

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATERSHED MANAGEMENT

AMENDMENT TO THE UPPER RARITAN, LOWER RARITAN/MIDDLESEX COUNTY
AND NORTHEAST WATER QUALITY MANAGEMENT PLANS

Public Notice

Take notice that on **MAR 29 1999**, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Water Quality Management Plan was adopted by the Department of Environmental Protection (Department). This amendment, submitted by Somerset County Board of Chosen Freeholders, adopts the Somerset County/Upper Raritan Watershed Wastewater Management Plan (SC/URW WMP). The WMP area encompasses all or part of the following municipalities: Bedminster, Bernardsville, Branchburg, Bridgewater, Far Hills, Hillsborough, Manville, Millstone, Peapack-Gladstone, Raritan, Somerville, and Warren. In addition to these municipalities, upon adoption the WMP area encompasses portions of Bernards, Green Brook and Chester Townships. The Somerset County/Upper Raritan WMP supersedes all present individual municipal WMPs. The Bernards Township Sewerage Authority (BTSA) and Readington-Lebanon Sewerage Authority (RLSA) WMPs are amended relative to proposals contained within this WMP which affect their respective WMP areas.

The SC/URW WMP identifies existing and proposed future sewer service areas of the Somerset Raritan Valley Sewerage Authority (SRVSA), Environmental Disposal Corporation (EDC), Middlesex County Utilities Authority (MCUA), BTSA, Borough of Bernardsville, Fox Hollow, Neshanic Station, River Road, and Fieldhedge sewage treatment plants (STPs). The WMP addresses smaller domestic and commercial STPs including the Department of Veterans' Affairs Supply Depot (Veterans' Affairs), Fiddler's Elbow Country Club, Delorean, Royce Brook Golf Course, Hamilton Farms and Merck. The WMP identifies existing industrial treatment facilities within the WMP area as well as areas to be served by ground water disposal facilities with design flows of less than 2,000 gallons per day (gpd) [such as individual home septic systems].

Some of the activities proposed include: expansion of the SRVSA STP to accommodate annual average wastewater flows of 24.41 million gallons per day (mgd) resulting from both expansions of the sewer service area and decommissioning of the Fox Hollow, Neshanic Station, Veterans' Affairs, River Road and Fieldhedge STPs with conveyance to SRVSA; conversion of the existing Fiddler's Elbow STP to a pump station with conveyance across the Lamington River to a new STP located in Readington Township designed to accommodate an annual average wastewater flow of 0.0198 mgd with peak flows up to 0.030 mgd; expansion of the MCUA sewer service area to include portions of Bridgewater and Warren Townships; expansion of the EDC STP to accommodate annual average wastewater flows of 1.985 mgd; use of approximately 0.2 to 0.5 mgd of effluent from the EDC STP for irrigation at The Hills Golf Course Development; expansion of various STP sewer service areas to accommodate anticipated development; deletion of some areas, particularly in

Hillsborough Township, from the proposed sewer service area, and; a change in Bedminster Township from areas previously proposed for on-site ground water disposal areas for facilities with design flows of less than 20,000 gpd to areas for ground water disposal facilities with design flows of less than 2,000 gpd.

Hillsborough Township is presently reviewing its land use, zoning and sewerage needs relative to the Planned Adult Community/Health Care Facility Zone (PAC/HCF) located near Branchburg and the Corporate Development Zone near Manville. The Township Committee has, by resolution dated June 25, 1997, indicated that the PAC/HCF zone should not be included in the SC/URW WMP. As such, the County has indicated in the WMP that Hillsborough is reviewing these areas with regard to providing for sanitary sewer service and that these areas will remain as areas for ground water disposal facilities with design flows of less than 2,000 gpd until such time as the WMP is amended, if necessary, to reflect Hillsborough's land use decisions.

Considerable public opposition has been voiced regarding a proposed project within the PAC/HCF Zone of Hillsborough Township. Although the developer has petitioned the Department to include the project in the SC/URW WMP, the Department is processing the WMP in its present form in deference to the need to finalize and ultimately adopt the SC/URW WMP so that components of the plan important to other municipalities not be delayed if at all possible. The SC/URW WMP would have to be amended after its initial adoption to include the affected zone which will result in a future public notice and public hearing exclusively for these issues. The Department requested in the preliminary public notice and at the public hearing that comments on the PAC/HCF Zone and/or project be withheld until the public comment period and public hearing for those specific issues.

This amendment proposal was noticed in the New Jersey Register on October 6, 1997. Comments on this amendment were received during the public comment period and are summarized below with the Department's responses.

COMMENT 1: The MCUA is extremely concerned about the proposed expansion of its service area. The ramifications of such expansion as to the suitability of current infrastructure to handle the additional capacity and the financial impacts associated with the obligation to service additional participants must be carefully evaluated by the MCUA and its current participants before any consideration is made to expand its service area. MCUA objects to any proposed expansion to the MCUA service area at this time. (Richard Fitamant/MCUA)

COMMENT 2: The DEP and Somerset County should consider rescinding the request for an amendment to the Lower Raritan-Middlesex County Water Quality Management Plan. Amendment 1997-2 is premature in light of the concerns regarding the inclusion of the Borough of Millstone in the service area of the Middlesex County Utilities Authority. The WMP should be considered for adoption with the boundary as presently exists. At such time as the Lower Raritan-Middlesex County WMP is finalized for adoption reflecting the needs of the planning area municipalities and the MCUA, the WMP will be scheduled for adoption and an amendment to the Upper Raritan Watershed WQMP can be requested by Middlesex County. (Miriam Wolin/Lower Raritan-Middlesex County Water Resources Association)

RESPONSE: The Borough of Millstone has withdrawn its request to be served by MCUA through Franklin Township. The Somerset County/Upper Raritan Watershed WMP has been modified to delete the proposed connection to MCUA and identify the Borough as continuing to be served by individual subsurface sewage disposal systems with design flows of less than 2,000 gpd.

