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March 31, 2010

Honorable Robert M. Hoffman, Jr.
Township of Tewksbury
169 Old Turnpike Road
Califon, NJ 07830

Subject: AMENDED DECISION: JCP&L Califon Substation
Block: 17, Lot: 2
Fox Hill Road
Tewksbury Township, Hunterdon County
Upper Raritan Water Quality Management Plan (WQMP)
Program Interest No.: 435434
Activity No.: CSD070030

Dear Mayor Hoffman and Members of the Township Committee:

On behalf of the Highlands Water Protection and Planning Council (Highlands Council), please accept the following as a follow-up to the work session held by the Tewksbury Township Committee on the above captioned matter. To begin, we would like to thank the Township Committee for hosting the work session and allowing the Highlands Council to attend and listen to the comments and concerns of the public and other interested parties in this matter.

As you know, the proposed Jersey Central Power and Light (JCP&L) electric substation plan was the subject of a July 15, 2009 Amended Decision issued by the New Jersey Department of Environmental Protection (NJDEP). This Amended Decision constituted a Highlands Applicability Determination (HAD) and Water Quality Management Plan Consistency Determination pursuant to N.J.A.C. 7:38-2.4(a). The HAD found that the project was exempt under Exemption #11 of the Highlands Act pursuant to N.J.S.A. 13:20-28.a.11; however, the exemption was subject to compliance with the following condition:

Prior to construction, JCP&L shall submit to the Highlands Council for review and approval an extensive landscape plan, using native plant species, to screen the substation from adjacent homes and roadways and complement the character of the existing historic district.

In the evaluation of Exemption #11 under the Highlands Act, the exemption contains two components. The activity must: 1) constitute an upgrade of public utility lines, rights of way, or systems, by a public utility, and 2) be consistent with the goals and purposes of the Highlands Act. In NJDEP's conditional HAD, NJDEP determined that the JCP&L project met the first component as an upgrade of a public utility system. With respect to the consistency of the project with the goals and purposes of the Highlands Act, NJDEP's conditional determination requires that JCP&L submit to the Highlands Council the landscape plan for review and approval as this is "necessary for the project to achieve consistency with the goals of the Highlands Act."

With respect to whether the project along with the landscape plan is consistent with the goals and purposes of the Highlands Act, the Highlands Council assesses the requirement against the Highlands Act, the Regional Master Plan (RMP), and NJDEP's Preservation Area rules at N.J.A.C. 7:38 (see RMP at Objective 7F1f.) The Highlands Council's analysis determines whether the nature of any inconsistencies are sufficient to find that the project is not consistent with the goals and purposes of the Highlands Act and therefore should not be exempt. Non-exempt projects, to the extent that they are inconsistent with the Highlands Act, the RMP or the Preservation Area rules, must either address those inconsistencies or apply to the NJDEP for a Highlands Preservation Area Approval which provides a mechanism to waive certain standards in N.J.A.C. 7:38 based upon public health and safety.

For the purposes of this review, the Highlands Council's analysis is limited to a determination whether the JCP&L project is consistent with those goals and purposes of the Highlands Act pertaining to: 1) historic resource protection; and 2) scenic resource protection. This analysis will be guided by the attached pages of the RMP which include the programs *Historic Resource Protection* and *Scenic Resource Protection* at pages 291 through 296. In addition, the Highlands Council will be considering the provisions of the Highlands Act and NJDEP's rules at N.J.A.C. 7:38 as they relate to historic and scenic resource protection. For the purpose of this review, it is important to note the following: 1) the Fairmont Historic District is listed in both the New Jersey and National Registers of Historic Places (see attached map); and 2) the project is not adjacent to or within any regionally significant resources in the Highlands Scenic Resources Inventory. It is also important to note that the Township of Tewksbury has designated Fox Hill Road as a scenic road and the RMP's Scenic Resource Protection Program encourages local governments to develop scenic resource protection measures within their jurisdictions and sub-regions.

To date, the Highlands Council has received the following documents from JCP&L in response to the landscape plan condition:

- Landscape Plan, Notes and Details drawing (CME Associates and Malick & Scherer P.C.) Rev. 11/17/09
- Draft Califon Substation drawings (CME Associates) no date of revision
 - East View Wall Elevation
 - East View Landscape Elevation
 - East View (at Installation)
 - East View (at Maturity)

The Highlands Council is presently reviewing JCP&L's landscape plan and will also consider any written comments from the public or interested parties on the landscape plan. As we have previously advised, the purpose of the Highlands Council review is not to reconsider the entire substation plan or, in any way, reconsider NJDEP's conditional HAD. This entire substation plan

has received a thorough review by both NJDEP and the Board of Public Utilities. Accordingly, as specified in NJDEP's conditional HAD, the scope of the Highlands Council's review is specifically limited to a determination whether the landscape plan properly screens "the substation from adjacent homes and roadways and complement the character of the existing historic district" and whether the project is consistent with the goals and purposes of the Highlands Act as they relate to historic and scenic resource protection.

The Highlands Council very much appreciates the comments that addressed these specific issues at the March 23, 2010 work session. However, the comments provided at the work session also addressed other issues (such as need, public safety, water quality, etc.) that are beyond the purview of the Highlands Council's limited scope of review. In order to ensure that the Highlands Council provides an opportunity to be heard on this matter, the Council will be accepting written public comments. Comments may be provided **on or before Monday April 19, 2010** by email to: chris.ross@highlands.state.nj.us. While electronic submittals are preferred, comments may also be provided by mail or hand delivery to Chris Ross, Senior Resource Management Specialist, at the address above but must be received by 5:00 PM on this date.

This comment process will provide an important mechanism to allow any interested parties, including Tewksbury Township and JCP&L, to react to any issues raised in the application or the work session. The Highlands Council's decision in this matter will include a document that addresses and is responsive to the comments received on this project, but only with regard to comments that are within the Highlands Council's limited scope of review. By copy of this letter to the attached service list, the Highlands Council is providing notice to the interested parties that have provided written comment to date. Additional public notice will be provided on the Highlands Council website. Please be advised that written public comments previously submitted to the Highlands Council regarding historic and scenic resource protection and the landscape plan will be considered by the Highlands Council; these do not have to be resubmitted unless the commentor wishes to provide supplemental materials.

If you have any questions, please do not hesitate to contact me directly or you may also contact my Executive Assistant, Annette Tagliareni, at (908) 879-6737, ext. 111 or reach her via e-mail at annette.tagliareni@highlands.state.nj.us.

Yours sincerely,



Eileen Swan
Executive Director

Attachments

c: Service List
RMP Pages - Historic Resource Protection and Scenic Resource Protection Programs
Historic District Map