

NOTE: THIS IS A COURTESY COPY OF THIS PLAN AMENDMENT PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE AUGUST 7, 2023 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

### **WATERSHED AND LAND MANAGEMENT**

### **DIVISION OF WATERSHED PROTECTION AND RESTORATION**

#### **Proposed Amendment to the Northeast Water Quality Management Plan**

**Take notice** that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Northeast Water Quality Management (WQM) Plan in accordance with the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15. The proposed amendment, identified as “Mason Ridge - Denville” (Program Interest No. 435442, Activity No. AMD220004) would expand the sewer service area (SSA) of the Parsippany-Troy Hills Wastewater Treatment Plant (WWTP) (NJPDES No. NJ0024970) by 6.978 acres on Block 21401, portion of Lots 1, and 2, in Denville Township, Morris County, to serve a proposed 120 residential unit multi-family residential development (96 market-rate and 24 affordable units) consisting of 4 one-bedroom apartments, 15 two-bedroom apartments and 101 three-bedroom apartments or townhouses. There are 4.376 acres of the project site located within the currently adopted SSA on Lots 1, 2 and 3. Of the currently adopted SSA, 2.302 acres will be removed from the SSA. An additional 0.745 acres of the currently adopted SSA will be removed and conserved along with an additional 5.659 acres of the project site, for a total of 6.404 acres conserved. The project will generate a projected wastewater flow of 34,275 gallons per day (gpd) of which 28,575 gpd will

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be generated by the portion of the project located within the proposed sewer service area, calculated in accordance with N.J.A.C. 7:14A-23.3.

This notice represents the Department's determination that the proposed amendment is compliant with the applicable regulatory criteria at N.J.A.C. 7:15, as described below.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to the eligible SSA needed to address a specific project or activity. N.J.A.C. 7:15-3.5(j)2 requires that site specific amendments proposing to add 100 or more acres or generating 20,000 gpd or more of wastewater flow shall include a proposed modification to the wastewater treatment capacity analysis prepared in accordance with N.J.A.C. 7:15-4.5(b) to include the proposed project or activity. The proposed project involves less than 100 acres but would generate more than 20,000 gpd of wastewater flow. In accordance with N.J.A.C. 7:15-4.5(b)1, the existing wastewater flow at the Parsippany-Troy Hills Wastewater WWTP, calculated as the highest consecutive 12-month rolling average during the five-year period preceding the amendment application, was determined to be 10.942 million gallons per day (mgd) (July 2018 to June 2019) based on NJPDES Discharge Monitoring Reports reported in DEP Data Miner (<https://www.13.state.nj.us/DataMiner>). The Parsippany-Troy Hills WWTP is currently permitted to discharge up to 16 mgd under NJPDES Permit No. NJ 0024970. As such, the Parsippany-Troy Hills WWTP currently has capacity for the proposed project.

The proposed project is located within the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.a. Areas eligible for sewer service in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). The proposed project is located within an

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Environmentally Constrained Zone of the Highlands Planning Area. Denville Township has not opted to conform with the Highlands Regional Master Plan (RMP). However, pursuant to Executive Order 114 (2008), the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability provisions of the RMP. In a letter dated November 29, 2022, the Highlands Council determined the project was consistent with Executive Order 114 (2008) based on Denville Township's adoption of a Water Use and Conservation Management Plan (WUCMP) on May 11, 2022, the site conditions, location and the proposed project meeting the 20% set aside for affordable housing.

In accordance with N.J.A.C. 7:15-4.4(c)3, in the Highlands planning areas, for municipalities that do not conform with the RMP, areas eligible for sewer service shall conform to N.J.A.C. 7:15-4.4(d) and (h). Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i), (j), (k), and (l): environmentally sensitive areas (ESAs) identified pursuant to N.J.A.C. 7:15-4.4(e), as any contiguous area of 25 acres or larger consisting of any of the following, alone, or in combination: endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One (C1) waters and their tributaries, or wetlands; coastal planning areas identified at N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions pursuant to N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the project site using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <https://gisdata-njdep.opendata.arcgis.com> and/or other information as noted below, to determine the presence

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of any such areas in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g) and made the following findings:

- The Department determined that the proposed SSA contains areas mapped as endangered or threatened wildlife species habitat for Bobcat (Rank 4) and Indiana Bat (Rank 5) on the Department's Landscape Maps of Habitat for Endangered, Threatened or other Priority Wildlife based on the "Landscape Project Data" Version 3.3 GIS data layers, in accordance with N.J.A.C. 7:15-4.4(e)1. Pursuant to N.J.A.C. 7:15-4.5(k), the applicant submitted a Habitat Impact Assessment (HIA), dated October 28, 2022, prepared by EcolSciences, Inc., prepared in accordance with N.J.A.C. 7:15-4.7. The Department review determined that due to onsite habitat conditions, proximity to development and overall landscape position, the proposed amendment will result in insignificant impacts to Bobcat, pursuant to N.J.A.C. 7:15-4.4(k)2. However, the Department identified forested habitat on the project site that is suitable for foraging and habitat for the Indiana bat. The Department determined that implementation of the following conservation measures is required in order for the proposal to result in insignificant or discountable effects on the maintenance of local breeding, resting or feeding of the endangered or threatened species. Provided these conditions are met, then the project site is eligible for inclusion in the SSA pursuant to N.J.A.C. 7:15-4.4(k)2.

