth and Tourism Commission to market and expand the Highlands Region’s recreation and tourism opportunities.

COMMENT: One comment suggested identifying and protecting historic, cultural, and scenic values, such as scenic roads, trails, or stream corridors.

RESPONSE: The Highlands Council has developed a draft Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources which includes scenic roads, trails and stream corridors as potential scenic resources within the Region.

COMMENT: One comment suggested encouraging communities to list trails on their official maps for integration in regional recreation planning efforts.

RESPONSE: The draft Procedure for Nomination, Evaluation and Inventory of Highlands Regionally Significant Scenic Resources encourages municipal and county government to identify scenic resources within their communities. The 2007 Draft RMP includes a policy advocating identification and maintenance of an inventory of private and public open space land holdings and conservation easements within the Highlands Region.

COMMENT: Several comments stated that property owners should not be forced to provide public access to their land, and that open space connections should be organized by local, county and State governments through voluntary preservation programs and assume responsibility for the liability and security of the land.

RESPONSE: The Land Preservation Program of the 2007 Draft RMP recognizes that acquisition activities must be with willing sellers. The program proposes an outreach and education program for Highlands landowners to help them take advantage of funding opportunities and incentives available for land preservation.

DEFINITIONS, CLARIFICATION, AND ORGANIZATION

COMMENT: A few comments held that 131 scenic resource areas have been mentioned in the Draft RMP, yet they were not yet listed for public discussion/consideration. It was added that recreation resources inventory should be part of the Resource Assessment section, rather than the Smart Growth section.

RESPONSE: The 131 scenic resources identified as the baseline for the Highlands Scenic Resource Inventory were included in the Draft Historic, Cultural, Scenic, Recreation, and Tourism Technical Report, released in January 2007. The 2007 Draft RMP has been reorganized and goals, policies, and objectives for scenic resource protection can be found in Chapter 4, Part 4. Historic, Cultural, Archaeological and Scenic Resources, pages 145 -147.

COMMENT: One comment held that the Draft RMP lacks discussion regarding several regionally important recreational opportunities; such as golf, snowboarding, and skiing.

RESPONSE: The tourism opportunities component of the Sustainable Regional Economy Program of the 2007 Draft RMP provides for the identification of all of the elements of a sustainable and comprehensive tourism program for the Highlands Region.

COMMENT: It was suggested that the concepts of recreation and farmland preservation be linked, and that policies be formed to address agro-tourism in connection with the Right to Farm Act.

RESPONSE: Agri-tourism is an important component of the Sustainable Regional Economy Program and its tourism component in the 2007 Draft RMP. The Land Use section of the Program states that agri-tourism and eco-tourism uses are particularly encouraged when they are part of an established agricultural use and increases economic health of a farm operation.

TRANSFER OF DEVELOPMENT RIGHTS

LIKELIHOOD OF TRANSFER OF DEVELOPMENT RIGHTS PROGRAM SUCCESS

COMMENT: A number of comments held that the Transfer of Development Rights program will never work because of the lack of mandatory receiving zones or the complexity of having a regional Transfer of Development Rights program.

RESPONSE: The Highlands Council acknowledges the commenters' opinions.

COMMENT: One comment recommended that the program be administered at the county level and not regionally so that there is not as great a disparity between land values.

RESPONSE: The Highlands Council considered establishing sub-regional or county based TDR programs, but understands that the Highlands Act envisions a region-wide program. At the same time, the 2007 Draft RMP at page 276 allows a Highlands municipality to establish an intramunicipal TDR program, provided that the municipality conforms to the RMP.

COMMENT: One comment stated that the Highlands Transfer of Development Rights Program should simply follow the State Transfer of Development Rights Act.

RESPONSE: In establishing the Highlands TDR program, called the Highlands Development Credit Program, the Highlands Act requires that the program be "consistent with the State Transfer of Development Rights Act . . . or any applicable transfer of development rights program created otherwise by law, except as otherwise provided in this section." As such, the Highlands Council has crafted the Highlands Development Credit Program to be consistent with the requirements of the State Transfer of Development Rights Act.

COMMENT: One comment recommended that the Highlands Council make sure that it has a contingency plan to address landowner equity should the Transfer of Development Rights program fail to work. This comment

suggested that the Highlands Council allow a Preservation Area property owner to build, but that the development must be clustered to certain environmental performance standards.

RESPONSE: The Highlands Act establishes the basis for development approvals in the Preservation Area and the 2006 Draft RMP is consistent with those requirements.

REQUIREMENTS OF HIGHLANDS ACT RELATING TO TRANSFER OF DEVELOPMENT RIGHTS PROGRAM

COMMENT: Several comments argued that the Highlands Council has not presented a defined and/or “workable” Transfer of Development Rights program.

RESPONSE: The Highlands Council has presented a more defined TDR program in the 2007 Draft RMP, which establishes the parameters by which the program will operate. The goals, policies and objectives of the program are described at pages 160 through 165 of the 2007 Draft RMP, while the program parameters are discussed at pages 273-278.

COMMENT: A number of comments stated that, because the Highlands Council has not yet identified specific receiving zones (as opposed to all parcels in the Planned Community Zone or Specially Planned Areas), the Highlands Council may not adopt a Regional Master Plan.

COMMENT: One comment suggested that the Highlands Council identify specific areas within the Highlands Region for growth and that these areas be identified as potential receiving zones.

COMMENT: A few comments stated that the Highlands Council has failed in its duty to identify 4% of the Planning Area as potential receiving zones.

RESPONSE: In the 2007 Draft RMP the Highlands Council has identified specific areas of the Highlands Region that have the potential to serve as voluntary receiving zones. A map of these areas is shown on page 277 of the 2007 Draft RMP. A detailed discussion of how the Highlands Council identified these areas is found in the Technical Report Addenda at pages 87-93. It should also be noted that the 4% figure is a goal of the Highlands Act and not a requirement. However, the potential receiving areas in the 2007 Draft RMP exceed the 4% threshold.

COMMENT: Several comments remarked that the Highlands Council must conduct a real estate market analysis of the potential program before any policies related to the program are established or the program is implemented.

RESPONSE: The Highlands Council has conducted a real estate analysis by examining both equalized assessed value of land and sales transaction data region-wide. The Highlands Council will report out on this information prior to adoption of the RMP.

SENDING ZONES

COMMENT: One comment argued that sending zones should be limited to Preservation Area properties only so that the market is not flooded with Transfer of Development Rights credits at the outset of the program.

COMMENT: One comment expressed concern regarding the establishment of additional sending zones outside of the Preservation Area, which may dilute the value of Transfer of Development Rights credits for those property owners in the Preservation Area that have few options.

RESPONSE: The Highlands Council has stated on pages 273-274 of the 2007 Draft RMP that, at the outset of the Highlands Development Credit Program, sending zones will be limited to those parcels of land located in the Protection Zone and Conservation Zone of the Preservation Area. Over time, when municipalities in the Planning Area conform voluntarily to the RMP, then those parcels may also become eligible to participate in the program if severely restricted in development value.

COMMENT: One comment contended that the Highlands Council should only permit the establishment of sending zones in Planning Area municipalities if those same municipalities establish receiving zones.

RESPONSE: By requiring that a municipality establish a receiving zone before parcels within that municipality are

eligible to participate as sending zones would force conforming municipalities to designate receiving zones. Although the Highlands Council understands the reasoning behind seeking such a requirement, it would conflict with the voluntary nature of receiving zones mandated by the Highlands Act.

COMMENT: One comment recommended that any projects grandfathered by the Highlands Act should be prioritized as sending zones so that development does not occur on environmentally sensitive lands.

RESPONSE: To the extent that this comment is referring to projects that qualify for one of the seventeen exemptions from the Highlands Act, the Highlands Council does not have the authority to prohibit those projects from moving forward where they have received a valid exemption determination from NJDEP. However, the Highlands Council has sought to encourage property owners not to exercise such exemptions by providing for bonus TDR credits in the allocation of credits to sending zone parcels. This bonus is discussed at page 274 of the 2007 Draft RMP.

COMMENT: Several comments contended that the Highlands Council must use its authority to identify “no build areas” within the Preservation Area. It was assumed that these areas would then become sending zones.

