



State of New Jersey

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Division of Land Use Regulation
Mail Code 501-02A
P.O. Box 420
Trenton, New Jersey 08625-0420
www.nj.gov/dep/landuse

CATHERINE R. McCABE
Acting Commissioner

Mr. William C. Campbell, III
Environmental Consulting & Technology, Inc.
6135 Park South Drive, Suite 510
Charlotte, NC 28210

Re: Phoenix Energy Center
Block: 105 Lot(s): 1
Pohatcong Township, Warren County
Block: 1 Lot(s) 1.01 & 1.02
Holland Township, Hunterdon County
(WQMP)
Program Interest No.: 0000-13-0007.4
Activity No: APD180001

Agency Determination: Highlands Act-Exempt
Exemption #4
Water Quality Management Plan-**Inconsistent**
Major Highlands Development

Dear Mr. Campbell:

This letter is in reply to your request for a Highlands Applicability Determination and Water Quality Management Plan (WQMP) Consistency Determination. Based on the information submitted and Division of Land Use Regulation (Division) review, it has been determined that the project described below qualifies for Exemption #4 and the project is considered "inconsistent" with the Water Quality Management Plan.

The proposed project is located within the Highlands Preservation Area at #1 Route 519, Bloomsbury Township, Hunterdon County, N.J., and consists of the construction of an electric generating facility. The project as shown on the site plan entitled, "PHOENIX ENERGY CENTER LLC, PLOT PLAN (OPT. 1-COOLING TOWER IMPERVIOUS AREA OVERLAY", SHEET SKM1-1-6)", dated April 26, 2018, unrevised, and prepared by Arthur J. Magrini, of Power Engineers has been reviewed to determine the applicability of the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38

(Highlands Rules) as well as the requirements defined in the Statewide Water Management Planning rules at N.J.A.C. 7:15 (WQMP rules)

The Division has determined that the Project is a "Major Highlands Development," as defined at N.J.A.C. 7:38-1.4, since it is not a residential development. After a careful review of the information submitted, it has been determined that the Project described above qualifies for exemption #4 for the "reconstruction for any reason of any building or structure within 125 percent of the footprint of a lawfully existing impervious surface in existence on August 10, 2004, provided that construction does not increase the lawfully existing impervious surface by one-quarter acre or more. The total of legally existing impervious surfaces onsite is 450,154 sq. ft. of which 284,594 sq. ft. will be restored to natural conditions. The proposed new impervious total is 187,185 sq. ft. and existing impervious to remain is 165,560 sq. ft. for a total of 352,745 sq. ft. of impervious proposed onsite.

This Project was published in the May 16, 2018 DEP Bulletin and no public comments were received.

Therefore, the proposed Project is deemed exempt from the provisions of the Highlands Rules, subject to the following limitation(s):

If the Division subsequently determines the information submitted to obtain this decision is inaccurate, the exemption shall be void.

This exemption determination is limited to the land area and specific scope of the activities described herein or as shown on the referenced site plan above. This determination does not eliminate the need for any permits, approvals, or certifications required by any other Federal, State, county or municipal review agency with jurisdiction over this activity, including, but not limited to, freshwater wetlands or flood hazard permits or review of storm water management.

The Division also reviewed your Project for consistency with the WQMP rules and the provisions and recommendations of the Upper Raritan WQMP. Based on our review, the proposed Project is "Inconsistent" with the Upper Delaware WQMP based on the following:

Proposed Wastewater flows >2,000 gallons per day

Proposed Water Supply of 5,000,000 gallons per day

A finding of inconsistent means that the Department cannot issue any permits or approvals for the activity, even if it is exempt from the Highlands Act. The activity shall not proceed until the applicant applies for and receives an amendment to the areawide WQMP that includes the proposed activity in the WQMP and complies with all Federal, state, county or municipal requirements applicable to the proposed project.

In accordance with the applicable regulations, any person who is aggrieved by this decision or any of the conditions of this determination may request a hearing within 30 days after notice of the decision is published in the DEP Bulletin. This request must include a completed copy of the Administrative Hearing Request Checklist. The DEP Bulletin is available through the Department's website at <http://www.nj.gov/dep/bulletin> and the Checklist is available through the Division's website at http://www.nj.gov/dep/landuse/download/lur_024.pdf. In addition to our hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see the website www.nj.gov/dep/odr for more information about this process.

If you have any questions or require further assistance, please call Jill Neall at (609) 777-0456 or by email at jill.neall@dep.nj.gov.

Sincerely,



6/20/18

Patricia Cluelow, Supervisor
Bureau of Application Support

- C: Pohatcong Township, Construction Official, Environmental Commission, Planning Board
- Holland Township, Construction Official, Environmental Commission, Planning Board
- Warren County Planning Board Official, Warren County Environmental Commission
- Hunterdon County Planning Board Official, Hunterdon County Environmental Commission
- New Jersey Highlands Council-Margaret Nordstrom