1. The applicant shall execute a conservation restriction establishing a permanent conservation easement on 6.404 acres of the property. The conservation easement will be filed in accordance with the New Jersey Recording Act, N.J.S.A. 46:15-1.1 et seq. The 6.404 acres are to be maintained in its existing state or revegetated with appropriate tree

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species as shown on the concept plan entitled, “Mason Ridge-Denville, Lots 1, 2, and 3, Block 21401, Township of Denville, Morris County, New Jersey, Proposed Sewer Service Area Plan” dated October 28, 2022, and last revised on February 24, 2023, prepared by Gladstone Design, Inc. The deed restriction must be executed, filed and recorded with the Morris County Clerk; and proof of ownership and recordation of the deed restriction must be provided to the Department prior to adoption of the proposed amendment, in accordance with N.J.A.C. 7:15-4.4(k)3.

2. Consistent with United States Fish and Wildlife Service (2022) guidance, no trees may be cleared on the subject property between April 1<sup>st</sup> and November 15<sup>th</sup> in any given year to minimize potential take of a federally listed bat species.
- The Department determined that the proposed SSA does not contain any areas mapped as Natural Heritage Priority Sites based on the “Natural Heritage Priority Sites” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)2.
  - The Department determined that the proposed SSA does not contain any C1 waters or 300-foot riparian zones along any C1 waters or upstream tributaries within the same HUC-14 watershed of any C1 waters based on the “Surface Water Quality Standards” GIS data layer, in accordance with N.J.A.C. 7:13-4.1(c)1 and 7:15-4.4(e)3.
  - The Department determined that there are wetlands located on the project site based on the “Wetlands 2012” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4; however, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter of Interpretation

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(LOI)/Line Verification File # 1408-22-0008.1 confirming that there are no wetlands within the proposed sewer service area.

- The Department determined that the proposed SSA does not contain any areas mapped as Fringe Planning Areas, Rural Planning Areas, or Environmentally Sensitive Planning Areas within the Coastal Area Facility Review Act (CAFRA) zone based on the “CAFRA (polygon)” GIS layer and the “State Plan Data” GIS layer, in accordance with N.J.A.C. 7:15-4.4(f).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project based on the U.S. Environmental Protection Agency (USEPA) list of New Jersey Grantees with ESA Grant Conditions at <https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2> in accordance with N.J.A.C. 7:15-4.4(g).

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in adopted zoning ordinances, future land uses shown in adopted municipal and county master plans, and other local land use objectives. In correspondence dated January 11, 2023, Steven Ward, the Denville Township Administrator, confirmed that the proposed development is consistent with Denville’s Zoning Ordinances. On December 20, 2022, the Morris County Office of Planning and Preservation confirmed via email that it will not offer a position regarding the proposed amendment’s consistency with the county master plan.

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

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New Jersey Department of Environmental Protection

Division of Watershed Protection & Restoration

Bureau of NJPDES Stormwater Permitting and Water Quality Management

Water Quality Management Planning Program

PO Box 420, Mail Code 501-02A

501 East State Street

Trenton, New Jersey 08625-0420

The Department's file is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday, upon request. An appointment to inspect the file must be arranged by calling the Bureau of NJPDES Stormwater Permitting & Water Quality Management (609) 633-7021.

Interested persons may submit written comments on the proposed amendment to the Department at the address cited above or at the email: [wqmp.publiccomments@dep.nj.gov](mailto:wqmp.publiccomments@dep.nj.gov). Comments should reference Program Interest No. 435442, Activity No. AMD220004 and must be submitted within 30 days of the date of this public notice.

Interested persons may request in writing that the Department hold a nonadversarial public hearing on the amendment or extend the public comment period specified in this notice. Such requests should reference Program Interest No. 435442, Activity No. AMD220004 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined at N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the Department address cited above. Should the Department decide to hold a public hearing, additional notice will be published in a future issue of the New Jersey Register

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and the comment period will be extended to 15 days after the public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department before making a final decision on the proposed amendment.

Sewer service is not guaranteed should this amendment be adopted as it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the SSA 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.

06/20/2023

Date

Signed

Gabriel Mahon, Bureau Chief  
Bureau of NJPDES Stormwater Permitting & Water  
Quality Management  
Division of Watershed Protection and Restoration  
New Jersey Department of Environmental Protection