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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Proposed Amendment to the Northeast 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 Northeast Water Quality Management (WQM) Plan. This amendment proposal (Program Interest No. 435442, Activity No. AMD160002), submitted by Bowman Consulting, on behalf of Toll Brothers, Inc., would expand the sewer service area (SSA) by 17.26 acres and allows for the construction of 150 dwelling units across 26 residential buildings. Of the proposed 150 three-bedroom dwelling units, 30 units will be affordable housing units in three two-story buildings; 120 units will be market-rate units housed in 23 two-story and three-story buildings. Approximately 30 percent of the site, or approximately 12.85 acres, is proposed to be retained as open space, in addition to open space designed within the development. The proposed project, identified as Toll Denville, is in Denville Township, Morris County on a portion of Block 40001, Lot 4 and a portion of Block 40203, Lot 1, east of Franklin Avenue and south of US Highway 46. The proposed project site is located in a Highlands Water Deficit Area requiring a Water Use Conservation and Management Plan. 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 with the amendment application as provided in N.J.A.C. 7:15-3.5(g)5.

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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), 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; areas mapped as 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 Rank 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 at N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as threatened or endangered wildlife habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3, available at <http://www.nj.gov/dep/gis/listall.html>, and determined that a portion of the site is mapped as Rank 5 Indiana Bat habitat.

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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. On September 24, 2013, the applicant submitted a HSD prepared by EcolSciences, Inc. Department review of the HSD determined that the proposed project site included suitable habitat for the Indiana Bat due to the presence of suitable host plant species within the onsite vegetation.

Where a proposed site includes suitable habitat for an identified endangered or threatened wildlife species, N.J.A.C. 7:15-4.4(k) provides that areas designed as ESA based on the Landscape Maps may be included in SSA provided the Department determines, through a Habitat Impact Assessment, that the proposed activity avoids the endangered or threatened wildlife species habitat, will result in insignificant or discountable effects on the activities of the species, or includes some adequate degree 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. N.J.A.C. 7:15-4.7 provides the information that must be submitted as part of an HIA for the Department to review. The Department conducted a field survey of the proposed project site and noted that, while the subject site is a component of a mapped habitat patch larger than 25 acres in size, the site did not appear to provide the broad range of habitat used by bats during the summer months, making the onsite habitat of less critical value to the species than other forested habitats within the region. Accordingly, the Department determined that the proposed project would result in insignificant or discountable effects on the Indiana Bat.

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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 at N.J.A.C. 7:15-4.4(i) through (l). To evaluate areas mapped as Natural Heritage Priority Sites, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no Natural Heritage Priority sites 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 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 at 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 or 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 at 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> and identified mapped wetlands on the subject site. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided Freshwater Wetlands Letter of

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Interpretation/Line Verification File No. 1408-08-0006.1 FWW080001 (LOI) and LOI Extension 1408-08-0006.1 FWW160001, confirming the extent of wetlands and transition areas on the site. The applicant will be applying for a Freshwater Wetlands General Permit No. 6 pursuant to N.J.A.C. 7:7A-5.6 to fill three isolated wetlands on the proposed project site, which collectively amount to less than one acre in size. The applicant will also be applying for: a Freshwater Wetlands General Permit No. 2 for a proposed utility line crossing pursuant to N.J.A.C. 7:7A-5.2; a Freshwater Wetlands General Permit No. 10 pursuant to N.J.A.C. 7:7A-5.10(a) for a proposed road crossing; a Freshwater Wetlands General Permit No. 11 for a proposed stormwater outfall pursuant to N.J.A.C. 7:7A-5.11; and, a Transition Area Averaging Plan Waiver pursuant to N.J.A.C. 7:7A-6.2. While there may be other wetlands within the proposed project site, none of those instances of wetlands are within the SSA.

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

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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 Federal 201 grant limitations that prohibit the extension of sewers into specified ESAs are excluded from 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 the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www3.epa.gov/region02/water/sewer.html>.