RESPONSE: The Highlands Council has not identified specific parcels as “no build areas,” but has identified numerous resource areas where, due to the standards applicable to that resource, development will not occur. In addition, the 2007 Draft RMP at Policy 1H11 provides a method by which special environmental areas will be assessed and, if appropriate, designated at a later date.

RECEIVING ZONES

COMMENT: A number of comments contended that the Highlands Council should not permit any Planning Area municipality to establish a receiving zone without the municipality conforming to the Regional Master Plan.

RESPONSE: Allowing a Planning Area municipality to participate in the Highlands TDR Program without conforming to the RMP recognizes the true voluntary nature of receiving zones. Additionally, allowing participation without plan conformance supports the Highlands Council’s position that municipalities have the option of accepting aspects of the RMP that foster growth. However, no approval for participation in the Highlands TDR Program will be permitted if it contravenes the stated resource protection goals and standards of the RMP.

COMMENT: Several comments suggested that to make the program work, receiving zones for Highlands Transfer of Development Rights credits must also be permitted outside of the seven Highlands counties.

RESPONSE: The Highlands Council is a proponent of expanding the area in which TDR credits from Highlands sending zones may be used. The Council has worked with other State agencies on Committee Substitute A3864, which was considered and reported out of the Assembly Environment and Public Works Committee in June 2007. A3864 would allow Highlands TDR credits to be used in any municipality in the State that establishes a TDR program. The Highlands Council will continue to advocate for the expansion of areas in which Highlands TDR credits may be used.

COMMENT: Several comments contended that the only way a Highlands Transfer of Development Rights Program will work is if the receiving zones are mandatory, and the Highlands Council should seek a legislative change to this effect.

RESPONSE: The Highlands Council does not see an immediate need to amend the Highlands Act to require mandatory receiving zones, as the program has not yet had an opportunity to function based on the voluntary nature of the receiving zones. If during the initial review of the program no significant transaction activity is occurring, then at that time, it may be appropriate to seek a legislative change.

COMMENT: One comment suggested that any development in a receiving zone require the use of Transfer of Development Rights credits. The comment noted that the Highlands Council should establish a requirement that a

certain percentage of development within a receiving zone must utilize Transfer of Development Rights credits. RESPONSE: Mandating that all or even a specific percentage of development within a receiving zone use TDR credits to be constructed would conflict with the voluntary nature of receiving zones mandated by the Highlands Act. Instead, the Act seeks to encourage a minimum residential density of 5 dwelling units per acre or its non-residential equivalent through the ability of municipalities to assess impact fees provided that this minimum density requirement is satisfied. In addition, the 2007 Draft RMP at p. 164 includes a provision that, in conforming municipalities, Highlands Development Credits must be used for any locally approved increases in development or redevelopment density through variances or municipal ordinance modifications that occur after the date of Highlands Council determination of conformance.

COMMENT: Several comments suggested that the RMP allow opportunities for development beyond the boundaries of existing developed areas (i.e. Planned Community Zone and Specially Planned Areas), or where areas may not have the current infrastructure to support growth, but where alternative wastewater systems could be used. RESPONSE: The Highlands Council has sought to ensure flexibility in where receiving zones may be located provided that there is appropriate infrastructure to support such growth. For example, as discussed on pages 275-276 of the 2007 Draft RMP, receiving zones may be located within the Conservation Zone provided that such receiving zones are consistent with the RMP (e.g., occur within clusters) and the development does not conflict with the maintenance of viable agriculture.

COMMENT: A number of comments stated that receiving zones should not be located in environmentally constrained areas, including anywhere in the Preservation Area. COMMENT: One comment held that the Highlands Council should discourage any Specially Planned Areas within the Preservation Area from serving as a receiving zone. RESPONSE: Prohibiting completely the designation of receiving zones in the Preservation Area would undermine the flexibility necessary to ensure a sufficient number of receiving zones. There are areas within the Preservation Area that may be appropriate for more dense or intense development because there is existing infrastructure capacity and limited or no environmental constraints, potentially including designated redevelopment sites. Additionally, designation of a receiving zone requires Highlands Council approval, which approval determination will be conducted in light of the goals, policies and objectives of the RMP.

COMMENT: One comment suggested that by allowing receiving zones in the Planned Community Zone and Specially Planned Areas, the Highlands Council is thereby encouraging growth in areas that are already overdeveloped. RESPONSE: Designation of receiving zones by the Highlands Council is based on an area's infrastructure capacity. To the extent that an area has inadequate infrastructure to support additional development, the Highlands Council will not designate a receiving zone unless the inadequacies are addressed.

COMMENT: One comment questioned whether the designation of Planned Community Zone means that a municipality within that overlay automatically becomes a receiving zone if the municipality opts into the Regional Master Plan. RESPONSE: Similar to the 2006 Draft RMP, designation of receiving zones under the 2007 Draft RMP is based on a municipal petition process. Only if the municipality voluntarily chooses to establish a receiving zone will it be considered by the Highlands Council for designation. As previously stated, establishment of receiving zones under the Highlands Act is strictly voluntary.

COMMENT: One comment argued that for any Highlands Transfer of Development Rights program to work effectively, any receiving zones identified by the Highlands Council must have current zoning with lower densities so that there can be sufficient bonus density increases. RESPONSE: Zoning densities within a receiving zone will be established by a municipality in consultation with the Highlands Council. For a discussion of this issue, please see pages 87-93 of the Technical Report Addenda. The

Highlands Council does not anticipate that the base zoning of receiving areas should be reduced to create an incentive for HDC use.

COMMENT: One comment maintained that municipalities will not agree to serve as voluntary receiving zones unless the Highlands Council addresses the effect that Council on Affordable Housing rules will have on accepting more growth.

RESPONSE: Given the recent release of the new COAH rules, the Highlands Council will be examining the potential impact of the rules on new development within the Highlands Region. All municipalities have a constitutional obligation to provide affordable housing, but affordable housing requirements in the Highlands Region are to consider the implications of the RMP.

COMMENT: A few comments requested the Highlands Council identify whether there is any treatment capacity available in certain municipal utility authorities such that receiving zones could be accommodated.

RESPONSE: The Highlands Council has examined the capacity of water utilities within the Highlands Region at the HUC-14 (subwatershed) level. The capacities of these utilities are discussed at pages 52 and 75 of the 2007 Draft RMP, and within the Technical Report Addenda.

IMPACT FEES

COMMENT: Several comments stated that impact fees should be used to address growth impacts from non-residential as well as residential development.

COMMENT: One comment argued that without allowing impact fees to be assessed against non-residential development, municipalities will only seek residential development and mixed use development will not occur in receiving zones.

RESPONSE: The Highlands Council contemplates the ability of impact fees to be used for both residential and non-residential development.

COMMENT: One comment argued that assessing impact fees on builders who would build in receiving zones will make development too costly and the builders will go elsewhere.

RESPONSE: The effect of the per unit impact fee to be assessed upon a given development project will be based on numerous factors, including the cost of the development, the type of unit to be built, the cost of a TDR credit and the amount per unit of impact fee to be assessed.

COMMENT: One comment argued that the \$15,000 per unit impact fee is not an incentive at all where the cost of educating a school child for one year meets or exceeds this amount.

RESPONSE: The Highlands Council acknowledges the commenter's opinion, but the \$15,000 per unit maximum cost is established by the Highlands Act.

HIGHLANDS TRANSFER OF DEVELOPMENT RIGHTS BANK

COMMENT: One comment held that the Highlands Council should not establish a separate Highlands Transfer of Development Rights Bank, but instead rely on the State Transfer of Development Rights Bank to administer the Highlands Program so that there are not duplicative administrative costs.

RESPONSE: While the Highlands Council acknowledges the need reduce State administrative costs, the State TDR Bank is not set up to administer a regional TDR program like that for the Highlands Region. Under its authorizing statute, the State Transfer of Development Rights Bank Act, N.J.S.A. 4:1C-49 *et seq.*, its primary objective is to assist in the administration of intramunicipal TDR programs, i.e. those where sending and receiving zones are within the same municipality. Given the State TDR Bank's focus on local programs, the Highlands Council believes it is necessary to have an independent TDR bank that is focused on implementing a regional TDR program. Moreover,

the Highlands Act authorizes the Highlands Council to establish its own bank at N.J.S.A. 13:20-13.i.

COMMENT: One comment stated that the Highlands Council has failed to identify a source of funds for the Highlands Transfer of Development Rights Bank.

