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ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

PROPOSED AMENDMENT TO THE UPPER DELAWARE WATER QUALITY

MANAGEMENT PLAN

**Public Notice**

**Take notice** that the New Jersey Department of Environmental Protection (Department) seeks public comment on a proposed amendment to the Upper Delaware Water Quality Management (WQM) Plan that would also modify the Mount Olive Township Wastewater Management Plan. This amendment proposal (Program Interest No. 435437, Activity No. AMD160003), submitted by Chester, Ploussas, Lisowsky Partnership, LLC on behalf of Foreign Trade Zone Venture, LLC would expand the sewer service area (SSA) of the Musconetcong Sewage Treatment Plant by 7.52 acres. The project identified as International Trade Center East is located in Mount Olive Township, Morris County, Block 106, Lot 2 (Portion). The proposed development consists of twenty-one single family homes. This proposed amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and represents the Department's decision to proceed further with the amendment application as provided in N.J.A.C. 7:15-3.5(g)5.

Pursuant to N.J.A.C. 7:15-4.4(d), sewer service may only be provided to areas that are not identified as environmentally sensitive areas (ESAs), certain coastal planning areas, or areas

subject to US Environmental Protection Agency (EPA) 201 Facilities Plan grant conditions, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l).

Pursuant to N.J.A.C. 7:15-4.4(e), Environmentally Sensitive Areas (ESAs) are any contiguous area, based on a composite Geographic Information System (GIS) analysis, of 25 acres or larger consisting of any of the following features alone or in combination: areas mapped as threatened and endangered wildlife species habitat as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife (Landscape Maps) as Rank 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standard, N.J.A.C. 7:9B, based on the Department's maps of such waters and their corresponding 300-foot riparian zone based upon the Flood Hazard Area Control Act Rules, N.J.A.C 7: 13; and wetlands as mapped pursuant to N.J.S.A. 13:19A-1 and 13:9B-25.

Pursuant to N.J.A.C 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as threatened and endangered wildlife species habitat identified pursuant to N.J.A.C. 7:15-4.4(e)1. Areas identified by the Landscape Maps as being suitable habitat for threatened and endangered species Ranks 3 (State threatened), Rank 4 (State endangered), or Rank 5 (Federal endangered or threatened) are not to be included in proposed SSAs except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped pursuant to N.J.A.C. 7:15-4.4(e)1 as threatened or endangered wildlife habitat, the Department utilized its Landscape Maps, version 3.1 at <http://www.nj.gov/dep/gis/listall.html>. Review of Landscape Maps for this proposed site has determined that a small portion of the site is identified as Rank 4 Bald Eagle habitat.

N.J.A.C. 7:15-4.4(j)2 provides that an applicant may rebut the presumption that the Department's environmental data is accurate by providing a Habitat Suitability Determination (HSD) prepared pursuant to N.J.A.C. 7:15-4.6 that demonstrates that an area is not suitable habitat for endangered or threatened wildlife species. In September 2016, the applicant submitted a HSD prepared by EcolSciences, Inc. The Department reviewed the HSD, all relevant documents submitted with the WQMP amendment application, and existing and historic environmental data on the site, and determined the site was suitable Bald Eagle habitat. In addition to the Bald Eagle habitat, the applicant also identified a small portion of the site as Rank 4 Eastern Bobcat habitat.

Through review of the HSD, the Department also determined that the potential Bobcat habitat is a Species Occurrence Area (SOA). A SOA is a mapped representation of an area that a sighted species could be expected to use if the habitat were suitable and accessible. However, the Department has determined that the proposed site occurs in a largely urban landscape that is landlocked by busy roadways, as well as commercial and residential development. Due to the low quality habitat provided by the urban landscape, and the landscape location amongst major roadways, the area is likely inaccessible to the species and, therefore, unsuitable habitat.

N.J.A.C. 7:15-4.4(k) provides that areas designated as ESA based on Landscape Maps may be included in SSA provided the Department determines that the proposed project or activity avoids the endangered or threatened wildlife species habitat; will result in insignificant or discountable effects on the maintenance or local breeding, resting, or feeding of the species; or includes the implementation of conservation measures that will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for any such adverse modification.