The proposed project site anticipates conveying wastewater to the Rockaway Valley Regional Sewerage Authority Design of Advanced Wastewater Treatment Facilities, which was funded under the Federal construction grant program administered under Section 201 of the Federal Clean Water Act. The Sewerage Authority is subject to a Federal ESA grant condition included in the grant agreement executed between the Sewerage Authority and USEPA under project number C-34-389-02. The ESA grant condition prohibits any sewer connections to Federally funded facilities from any sewage generating structure located on a parcel of property containing wetlands and/or floodplains unless a mapping revision or waiver is obtained. Such mapping revisions and waivers are only issued after a formal request by the grantee, in this case, the Sewerage Authority, is made to USEPA. The request by the grantee must include the submission of a wetlands verification from a Department-issued LOI confirming that ESAs will not be impacted if sewer conveyance systems are constructed to serve the proposed development.

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Since there are wetlands present on the site, prior to any final Department approval to amend the WQMP to include this site within SSA, the grantee must obtain from USEPA a mapping revision or waiver from the specified 201 Facilities Grant conditions.

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. Based on communication with the Denville Township Planning Board, the Department has determined that the proposed project complies with the Housing Element and Fair Share Plan within the Township's Master Plan. Additionally, the Township is considering rezoning the district in which the proposed project is located, such that the rezoning would satisfy the Township's obligations regarding the Council on Affordable Housing. On August 8, 2017, the Morris County Board of Planning and Development confirmed to the Department via email that it will not offer a position on the proposed amendment.

N.J.A.C. 7:38-1.1(k) provides that, for both the planning area and preservation areas, the Department shall review the Highlands Council regional master plan and consider amending the appropriate areawide WQM Plans to maintain consistency with the regional master plan. The proposed project site is in Denville Township, a Highlands non-conforming municipality within the Planning Area of the Highlands Region. As noted in the WQMP Rule Proposal, 47 N.J.R. 2531(a), where an area may result in further deficit of a subwatershed, the Highlands Council may recommend that a Water Use and Conservation Management Plan (WUCMP) be implemented to ensure safety of water supply conditions. Accordingly, the Highlands Council has notified the Department that the proposed project is located within a Highlands Water Deficit Area and, to proceed with development, the Township must enter into an agreement with the Highlands Council

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for a WUCMP, which includes a scope of work for WUCMP development and implementation, as well as conditions for funding from the Highlands Council. Upon execution of the WUCMP, the Highlands Council will issue a consistency determination for the proposed project. Prior to any final Department approval to amend the WQMP to include the proposed site in SSA, Denville Township must execute a WUCMP with the Highlands Council.

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, the 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 proposed project plans to add 17.26 acres to the SSA, and the projected wastewater flow for the proposed project to be received Rockaway Valley Regional Sewerage Authority is 45,000 gpd, based on flow calculated pursuant to N.J.A.C. 7:14A-23.3. The Rockaway Valley Regional Sewerage Authority is currently permitted to discharge up to 12.0 million gallons per day (MGD), under New Jersey Pollutant Discharge Elimination System (NJPDES) permit NJ0022349. Based on an average of the monthly average flow from NJPDES Discharge Monitoring Reports for the 12-month period of June 2016 to May 2017, the Rockaway Valley Regional Sewerage Authority Sewage Treatment Plant discharges an existing wastewater flow of 7.98 MGD. Therefore, the additional flow should not cause the facility to exceed its permitted capacity.

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

Morris County Department of Planning & Development
30 Schuyler Pl, 4th Floor

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Morristown, NJ 07963

AND

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

The Department's file is available for inspection through the Open Public Records Act. Requests may be made online at <http://www.nj.gov/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. 435442, Activity No. AMD160002 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.

A copy should be sent to:

Virginia Michelin
Morris County Department of Planning & Development
30 Schuyler Pl, 4th Floor
Morristown, NJ 07963

AND

Tony DiLodovico
Tony D Environmental Permitting
One Briarwood Court
Jackson, NJ 08527

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

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should reference Program Interest No. 435442, Activity No. AMD160002 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 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 non-adversarial 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 Morris County and 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.

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SIGNED

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

AUGUST 11, 2017

Date