RESPONSE: There is no statutory requirement to identify a source of funds for a Highlands TDR bank. However, the Highlands Council is authorized to seek funds from the State TDR Bank, and has preliminary discussion regarding such funding. In addition, in a letter to the Governor, the Highlands Council has requested \$50 million in funding for initial capitalization of a Highlands TDR bank.

COMMENT: One comment suggested that the Highlands Council consider a rolling admission form of participation where approved receiving area projects initiate purchase cycles that landowners sign up for on a case by case basis.

RESPONSE: The Highlands Council is currently working to establish the Highlands Development Credit Bank that will serve as the regional TDR bank. As part of those discussions, the Highlands Council will consider such a process.

COMMENT: One comment held that at least two directors of the Highlands Transfer of Development Rights Bank should be sending zone landowners and/or farmers.

RESPONSE: The composition of the Highlands Development Credit Bank board of directors is currently under consideration by the Highlands Council.

COMMENT: A few comments asked the following questions: How initial funding capitalization requirements for the Highlands Transfer of Development Rights Bank were estimated to be \$50 million? From where are these funds expected to be appropriated? Will there be enough grant assistance in the case that more towns than anticipated choose to become Transfer of Development Rights receiving areas before fiscal year 2011.

RESPONSE: The estimation of initial capitalization funds is discussed at page 44 of the Transferable Development Rights Technical Report (Draft, January 2007), and at pages 55-60 of the Financial Analysis Technical Report (Draft, January 2007).

PROPOSED HIGHLANDS TRANSFER OF DEVELOPMENT RIGHTS CREDIT ALLOCATION METHOD

COMMENT: A few comments argued that the proposed allocation system is too complex and will take too long for successful implementation.

RESPONSE: The Highlands Council acknowledges the comment, but has defined an allocation system that is equitable and as expeditious as possible.

COMMENT: One comment suggested that the RMP explicitly state that landowners will have the ability to appeal their credit determinations.

COMMENT: One commenter stated that if environmental constraints are to be considered in the allocation of Transfer of Development Rights credits to sending zone properties, landowners should have the ability to demonstrate, through conceptual site plans, that they could have achieved additional development potential.

RESPONSE: The ability of a property owner to dispute the Highlands Council's determination of credit allocation is presented at page 274 of the 2007 Draft RMP. This includes the ability of a property owner to submit information to the Highlands Council regarding the development potential of a parcel to support more growth than estimated by the Highlands Council.

DEED RESTRICTIONS

COMMENT: One comment maintained that a sending zone landowner should not be subject to a deed restriction until he or she sells a Transfer of Development Rights credit. This same comment also believes that the conservation

restriction placed on a property must be flexible so that the property owner may adapt to changing circumstances. RESPONSE: As discussed on page 275 of the 2007 Draft RMP, a Highlands Development Credit may not be sold, transferred or conveyed until a conservation restriction has been recorded on the parcel from which the Highlands Development Credit has been generated. The purpose of requiring a conservation restriction is discussed at pages 41-42 of the Transferable Development Rights Technical Report (Draft, January 2007). The Highlands Council is developing model conservation restrictions that will be used in the Highlands TDR Program. An important consideration with respect to any restriction is the impact on remaining uses of the parcel.

MISCELLANEOUS COMMENTS

COMMENT: One comment stated that the Highlands Council must address what it means by “a growth inducing variance” for purposes of requiring variance approval subject to securing a Transfer of Development Rights credit. RESPONSE: This term has been eliminated from the 2007 Draft RMP. The 2007 Draft RMP states at page 164: “The Highlands Council shall not find a Highlands municipality in conformance with the Highlands RMP unless the municipal master plan and development regulations require the use of equivalent Highlands Development Credits for any locally approved increases in development or redevelopment density or intensity of use through variances or municipal ordinance modification that occur after the date of Highlands Council determination of conformance.” Any increase in density or intensity of use within the municipality after a municipality is deemed to be in conformance with the RMP will require the use of Highlands Development Credits, regardless of whether the municipality establishes a receiving zone within its borders.

COMMENT: One comment stated that Transfer of Development Rights should also be used to protect historic resources.

RESPONSE: There is no requirement that a sending zone parcel be used for a particular purpose before it is eligible to serve as a sending zone parcel. As such, so long as a historic property has meets the minimum lot size or development potential thresholds, it is eligible to serve as a sending zone parcel.

COMMENT: One comment suggested that the Highlands Council include a discussion in the RMP regarding the revenue generating potential of Transfer of Development Rights.

RESPONSE: Due to the voluntary nature of the receiving zones, it is difficult to provide a realistic estimate of the revenue generating potential of the Highlands TDR Program.

COMMENT: One comment suggested that the Highlands Council provide both the State Planning Commission and county agriculture development boards with the opportunity to review the Highlands Transfer of Development Rights Program prior to its implementation to ensure consistency with the State Development and Redevelopment Plan and county agriculture preservation plans.

RESPONSE: All State agencies, quasi-governmental bodies, counties, municipalities and the public will have an opportunity to comment on the program prior to implementation.

GENERAL FINANCIAL COMPONENT

COMMENT: Some comments demanded that the Highlands Council detail exactly how landowners will be compensated for lost equity, and that a viable source of funding should be established either through a realty transfer tax or potential water-user fee.

RESPONSE: The Council recognizes that implementation of the RMP inevitably has an impact on landowner expectations regarding future land use potential. The 2007 Draft RMP includes a new program entitled *Landowner Fairness* (see p. 273 of 2007 Draft RMP) which details Council policies and standards with regard to mitigating adverse impacts to landowners.

COMMENT: One comment argued that the Highlands Council should not look to local and county open space funds in order to satisfy the RMP's land acquisition priorities.

RESPONSE: Comprehensive land acquisition strategies and priorities are detailed in the 2007 Draft RMP in Chapter IV, *Land Preservation and Stewardship*; and Chapter V, *Land Preservation*. Municipal and county land acquisitions will continue to be pursued based on local and county priorities, but the Council will encourage a focus on high priority areas for conservation.

COMMENT: One comment suggested that the Highlands Council include consistency and coordination with the New Jersey Department of Labor and Workforce Development.

RESPONSE: The Highlands Council acknowledges the comment, and will coordinate with all relevant State agencies during the Plan Conformance and general implementation of the RMP.

COMMENT: A few comments questioned why municipalities would conform to the RMP when doing so would presumably cost them more money?

RESPONSE: The Highlands Act includes a "Highlands Protection Fund" which appropriates money specifically for the purposes of municipal and county Plan Conformance (see p. 86 of 2007 Draft RMP section entitled *Cash Flow Timetable*).

COMMENT: One comment recommended that the Financial Component of the RMP include a reference to data collected by United States Census of Agriculture and the New Jersey Farmland Assessment program.

RESPONSE: The 2006 Draft RMP Financial Component has been renamed into Sustainable Economic Development sections, in the 2007 Draft RMP. These new sections do not include data collected from United States Census of Agriculture or New Jersey Farmland Assessment program.

CASH FLOW TIMETABLE

COMMENT: Numerous comments maintained that the Draft RMP Financial Component did not meet the Highlands Act mandate to "estimate and track over time the costs associated with implementation of the Plan," and specifically with respect to the municipal and county costs associated with Plan Conformance.

RESPONSE: The Act requires the Highlands Council to finance municipal and county conformance activities and has reserved funds to do so. The Planning Grants Timetable in the 2007 Draft RMP (p.191) lists currently available and projected funding resources; the Highlands Council believes this allocation will sufficiently fund conformance activities.

BASELINE ECONOMIC INDICATORS

COMMENT: A few comments held that the Baseline Economic Indicators should be improved upon, specifically with regard to data inconsistencies in tables between municipalities, counties, and the county portions located within the Highlands Region.

RESPONSE: The *Baseline Economic Indicators* section of the 2006 Draft RMP and 2007 Draft RMP do not include any tables or table-like comparisons of municipalities, counties, and county portions of the Highlands Region. However, the commenter may be referring to the Financial Technical Report which does include many tables. The Baseline Economic Indicators portion of the Financial Technical Report will be modified to include updated and consistent data.