The Department has determined that, based on storm damage that has resulted in blowdown of a significant number of white pine trees on the site, the Bald Eagle nests close to the edge of the Morris Canal. Accordingly, the applicant proposed to provide a 125-foot habitat buffer off the Morris Canal in order to not disrupt the foraging and nesting activities of the Bald Eagle. Therefore, the Department determined that the 125-foot buffer would be sufficient to avoid the habitat used by foraging Bald Eagles.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-4.4(e)2. Areas mapped as Natural Heritage Priority Sites are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites pursuant to N.J.A.C. 7:15-4.4(e)2, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. The Department's review determined that the project site is located within the Bridge to Nowhere Natural Heritage Priority Site, which contains a population of a globally rare state endangered plant species, the Meadow Cuckoo flower.

N.J.A.C. 7:15-4.4(l) provides that an area designated as ESA because it has been identified as a Natural Heritage Priority Site may be included in SSA only if the Department determines that the proposed project or activity avoids or does not adversely impact natural resource elements occurring within the Natural Heritage Priority Site. To make this determination, the Department evaluated the HSD provided by the applicant. Based on review of the HSD, the Department determined that the species of concern are beyond the Morris Canal, which is outside the project

site to the Northeast. As the applicant has agreed to provide a 125-foot habitat buffer from the canal toward the project site, the proposed activity will substantially avoid the habitat. Therefore, the Department concluded that there would be no adverse impact to the natural resource element.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as Category One waters and their corresponding 300 foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3. Areas identified as Category One waters and their corresponding 300 foot riparian zones are not to be included in SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of Category One waters and their corresponding 300 foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no Category One waters and their corresponding 300 foot riparian zones located on the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as environmentally sensitive areas, such as mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4. Areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in proposed SSAs, except as provided under N.J.A.C. 7:15-4.4(i) through (l). To evaluate the existence of mapped wetlands pursuant to N.J.A.C. 7:15-4.4(e)4, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no wetlands within the designated SSA of the subject site.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as coastal planning areas pursuant to N.J.A.C. 7:15-4.4(f). Areas mapped as Coastal Fringe Planning

Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Planning Areas are not to be included in SSA, except, as provided under N.J.A.C. 7:15-4.4(f)1 and 2, to abate an existing imminent public health and safety issue, to accommodate infill development or as necessary to create a linear boundary that coincides with recognizable geographic, political, or environmental features depicted in the Department's GIS coverage. To evaluate the existence of any coastal planning areas identified in N.J.A.C. 7:15-4.4(f), the Department evaluated the presence of coastal planning areas identified on the CAFRA Planning Map available at <http://www.nj.gov/dep/gis/install.html>. The subject site is not located within any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas.

Pursuant to N.J.A.C. 7:15-4.4(d), areas shall only be eligible for SSA if they are not identified as areas subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). Areas with 201 Facilities Plan grant limitations that prohibit the extension of sewers into specified ESAs are excluded from the SSA, unless documentation can be provided demonstrating that a mapping revision or waiver has been obtained from EPA, as provided under N.J.A.C. 7:15-4.4(g). To evaluate the existence of 201 Facilities Plan grant conditions that prohibit the expansion of SSA to ESAs, the Department reviewed mapped wetlands utilizing its GIS data at <http://www.nj.gov/dep/gis/install.html>, flood plains using the Federal Emergency Management Agency (FEMA) flood plain mapping at <https://msc.fema.gov/portal>, and the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www3.epa.gov/region02/water/sewer.html>. The Musconetcong Sewerage Authority service area were funded under the federal construction grant program administered under Section 201 of the Federal Clean Water Act. The

