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**State of New Jersey**  
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JOHN R. WEINGART  
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*Executive Director*

September 23, 2008

Mr. Lawrence J. Baier, Director  
Division of Watershed Management  
New Jersey Department of Environmental Protection  
P.O. Box 418  
Trenton, NJ 08625-0418

Re: Proposed Amendment to the Upper Delaware Water Quality Management Plan  
Phillipsburg STP  
Hamptons at Pohatcong  
Pohatcong Twp, Warren County  
NJDEP Activity # AMD030001

Dear Mr. Baier:

On behalf of the Highlands Water Protection and Planning Council (Highlands Council), in accordance with N.J.A.C. 7:38-1.1(k), please accept the enclosed Consistency Determination (CD) on the above-referenced proposed amendment. The CD for the Proposed Amendment is based upon our review of the project file as provided to us by the applicant, Highlands Council information and public comment, relative to the standards and policies set forth in the Regional Master Plan (RMP). The Highlands Council approved a resolution on September 18, 2008 authorizing the Executive Director to provide this CD to NJDEP on behalf of the Highlands Council.

Please find also enclosed a document that summarizes the public comments received on the Highlands Council's draft CD. The Highlands Council finds that the proposed project is inconsistent with the Regional Master Plan. Primary issues include:

- Extension of both public water supply and wastewater systems into the Conservation-Environmentally Constrained Sub-Zone not associated with cluster development or a waiver for public health and safety, and into the Agricultural Resource Area without mandatory clustering;
- Water availability constraints in two HUC14 subwatersheds, one of which potentially could be addressed by an RMP Update. Incursion of structures and stormwater infrastructure into Highlands Open Waters buffers, and a proposal to discharge stormwater off-site to a preserved park. Stormwater recharge

requirements have been waived by NJDEP without a requirement for achieving on-site recharge to the extent practicable given karst topography, or for off-site mitigation of any recharge that cannot be met on-site;

- Conflicting information, potentially due to a distinction between Landscape Project versions 2 and 3, regarding potential upland sandpiper habitat; and
- Insufficient information to determine consistency regarding the application of Low Impact Development BMPs, karst topography concerns for the long-term integrity of construction and infrastructure (especially sanitary sewers and stormsewers), compliance with the TMDL for pathogens on Lopatcong Creek, wellhead protection, and “maximum feasible” water conservation measures.

These policies and the inconsistencies are described in more detail in the CD.

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

Sincerely,

Eileen Swan  
Executive Director

Enclosures – Consistency Determination  
Public Comment Summary