COMMENT: One comment recommended that Baseline Economic Indicators be expanded to include the following: affordable housing units available, affordable housing units built per year, percentage of income spent on housing, population by age, race, ethnic group, existing and changes over time, changes in the type of employment,

and inventory of businesses and industries

RESPONSE: The Highlands Council will develop, in coordination with municipalities and counties, an Economic Tracking Program which will monitor affordable housing units and other more specific demographic and socio-economic data (for more on affordable housing, see 2007 Draft RMP programs on *Housing and Community Facilities* and *Sustainable Economic Development*)

FISCAL IMPACT & BUILD OUT ANALYSES

COMMENT: Numerous comments held that build out and fiscal impact analyses must be completed and made available prior to any Highlands Council determination of the true implications of the Highlands Act.

COMMENT: A few comments stated that a build out analysis must address affordable housing needs. One comment stated that such a build out analysis must also include an infrastructure needs assessment.

RESPONSE: The Highlands Council's build out analysis is an immediate mandatory required element of municipal Plan Conformance. The build out analysis will be used during Plan Conformance as a tool to assess long term planning needs in support of housing, employment, community facilities and quality of life. Conforming municipalities must adopt by reference several items, including the Highlands Build out analysis. The Fiscal Impact Analysis may be addressed in the future.

PROPERTY TAX STABILIZATION

COMMENT: Some comments demanded tax relief for landowners that have seen dramatic decreases in property value, yet continue to have to pay high property taxes.

RESPONSE: Landowners who believe they have suffered dramatic decreases in property value may appeal the assessed value of their property through the appropriate local and county agencies. Tax relief has been granted to some landowners through this route, which does not require review or approval by the Highlands Council. These appeals may affect municipal government finances. Funds have been earmarked for tax stabilization purposes in the Highlands Region. The current procedures established in the Highlands Act are under review by the Highlands Property Tax Stabilization Board (in, but not of the NJ Department of Treasury) to ensure sufficient justification and documentation of valuation changes. To date, funds have been provided to several municipalities to offset the loss in tax revenues.

COMMENT: Some comments expressed concern about certain municipalities currently facing tax appeals, and questioned how they are to continue to provide essential services without drastically raising taxes; these comments also expressed concern about a perceived shift in taxing responsibility from Protection Zone to Planned Community Zone. A few of these comments held that property tax stabilization funds must be extended beyond the 10-year window and, if necessary, the Highlands Council should develop a plan for additional property tax compensation whereby water end-users pay.

RESPONSE: Funds have been earmarked for tax stabilization purposes in the Highlands Region. The current procedures established in the Highlands Act are under review by the Highlands Property Tax Stabilization Board (in, but not of the NJ Department of Treasury) to ensure sufficient justification and documentation of valuation changes. To date, funds have been provided to several municipalities to offset the loss in tax revenues.

COMMENT: One comment proposed that the Highlands Council consider the concept of "tax-base sharing" as with the New Jersey Meadowlands Commission.

RESPONSE: The comment is acknowledged by the Highlands Council, but no response required.

ECONOMIC DEVELOPMENT

COMMENT: Numerous comments held that the Draft RMP does not allow for essential economic growth. Some

of these comments pointed to the Highlands Act requirement to “ensure economic vitality” within the Highlands Region, and stated that the RMP needs to explain how it will accommodate sustainable growth, and provide the general public with reports on regional economic conditions.

COMMENT: Some comments expressed concern that the Highlands Council has not addressed the fundamental issue of the impact on job creation in the construction and tourism industries.

COMMENT: A few comments expressed concern about the viability of Hidden Valley Resort, and its ability to remain competitive. It was stated that the loss of Hidden Valley would have profound implications to the residents of Sussex County as well as the northwest New Jersey tourism industry.

COMMENT: One comment expressed concern that the Draft RMP will affect Sussex County’s ability to carry out its master plan, which has gone through substantial State and local review. It was stated that if economic growth and expansion is not provided, jobs would be lost and property taxes would be increased.

RESPONSE: The 2007 Draft RMP includes a new section titled *Sustainable Economic Development* which more clearly outlines how the Highlands Council seeks to ensure economic vitality and sustainable economic growth within the Highlands Region. The Council will develop in coordination with municipalities and counties an Economic Tracking Program to monitor regional economic conditions. The 2007 Draft RMP also addresses tourism in the Highlands Region, and seeks to market and expand upon the Region’s recreation and tourism resources (see p. 281 of 2007 Draft RMP).

COMMENT: One comment expressed concern that the Draft RMP restrictions are being placed upon the Crystal Springs Development at a time when much public and private money has already been invested into the project. It was added that the Land Use Capability Map zones are in direct conflict with other State approvals and contractual agreements with sewer authorities, and claims that the project has local approvals, NJDEP approvals, water allocations, and sewer allocations.

RESPONSE: The 2007 Draft RMP includes an updated and more reflective Land Use Capability Map (LUCM) series which has different zones and additional sub-zones. The Highlands Council also recognizes that the LUCM was created at a regional scale and that new, updated or additional information becomes available, there will be an opportunity to address these issues through the Plan Conformance process (see p. 295 of 2007 Draft RMP for program *RMP Updates and Map Adjustments*). The LUCM Zones were not developed in light of any specific project or proposal.

CONSISTENCY AND COORDINATION COMPONENT

GENERAL ISSUES OF AGENCY COORDINATION

COMMENT: Several comments suggested that no State agency should be exempt from the policies in the RMP and that all other plans and regulations (State, county and local) should be consistent with the RMP.

COMMENT: One comment suggested that a partnership of agencies and organizations will be needed to repair existing damage to Highlands resources and that the Council should spearhead this effort by prioritizing projects, coordinating efforts, and leveraging and getting commitments of funding across the Highlands Region.

COMMENT: One comment suggested that the RMP must coordinate with the State Planning Commission (SPC) and the New Jersey Department of Agriculture (NJDA) to resolve inconsistencies between the state policies for agriculture and farmland retention.

RESPONSE: The Highlands Council coordinated and collaborated with all government and non-government entities through Technical Advisory Committee (TAC) meetings and workshops to develop the RMP and will continue to do so throughout the implementation process. All TAC documents are available on the Highlands Council website. Counties and municipalities will update plans and regulations to be consistent with the RMP through the Plan Conformance process. The Highlands Act defines the extent to which each State, regional or county agency must be in conformance with the RMP.

COMMENT: One comment suggested that the consistency provisions should address interstate coordination.

RESPONSE: The Consistency and Coordination component of the 2006 Draft RMP does take into account interstate coordination with Connecticut, New York and Pennsylvania and will continue these lines of communication through RMP implementation (see page 197, 2006 Draft RMP).

COMMENT: Several comments argued that the Highlands Act requires the Council to consult with all relevant government agencies, municipalities, and private groups to gather relevant information including existing plans and regulations and that the Council did not meet this statutory requirement or list all required coordination with relevant entities.

RESPONSE: The 2006 Draft RMP Local Participation Component highlights many activities related to outreach and coordination; including the Partnership, Technical Advisory Committees (TACs), regular public meetings, and stakeholder events (see pages 199-202). The 2006 Draft RMP on page 205 also references that the Council is compiling existing municipal master plan elements and development regulations. The January 2007 Draft Regional Land Use Conditions & Smart Design Guidelines technical report on page 7, Zoning Characteristics Analysis describes the task of compiling existing municipal base zoning as of November 2005 for the entire Highlands Region. The Council will share all documentation in support of the RMP including municipal plans, regulations, and zoning characteristics.

COMMENT: Several comments suggested that the RMP needs to be more specific regarding the functions of the Highlands Council in relation to other agencies at all levels of government.

RESPONSE: The 2007 Draft RMP includes two new sections; Federal, State and Regional Agency Coordination and Local Participation (see pages 300-314) that describe more specifically the functions of the Council relative to all stakeholders.

COMMENT: Several comments suggested that formal memoranda of agreement (MOA) or understanding must be completed in order to implement the RMP and that Council staff has been working to secure such agreements. It was suggested that it is wrong to ask municipalities and counties to begin the process of conformance while State agencies are still coming to agreement on basic principles of the plan.

RESPONSE: The Highlands Council has reached a signed MOA with the New Jersey State Planning Commission and the Office of Smart Growth and is working toward reaching this level of agreement with additional State agency partners.