Musconetcong Sewerage Authority is subject to a federal ESA grant condition included in the grant agreement executed between the Musconetcong Sewerage Authority and EPA under project number C340384. The grant condition, provided within this agreement, “prohibits the discharge of wastewater into this system from any building, facility or other manner of construction which is erected after this date on any area mapped as wetlands in the National Wetlands Inventory Maps prepared by the USFWS.” As the project site contains no delineated wetlands, no waiver of 201 Facilities Plan grant conditions is required.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and (h)2, the Department shall consider in the delineation of areas eligible for sewer service, the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. On January 14, 2016, the Mt. Olive Township Planning Board adopted a Resolution in support of this proposed site specific amendment as an Amendment to the Master Plan Land Use Element of the 2003 Master Plan. Therefore, the proposed project is consistent with the local zoning ordinance and the county and local master plans.

Pursuant to N.J.A.C. 7:15-3.5(j)2, for projects that propose to add 100 or more acres to the SSA, or where the additional SSA would generate 20,000 gallons per day (gpd) or more of wastewater, an applicant must prepare a modification to the wastewater treatment capacity analysis to include the proposed project or activity, pursuant to N.J.A.C. 7:15-4.5(b). The project plans to add 7.52 acres to the SSA and the projected wastewater flow for the proposed project, anticipated to be received by Musconetcong Water Pollution Control Plant, is 6,300 gallons per day (gpd) based on

flow calculations in accordance with N.J.A.C. 7:14A-23.3. Therefore, no change to the wastewater treatment capacity analysis is required.

**This notice** is to inform the public that a plan amendment has been proposed for the Upper Delaware WQM Plan. All information related to the WQM Plan and the proposed amendment is located at:

Morris County Department of Planning and Public Works  
30 Schuyler Place, PO Box 900  
Morristown, NJ 07963

AND

NJ Department of Environmental Protection  
Office of Water Resources Management Coordination  
P.O. Box 420, Mail Code 401-02A  
401 East State Street,  
Trenton, New Jersey 08625-0420

The Department's file is available for inspection through the Open Public Records Act. Requests can be made on-line at <http://www.nj.gov/dep/opra/>.

**Interested persons** may submit written comments on the proposed amendment to the WQM Program Docket, at the Department address cited above. Comments should reference Program Interest No. 435437, Activity No and must be submitted within 30 days of the date of this public notice or within 15 days of the last public hearing, as described below. AMD160003. A copy should be sent to:



Virginia Michelin  
Morris County Department of Planning and Public Works  
30 Schuyler Place, PO Box 900  
Morristown, NJ 07963

AND

Gregory Ploussas  
Chester, Ploussas, Lisowsky Partnership, LLC  
100 Matawan Road, Suite 300  
Metro Park South  
Matawan, NJ 07747-3913

All comments should reference Program Interest No. 435437, Activity No. AMD160003 and must be submitted within 30 days of the date of this public notice or within 15 days after the close of the public hearing, as provided below. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.

**Interested persons** may request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period in this notice. Such request should reference Program Interest No. 435437, Activity No. AMD160003 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined under N.J.AC. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the WQM Program Docket at the Department address cited above. Should the Department decide to hold a non-adversarial public hearing, notice of said hearing and the revised comment period's closing date will be published in a future New Jersey Register. If a public hearing for the amendment is held, the public comment period provided by this notice shall close 15 days after

the last public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.

Sewer service is not guaranteed by this amendment. This proposed amendment represents only one part of the permit process and other issues may need to be addressed. These issues may include, but are not limited to, obtaining all permits for the proposed projects; meeting all regulatory requirements for needed permits, compliance with stormwater regulations; antidegradation; effluent limitations; water quality analysis; exact locations and designs of future treatment works; development in wetlands and flood prone areas, or other environmentally sensitive areas which are subject to regulation under Federal or State law or to any contractual arrangements between municipalities, authorities and/or private parties. Inclusion in the sewer service area as a result of the approval of this amendment does not eliminate the need to obtain all necessary permits, approvals or certifications required by any Federal, State, County or municipal review agency with jurisdiction over this project/activity.

SIGNED

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Colleen Kokas, Director  
Office of WRM Coordination  
Department of Environmental Protection

02/10/2017

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Date