COMMENT: One comment suggested that regional thinking is required for New Jersey's sustainability and will not succeed if it is dependent on the voluntary support of municipalities. A regional assessment should be required in environmental impact statements and the Council can provide ongoing technical assistance toward this new, broader approach.

RESPONSE: The 2006 Draft RMP is a regional planning document that emphasizes the importance of regional preservation and planning.

COMMENT: Several comments suggested that the RMP should not be used by the Council or other State agencies to impose compliance with policies and standards of the RMP for municipalities and counties which choose not to conform.

RESPONSE: Municipal and county Plan Conformance is the overall goal for implementation of the RMP. The Highlands Act establishes the requirement that all municipalities and counties with land in the Preservation Area bring their local plans and development regulations into conformance with the RMP. Voluntary conformance for municipalities and counties with land in the Planning Area is also provided for in the Act. Incentives and benefits are available to municipalities and counties who choose to conform to the RMP (see page 288, 2007 Draft RMP).

COMMENT: A few comments suggested that the RMP should address only those requirements defined by the Act,

and should defer to appropriate agencies regarding other planning requirements, policies, and regulations and that the responsibilities of various jurisdictions should be organized and clarified.

RESPONSE: The 2007 Draft RMP does address requirements defined by the Act, but emphasizes regional planning, which includes coordination between the Council and State agencies. The Federal, State and Regional Agency Coordination and Local Participation sections (see pages 300-314) describe the functions of the Council relative to all stakeholders.

COMMENT: One comment maintained that the Acknowledgment section that lists the individuals who contributed to the RMP and that 19 of the 21 persons credited are employed by the NJDEP. It was argued that this indicates that the RMP is biased to environmental protection and pays little attention to the needs of agriculture, transportation, housing, and economic growth in the Highlands Region.

RESPONSE: The Highlands Council received sustained assistance from a variety of agencies, including many from the Department of Environmental Protection, and received significant value from their expertise. In addition, stakeholders that have assisted in developing the RMP include all government and non-government entities and the general public. Agencies involved in agriculture, transportation, housing and economic growth have all contributed information and ideas. The Consistency and Coordination component of the RMP fully describes the outreach in developing the RMP including the work of the Technical Advisory Committees. In the final analysis, the RMP is a work of the Highlands Council, reflecting the requirements of the Highlands Act.

COORDINATION WITH THE STATE PLANNING COMMISSION

COMMENT: Several comments suggested that the RMP must clearly state the relationship between the RMP (including the Land Use Capability Map zones) and the State Development and Redevelopment Plan (SDRP) (including the State Plan's designated centers and planning areas).

COMMENT: Several comments suggested that the RMP (including the Land Use Capability Map zones), sanitary service areas approved by NJDEP, and the State Development and Redevelopment Plan (including the State Plan's designated centers and planning areas) should be largely consistent and the RMP should define how inconsistencies are to be addressed.

RESPONSE: The 2007 Draft RMP, Plan Conformance section was revised to place a greater emphasis on the relationship of the RMP to the SDRP, and the coordination and collaboration between the Highlands Council and the State Planning Commission (see page 289 Procedures for Municipal and County Plan Conformance and page 307 Specific Coordination with State Planning Commission). The Land Use Capability Map (LUCM) was expanded to a LUCM series of five maps that portray existing conditions and both resource and utility capacity (see page 69 Future Land Use).

COMMENT: Several comments expressed concern regarding the need for immediate interagency cooperation on the Cross-Acceptance of the State Plan to resolve remaining policy issues and mapping corrections. The Highlands Council and the Office of Smart Growth should share mapping and policy decisions with one another so that policy discussions and mapping corrections need only be addressed once and so conflicting direction is not provided by different state agencies.

RESPONSE: The Highlands Council works closely with the Office of Smart Growth. The Draft 2006 RMP emphasizes this coordination on page 198 in the steps the Council will take related to the SDRP including data sharing for the State Plan Cross Acceptance and Plan Endorsement processes.

COORDINATION WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

COMMENT: Several comments suggested that the RMP must clearly explain the relationship between NJDEP rules and the policies and standards found on the RMP.

COMMENT: One comment queried whether the Council will block exempt projects if they are identified as part of

their priority acquisition program and how the relationship works between the Council and NJDEP on the issue of “primacy” when there is a disagreement.

RESPONSE: The Highlands Council works collaboratively with NJDEP and will continue to do so through the implementation of the RMP. State level coordination between the Council and the NJDEP will be particularly important due to the requirements of the Act that establish stringent regulatory standards for development in the Preservation Area administered by the NJDEP and the provisions in NJDEP regulations at N.J.A.C. 7:38-1.1(g) though (l), which require that consideration and weight be given to this Plan (see page 301 2007 Draft RMP).

COMMENT: One comment stated that the Draft RMP does not specifically identify the NJDEP as an entity providing coordination on water supply issues such as water allocation permitting. This lack of coordination can put public water systems at risk.

RESPONSE: The 2006 Draft RMP discusses NJDEP water allocation permits in several areas of the plan including page 149 and 151 under the Water Utility section and page 155 under Coordination and Consistency Strategies. The Highlands Council is coordinating planning with NJDEP, and the Highlands Act at Section 74 requires that decisions made under the Water Supply Management Act be consistent with the RMP.

COMMENT: Several comments stated that regional and local water supply protection and conservation goals, objectives and strategies must be coordinated with the overall Statewide Water Supply Plan particularly for projected Highlands water demand from within and outside the Region.

RESPONSE: The 2007 Draft RMP has been revised to include language regarding the relationship of the NJDEP Statewide Water Supply Plan. The Highlands Act at Section 74 requires that decisions made under the Water Supply Management Act be consistent with the RMP (see page 197, Program Summary for Highlands Restoration: Water Deficits).

COMMENT: One comment stated that a water conservation and protection policies must be promoted statewide due to the complex interconnections among the State’s water supply systems. It was stated that conservation policies and strategies both within the Highlands, and areas that depend on water from the Highlands is vital to protecting the water supply of the Highlands Region, and of the state as a whole for current and future generations.

RESPONSE: The 2006 Draft RMP includes a statement that water conservation and protection should be within and outside of the Highlands Region (see page 51 Water Resource Management).

COMMENT: One comment stated that specific guidance for coordinating the RMP and Wastewater/Water Quality Management Plans should be provided and that the review and approval of WMP amendments should not be unfairly delayed.

RESPONSE: The 2006 Draft RMP includes a discussion on Wastewater Management Plans and Water Quality Management Plans on page 150 under the section on Wastewater Utilities. These discussions have been elaborated in the 2007 Draft RMP in Chapter V. Programs Water Resources and Water Utilities (see pages 199 through 216).

COMMENT: One comment stated that Highlands Council should also coordinate with the Clean Water Council and the Water Supply Advisory Council, statutory bodies set up to advise NJDEP.

RESPONSE: The Highlands Council coordinates with all government and non-government entities including the Clean Water Council and the Water Supply Advisory Council. Further coordination is achieved through the Water Resource Management TAC.

COUNCIL ON AFFORDABLE HOUSING COORDINATION

COMMENT: One comment stressed the need to coordinate actions of the Highlands Council and COAH to resolve conflicting missions. The example of the Federal Hill area in Bloomingdale was used as an area that should be protected according to the Highlands Council, yet under a builder’s remedy Superior Court decision the New Jersey

Council on Affordable Housing is required to approve affordable housing at the Federal Hill site.

COMMENT: One comment stated that the Highlands Act requires the Council on Affordable Housing to take into consideration the RMP prior to making any determination regarding the prospective fair share of the housing need in any municipality in the Highlands Region and questioned whether this will this will obviate the need for municipalities in the Highlands to provide affordable housing.

RESPONSE: The 2006 Draft RMP (pages 145–148) and the 2007 Draft RMP (pages 260-266 and 300- 306) Housing and Community Facilities Program policies speak to the coordination and consistency with the Council on Affordable Housing (COAH) as well as other agencies such as NJDEP and the Office of Smart Growth in ensuring that regional affordable housing needs are met for all income levels. The builder's remedy Superior Court decisions address a regulatory component, which does not require change to the 2007 Draft RMP. The Highlands Council acknowledges the comment regarding siting of affordable housing initiatives.

COMMENT: Several comments stated that the restrictive nature of the RMP will curtail the provision of affordable housing in the Conservation and Protection Zones and drive it into the Planned Community Zone and is not consistent with the Fair Housing Act. It was asked whether the Council will be seeking to eliminate approved affordable housing sites found in COAH approved housing plans when they are located in the Protection Zone and whether COAH will invalidate approved housing plans when inconsistent with the RMP.

RESPONSE: The Conformance process includes a comprehensive evaluation of local land use conditions, natural and cultural resources, infrastructure and housing needs and does not obfuscate the local responsibility of addressing the constitutional requirements for affordable housing under New Jersey State Law.

AGRICULTURE AND FORESTRY

COMMENT: One comment recommended that the RMP direct municipalities to the guidelines in the Agricultural Smart Growth Plan developed by the New Jersey Department of Agriculture (NJDA) and its criteria for Plan Endorsement by the State Planning Commission.

COMMENT: One comment recommended that the Council coordinate with County Agriculture Development Boards and County Soil Conservation Districts, as well as coordinate financial data updates with the New Jersey Department of Agriculture, the USDA National Agricultural Statistics Service, and the New Jersey Agriculture Experiment Station and this coordination be placed in the final RMP.

COMMENT: One comment recommended that the Highlands Council coordinate with the Natural Resources Conservation Service and the State Soil Conservation Committee and partners to develop standards for soil erosion and sediment control plans consistent with the resource protection goals of the RMP.

RESPONSE: The Highlands Council coordinates with all government and non-government agriculture stakeholders. The entities listed above are also part of the TACs and data from these groups was utilized to prepare the 2006 Draft RMP and the Draft January 2007 Sustainable Agriculture technical report. The input of these groups will be pivotal in developing implementation strategies (see page 220 2007 Draft RMP).

COMMENT: One comment recommended that the Council apprise municipalities that have agricultural land of the information available through the U.S. Census of Agriculture and the Farmland Assessment annual statistics and incorporate this information into the RMP.

RESPONSE: Farmland assessment is discussed in the 2006 Draft RMP and the Draft January 2007 Sustainable Agriculture technical report. The technical report lists references to obtain farmland assessment data.

COMMENT: One comment stated that the Department of Agriculture and Forest Service roles in the Draft RMP are inadequate for an area that is chiefly forest and farms.

RESPONSE: The comment is acknowledged by the Highlands Council. The 2007 Draft RMP was modified to include separate sections in Chapter V. Programs for Forest Resource Management and Sustainability and Agricultural Resources.

TRANSPORTATION COORDINATION

COMMENT: One comment stated that maintenance, repair, and major rehabilitation of track, structures, ancillary rail and bus facilities, rail stations, and bus and rail commuter parking lots are exempt from the Highlands Act and sought clarification on how this exemption will be implemented by the Highlands Council in the Regional Master Plan. The request was to ease new regulatory requirements, given that transit facilities are a smart growth use and subject to considerable review by NJDEP.

RESPONSE: The Highlands Act includes a list of 17 exemptions which can be found in Section 28. The list includes those which are exempt from the provisions of the Act, the RMP, development regulations, or other regulations adopted by a local government unit to specifically conform them to the RMP. Transit oriented development is supported throughout the 2007 Draft RMP (see *Transportation Safety and Mobility* pp. 229 for specifics), based on the Highlands Act goal "to promote a sound and balanced transportation system consistent with smart growth strategies."

COMMENT: One comment sought clarification from the Highlands Council on the regulatory review process for new development in both the Preservation and Planning Area and how that process would affect transit projects.

RESPONSE: The Highlands Council will review transportation improvements proposed by the State, regional agencies, counties and municipalities to ensure consistency with the policies and objectives of the RMP (see page 234 of the 2007 Draft RMP for the Overview of Transportation Project Review).

COMMENT: One comment stated that the North Jersey Transportation Planning Authority (NJTPA) has secured \$900,000 in funding for a comprehensive transportation study of northwest New Jersey which will be coordinated with the Highlands master planning efforts.

RESPONSE: The comment is acknowledged by the Highlands Council and the 2007 Draft RMP acknowledges coordination with the NJTPA (see page 148).

OTHER AGENCY COORDINATION

COMMENT: One comment suggested the addition of consistency and coordination with the New Jersey Department of Labor and Workforce Development.

RESPONSE: While the New Jersey Department of Labor and Workforce Development is not specifically mentioned on page 305 of the 2007 Draft RMP, Coordination with State Agencies, the 2007 Draft RMP includes policies that describe coordination on workforce and labor development.

COMMENT: One comment suggested the addition of consistency and coordination with the U.S. Department of the Interior - Fish and Wildlife Service and the development of a Memorandum of Agreement between the Service and the Council.

RESPONSE: The comment is acknowledged by the Highlands Council. The Council collaborated with the Fish and Wildlife Service in development of the RMP and will continue to do so in developing RMP implementation strategies.

COMMENT: One comment suggested that the Consistency and Coordination section include Municipal Planning Organizations, the State Planning Commission, and County Planning Agencies.

RESPONSE: The 2007 Draft RMP acknowledges coordination with all planning organizations in the Plan Conformance section of the RMP (see pages 305-306).

LOCAL COORDINATION

COMMENT: One comment noted that 2002 Update to the Forest Service Study and the 1992 Study recommended

the establishment of a permanent regional entity to oversee the planning and management of the study area (providing information and education, natural resource conservation and protection, data coordination and management, planning assistance, and administration, conflict resolution and consensus building) not to exercise land use regulatory control. The study recognized that keeping land use control in the hands of the county and local governments was appropriate.

RESPONSE: The 2006 Draft RMP and the 2007 Draft RMP recognize the Forest Service Study goal of establishing a permanent regional entity to oversee the planning and management of the study area (2006 Draft RMP page 13, 2007 Draft RMP page 8). The Highlands Council is that entity for the New Jersey portion of the Highlands Region, which extends beyond New Jersey boundaries.

COMMENT: One comment stated that municipalities are required under the Municipal Land Use Law to include in their master plans a specific policy statement indicating the relationship between local plan and the plans of adjacent municipalities, the county, the State Development and Redevelopment Plan, and county district solid waste management plans. The Highlands Council would be equally prudent to provide a summary in the RMP of the relationship between their plan and the plans of other State agencies with significantly overlapping land use jurisdiction (NJDEP, Office of Smart Growth/State Plan, and COAH).

RESPONSE: Municipalities will align plans and regulations with the RMP through the Plan Conformance process. The 2007 Draft RMP specifically outlines the Plan Conformance process and the municipal role in relation to the Highlands Council and state agency stakeholders (see page 288 Plan Conformance section).

LOCAL PARTICIPATION

COMMENT: One comment recommended that the RMP not use the word “vast” in describing affordable housing opportunities in the education section.

RESPONSE: The comment was considered and no change was made to the RMP by the Highlands Council.

COMMENT: A few comments recommended identification of opportunities for public involvement in the conformance process. One comment recommended allowing for public input in Draft RMP updates and revisions. One comment inquired about the process and timeline for future RMP updates.

RESPONSE: The 2007 Draft RMP includes a section on Local Participation that covers public input as the Highlands Act has local participation requirements (see page 307 2007 Draft RMP). Public input will continue to be an important component of the process through conformance and for future updates of the RMP.

COMMENT: One comment recommended using the Technical Advisory Committees to critique the RMP and its implementation.

RESPONSE: This comment will be addressed through future RMP programs and activities.

COMMENT: One comment urged the Highlands Council to make agriculture a standing committee and to expand its membership to include certain non-Highlands Council experts.

RESPONSE: The Highlands Council has worked closely with agency partners and local government entities including the New Jersey Department of Agriculture, the State Agriculture Development Committee and the County Agriculture Development Boards and will continue to do so through plan conformance and future RMP updates. The Highlands Council subcommittee on agriculture will continue its operations; all Council committees and subcommittees are limited in membership to Council members.

COMMENT: One comment stated that educating residents and other stakeholders is critical. One comment urged the coordination of education efforts with environmental and civic groups.

RESPONSE: Education is emphasized throughout the 2007 Draft RMP and will be addressed through future RMP programs and activities.

COMMENT: One comment asked for clarification on the role of planning boards and the municipal governing bodies in implementation.

RESPONSE: The 2007 Draft RMP includes the section: Highlands Council Implementation Programs that discusses the role of local governments (see page 341 2007 Draft RMP). The role of planning boards is regulated under the New Jersey Municipal Land Use Law Article 2. C.40:55D-23. RMP implementation, through the Plan Conformance process, will include reviewing and updating municipal and County master plan elements to conform to the goals, policies, and objectives of the RMP.

COMMENT: One comment asked the Highlands Council to invite the Greenwood Lake Commission to participate in lake redevelopment and management discussions.

RESPONSE: The Highlands Act includes a condition that Greenwood Lake Commission should consult with the Highlands Council in carrying out its duties (see Section 59 of the Highlands Act N.J.S.A. 32:20A-5, also page 379 of the 2007 Draft RMP).

GENERAL IMPLEMENTATION

COMMENT: One comment stated that Plan Conformance requirements must be clarified. Clarification was suggested regarding Conformance submissions and approvals, which will typically be based on a list of proposed amendments and an approved schedule, not the actual completion of the amendments or creation of plans and ordinances.

COMMENT: A few comments stated that the Highlands Council should assist municipalities as much as possible through Plan Conformance.

COMMENT: Several comments requested that the Highlands Council take additional time to coordinate plans and address specific municipal issues.

RESPONSE: The Plan Conformance process and requirements are outlined in the Plan Conformance section of the 2007 Draft RMP on pages 288 – 295. The process is designed to be logical, time efficient and comprehensive. The Highlands Council is committed to working cooperatively with local governments and will provide technical and financial assistance as appropriate.

COMMENT: One comment stated that the Highlands Council must establish a procedure for requesting relief from the standards and a set of rationale and criteria that may be reviewed in consideration of such requests.

RESPONSE: The 2007 Draft RMP provides for map updates and adjustments where appropriate, see pages 295 – 300.

COMMENT: Several comments indicated that model ordinances, technical guidelines, and other tools for municipalities wishing to amend their master plans to conform to the RMP are missing, and that too many Draft RMP policies have been left open to interpretation and/or decisions have been postponed until Conformance.

RESPONSE: The Plan Conformance process is intended to align municipal and county plans with the goals, requirements and provision of the Regional Master Plan. During the process the Council will develop detailed guidance for municipalities and counties to follow in achieving conformance. Additional technical guidance will be provided through the Smart Growth Manual and Community Development Design Guidebook.

COMMENT: Numerous comments requested that a grant program be established to support and enable municipalities to opt-in to Plan Conformance.

COMMENT: One comment stated that the Highlands Council should clarify how municipalities that choose not to opt-in to the RMP can participate in other aspects and programs of the Highlands Act.

COMMENT: One comment suggested that Planning Area municipalities should be able to become Transfer of Development Rights receiving zones without opting-in to the Regional Master Plan.

RESPONSE: The Plan Conformance process includes a series of grant opportunities, including an Initial Assessment Grant Program designed to enable municipalities and counties to conduct an initial review of the policies and requirements of the Highlands Regional Master Plan to determine the level of effort anticipated for the locality to conform. Planning Area municipalities and counties who utilize the Initial Assessment Grant Program are not obligated to participate in plan conformance or opt-in to the regional master plan. Municipalities and counties that do not opt-in to the regional master plan will still be eligible to participate in the Transfer of Development Rights Program as outlined in the 2007 Draft RMP on pages 160 – 165 and pages 273 – 278.

COMMENT: One comment asked whether a municipality can receive protection through Council on Affordable Housing from a builder's remedy, if they do not opt-in to the Regional Master Plan.

RESPONSE: The protection afforded by COAH from a builder's remedy lawsuit is not related to conformance with the Highlands Regional Master Plan.

COMMENT: One comment recommended that the Highlands Council conduct a critical evaluation of the existing regulatory, planning, and zoning framework in the Highlands Region. It was noted that such an analysis could identify specific weaknesses (and strengths) in the current system that should be addressed in the Regional Master Plan.

RESPONSE: The Plan Conformance process includes the submission of Municipal and County Assessment Reports which detail how effectively municipal and county plans, regulations and programs support the goals, requirements and provisions of the Highlands Regional Master Plan. The Highlands Council will review these assessments and provide a specific list of conditions, as appropriate, for local action in order to conform to the goals, policies and objectives of the RMP.

COMMENT: One comment stated that the RMP should include a more detailed discussion of the relationship between NJDEP, its rules, and the Highlands Act.

RESPONSE: The 2006 Draft RMP included separate sections explaining the Highlands Water Protection and Planning Act and the NJDEP Highlands Rules. The 2007 Draft RMP includes a discussion at pages 8 – 9 of the Highlands Water Protection and Planning Act, including its relationship to the NJDEP Highlands Rules.

COMMENT: One comment asked whether all development applications require a notice of filing to the Highlands Council, or whether there will be a minimum level of development to trigger such rules. Several comments asked for details regarding the development review process in the Preservation Area.

COMMENT: One comment held that much of the Draft RMP requirements are contingent upon site specific findings, which places the burden of resource identification on local governments and land owners.

RESPONSE: The Project Review Process is detailed in Chapter 6. Implementation of the Final Draft Plan on pages 314 – 332.

COMMENT: One comment asked what controls are in place to ensure that Highlands municipalities do not proceed with projects or centers in areas which would be considered harmful to the goals of the Highlands Act, prior to the adoption of the Regional Master Plan?

RESPONSE: The NJDEP Rules are in effect in the Preservation Area to guide development decisions. Additionally, existing NJDEP environmental permitting regulations are in place for other critical environmental features, such as wetlands.

COMMENT: One comment stated that the expertise of non-profit stakeholders should be utilized in the development of Best Management Practices and model ordinances to support the implementation of the Regional Master Plan.

RESPONSE: The Local Participation section of the 2007 Draft RMP, pages 307 – 314, outlines the efforts the Highlands Council made to gather input from a broad group of participants.

COMMENT: Several comments stated that the Highlands Council should mandate that all municipalities in the Highlands Region form an environmental commission, and explore the idea of county environmental commissions.
RESPONSE: The 2007 Draft RMP in Chapter 6. Implementation outlines implementation and coordination at each level of government and includes coordination with environmental commissions. A specific requirement for an environmental commission in every municipality and county has not been established.

BENEFITS AND INCENTIVES TO MUNICIPALITIES AND COUNTIES

COMMENT: One comment requested clarification regarding the benefits/incentives associated with opting in to the Regional Master Plan. One asked whether RMP benefits/incentives are available for Highlands counties, or limited to municipalities.

RESPONSE: Conformance to the Regional Master Plan has various benefits available to municipalities and counties. These benefits and incentives are outlined in the Implementation Framework section of the 2007 Draft RMP (p. 202-203).

COMMENT: A few comments voiced concern that the provisions (benefits/incentives) offered in the RMP for municipalities are inadequate, and will not attract the level of voluntary participation necessary for a successful plan.
RESPONSE: The comment is acknowledged by the Highlands Council, but no response is required.

COMMENT: A few comments held that Highlands towns should not have to bear the costs associated with developing and adopting new ordinances, zoning, and land use plans to conform to the Regional Master Plan.
RESPONSE: The Highlands Council will establish a grant program to facilitate municipal and county conformance. Funding will be available to facilitate the development and adoption of new ordinances, zoning, and land use plans.

PLAN CONFORMANCE PROCEDURES AND REQUIREMENTS

COMMENT: Numerous comments asked for clarification of the opt-in process, including the following specific questions:

- What are the impacts of opting-in/out, particularly for bifurcated jurisdictions, and can a municipality partially opt-in?
- Does opting-in mean acceptance of NJDEP rules (that currently apply in the Preservation Area) for the Planning Area, and will the NJDEP rules effectively force towns to be in conformance with the Regional Master Plan?
- Will towns be forced to opt-in, in order to receive any future state aid or have Wastewater Management Plans accepted, and
- From a regional perspective, what happens if one municipality opts into the Regional Master Plan, while a neighboring municipality does not?

COMMENT: Several comments stated that Plan Conformance requirements at the local and county level are too burdensome/duplicative/unnecessary/impossible without additional data from the Highlands Council. Several comments stated that the identified Pre-Conformance work remaining to be done is too extensive to consider the RMP complete and ready to be adopted. It was added that Plan Conformance should not begin until all model ordinances and guidelines are complete.

COMMENT: A few stated that the Conformance process should recognize the difference between local plan/ordinance amendments and the creation of new plan elements and ordinances. The concept of an initial revisions process should be explored, which would enable municipalities to make amendments, where appropriate, and will result in cost and time savings. The concept of Plan Conformance by reference should also be considered as a time/cost savings to municipalities and the Highlands Council.

COMMENT: A few comments asked for clarification regarding the differences between policies and regulations in the Planning Area and the Preservation Area for Plan Conformance. One comment asked for a list of advantages and

disadvantages of the RMP Endorsement process as well as the RMP Conformance process.

RESPONSE: The 2007 Draft RMP addresses the issues of municipal and county Plan Conformance and the role of state agency stakeholders. Municipal and county Plan Conformance is the overall goal for implementation of the RMP. The Highlands Act establishes the requirement that all municipalities and counties with land in the Preservation Area bring their local plans and development regulations into conformance with the RMP. Voluntary conformance for municipalities and counties with land in the Planning Area is also provided for in the Act. Incentives and benefits are available to municipalities and counties who choose to conform to the RMP (see pages 288-314 of the 2007 Draft RMP). As discussed in the Draft Plan Conformance Technical Guidelines (February 2007), it is expected that many immediate mandatory conformance requirements will be through adoption by reference of RMP policies, objectives, and programs.

COMMENT: One comment stated that the expansion of Municipal Housing Elements and Fair Share Plans beyond that which is required by Council on Affordable Housing should not be a mandatory requirement of Plan Conformance. It was argued that submission of petitions for substantive certification should not be required until the adoption of new Council on Affordable Housing rules.

RESPONSE: The Local Participation Program of the 2007 Draft RMP (page 307) discusses the Highlands Council's variety of outreach approaches in order to provide details regarding the 2007 Draft RMP, disseminate technical information, address individual comments and concerns, and meet the constituents of the Highlands Region. The Highlands Council will develop an interagency partnership with COAH in support of a conforming municipality's substantive certification plan development and regional affordable housing needs, and anticipates adoption of the new COAH rules for third round conformance before the deadlines for mandatory Plan Conformance in the Preservation Area. The Plan Conformance Program (page 288) outlines the planning grants that are available to conforming municipalities. The Highlands Council also has funds available for the purpose of assisting constituent municipalities in addressing their affordable housing requirements in accordance with the COAH, including substantive certifications and third round obligations (\$12,500 per municipality for substantive certification applications and \$7,500 per municipality for third round submissions).

COMMENT: One comment suggested that the Highlands Council clarify the Conformance process and criteria for municipal identification and evaluation of potential brownfield and greyfield redevelopment sites and unconstrained potentially developable sites.

RESPONSE: The 2007 Draft RMP contains the Highlands Redevelopment Program (page 250), which helps interested parties, municipalities, counties, state, and federal agencies understand where redevelopment opportunities are targeted, and how to achieve redevelopment within each zone and in the Planning and Preservation Areas. Additionally, the Procedures for Highlands Redevelopment Site Approval provide additional clarification for the redevelopment process. The surrounding character of land is considered as part of the Highlands Redevelopment Site Approval Process. This process is intended to ensure that redevelopment sites are appropriate for development; not all such sites are in locations conducive to redevelopment, especially where redevelopment could harm surrounding environmentally sensitive resources.

COMMENT: One comment stated that the Highlands Council will require Conforming municipalities to develop a number of new local master plan elements as a condition of Plan Conformance, some of which are discretionary under the Municipal Land Use Law. The following question was asked: Where is specific authority given to the Highlands Council to supersede the Municipal Land Use Law?

RESPONSE: The Municipal Land Use Law (MLUL) establishes the requirements for a municipal master plan. The RMP establishes requirements for Plan Conformance, which are authorized by Section 14 of the Highlands Act. This power does not modify or supersede the MLUL, but is in addition to it. In addition, Section 60 of the Highlands Act requires, once the RMP is adopted, that every Highlands municipality to "include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan..." This provision applies regardless of municipal conformance with the RMP (see

also Section C.13:20-4 and C.13:20-6 MLUL ADDENDUM V P.L. 2004 CHAPTER 120).

COMMENT: One comment stated that the Circulation Element must be mandatory and must include trails and other connections between points of interest.

RESPONSE: A Circulation Plan Element is a requirement for conforming municipalities in the RMP (see page 130, 2006 Draft RMP and page 149, Policy 5C6 2007 Draft RMP).

COMMENT: One comment suggested that the Highlands Council prepare a model carbonate rock ordinance and require its adoption as part of Plan Conformance based on the model developed by Natural Resources Conservation Service.

RESPONSE: The 2007 Draft RMP includes Objective 1K4a (see page 122) to formulate development review ordinances for carbonate rock topography and page 187 further discusses the development of these ordinances.

COMMENT: One comment stated that the RMP Conformance process may not be the most appropriate venue for updating environmental data layers that are managed by NJDEP and other entities.

RESPONSE: The comment is acknowledged by the Highlands Council.

COMMENT: One comment asked for clarification on the RMP map change process. The following questions were asked: Will municipalities be able to suggest or nominate areas to be moved to the Protection Zone in exchange for removing another area? If a municipality does not amend zoning to reflect the Regional Master Plan, will it lose its legal shield? Do the RMP overlay zones supersede local zoning regulations?

RESPONSE: The 2007 Draft RMP includes a new section RMP Updates and Map Adjustments that describe the process to make adjustments to the Protection Zone (see page 295). The Highlands Council will only provide legal representation (legal shield) to conforming municipalities who have changed plans and regulations to conform to the RMP (see page 292 2007 Draft RMP). The RMP overlay zones are not zoning regulations; therefore the overlay zones do not supersede local zoning regulations.

REGIONAL MASTER PLAN MONITORING REVIEW

COMMENT: One comment suggested that the Highlands Council maintain an on-going GIS dataset that distinguishes between jurisdictions that have chosen Plan Conformance or Plan Endorsement.

RESPONSE: The RMP Monitoring Program, found on pages 337 – 339 of the 2007 Draft RMP, will provide a framework for tracking the long-term success of the Highlands Regional Master Plan. The review will consist of on-going monitoring of indicators and a periodic monitoring report which documents regional indicators and milestones. Identification of municipalities and counties that have chosen to conform to the RMP and those that have chosen to pursue Plan Endorsement is a potential indicator.

COMMENT: One comment suggested that the Highlands Council prepare an annual report that measures the degree of success in implementing each component of the Regional Master Plan.

RESPONSE: The RMP Monitoring Program of the 2007 Draft RMP recognizes that monitoring and research are vital to understanding the impact of the RMP and of conditions that affect the Highlands Region. Once data are collected and tracked over a period of time, conclusions can be drawn regarding the effectiveness of the RMP. Indicators will be used by the Highlands Council to evaluate regional conditions, identify new or emerging issues, and develop future priorities. Based on the findings of the monitoring, updates and amendments to RMP policies and programs may be made. The implementation of a monitoring program is a component devised to ensure long-term sustainability in the Highlands Region.

GLOSSARY

COMMENT: A few comments stated that any terms that may be unclear or unknown to a layperson should be included in the glossary, with a definition written in understandable language.

COMMENT: The following specific items were requested to be included and/or clarified in the glossary: forest core; forest patch; forest integrity; watershed characteristics; riparian area; recharge/groundwater recharge; prime recharge; critical habitat; wetlands (note the different types); landscape rank; significant natural areas; preserved farms; impervious cover; transit hubs; development intensity; important farmland soils, including prime, statewide importance; unique and locally important soils; transit hub; mussels + 1000; farm management unit; preserved land; and open space.

RESPONSE: The 2007 Draft RMP includes a glossary, found on pages 347 – 358, which includes the definition of critical terms found in the document. The 2007 Draft RMP eliminated some terms used in the 2006 Draft RMP and replaced them with other terms which were deemed to be more understandable.

BIBLIOGRAPHY

COMMENT: One comment stated that the Bibliography section is missing the following elements: consultants' reports, technical reports, technical data sources (both published and unpublished), and citation of reports containing analyses used in preparation of technical reports.

RESPONSE: The 2007 Draft RMP includes a Bibliography of reports, books and documents referenced during the preparation of the RMP and an acknowledgements section which lists all of the consultants who contributed to the preparation of the Plan. The Draft Technical Reports are available on the Highlands Council website.