COMMENT 3: The plan amendment includes the transfer of water from the Raritan Basin Watershed. The project appears to impact upon the safe yield of the Raritan Basin system. It is important to protect the rights of the citizens who have developed the Raritan Basin water supply reservoir systems. The proposed amendment should not be approved unless it can be demonstrated that the safe yield of the Raritan Basin is not adversely affected by the proposed interbasin transfer. (Anthony Matarazzo/Elizabethtown Water Company)

RESPONSE: The Department feels that the proposed plan may have minimal effects on the safe yield of the Raritan Basin safe yield. However, in view of the concern raised, the Department plans to recalculate the flow frequencies to check if and how the MA7CD10 (a critical low flow indicator) has changed over the past decades as a result of depletive/consumptive/accretive water uses. This analysis will take time to complete, and so we will allow the proposed project to proceed through the amendment process. In addition, we are recommending that the Hills Golf Course enter into a contractual agreement with the New Jersey Water Supply Authority for the purchase of the treated wastewater effluent. Please be assured that the Department plans to scrutinize any future amendments that may have water supply implications in the Raritan Basin.

COMMENT 4: I request that Block 2, Lot 8 and Block 4, Lot 1 of Branchburg Township, a 225 acre parcel with frontage on Burnt Mill Road and approximately one mile of frontage on the North Branch of the Raritan River, be included in the proposed sewer service area of the Somerset Raritan Valley Sewerage Authority. The property is zoned Agricultural/Residential and the failure to permit sewerage of the property may constitute a serious health hazard to the drinking water supply of Central Jersey due to the leaching of potential septic systems. Access is available to the site via the North Branch trunk of the Chambers trunk, which crosses into Branchburg Township approximately 1,000 feet from my property. Except to the north, the property surrounding my property is included in the service area. Previous requests for inclusion have been made to the Township. Alternatively, I request approval for a package treatment facility to serve my residential dwelling and property. (William Lanigan)

RESPONSE: Only minor changes can be made to the public noticed WMP upon adoption without rendering the public notice process useless. A proposed expansion of sewer service area of the size, and potential wastewater flow, requested above is not considered minor. The addition of this parcel to the proposed sewer service area cannot be included at this time; however, the property may be submitted for consideration as an amendment to the WMP once the WMP is adopted. The Township of Branchburg indicated in a letter dated December 10, 1997, that the lots in question were not included in the sewer service area because to do so would be inconsistent with the zoning in that area. Please be aware that proposed sewer service areas are reviewed for consistency with local zoning and master plans.

COMMENT 5: The following changes should be made to the Environmental Disposal Corporation Facility Table, (Table 9): Item 5a should read "Unnamed tributary to the North Branch Raritan River"; Notes 5 and 9 should be changed to "Applied Wastewater Management, L.L.C."; and Items 12 and 13 should be changed to "2.1 MGD (DSW)" to reflect the recent plant expansion as well as approval from NJDEP to discharge 2.1 MGD. On Maps 2B and 3B, the EDC service area in Bernards Township is not shown correctly (i.e., the service area actually extends to Somerville Road). We note that the Plan contains additional maps with detailed delineation of service areas, among these the map for the EDC franchise area in Bernards which should be the controlling map for decision-making relative to this service area. On Page 4-2, it is indicated that the EDC service area in Bedminster is based, in part, upon the EDC Sewer Service Area Map, Township of Bedminster, as modified by Malcolm Pirnie. In what way was this map modified? (Diane Kenny/EDC)

RESPONSE: The requested changes have been made to Table 9. The EDC Sewer Service Area Map had been modified to include the Statmuller property located immediately west of the Clarence Dillon Library along Lamington Road. This expansion of the sewer service area was subsequently withdrawn in response to a municipal request based on municipal master plan requirements. See comment 6 below.

COMMENT 6: There appears to be a subtle change in the service area shown for Bedminster Township on Plate 3A : "Future Wastewater Treatment Facilities and Sewer Service Areas". The service area immediately to the west of the Clarence Dillon Library along Lamington Road (which is included in the service area) has been expanded to an adjacent property. There is no record of any requests by the Township to expand the service area in this location, and we request that it be removed. In support of the request, please consider Township Resolution 94-39 and its reconfirming Resolution 95-186 which firmly establish the Township's opposition to any expansion of the service area. (John Flood/American Associates for Township of Bedminster)

RESPONSE: Bedminster Township indicates that the zoning of the parcel is 3 acres and as such is not consistent with the need for sewer service. There are no municipally documented cases of septic failures at the site necessitating provision of sewer service as a remedial action. The WMP has been corrected per Bedminster Township's request.

COMMENT 7: The proper delineation lines in the Geiger Lane area need to be clarified. The delineation lines for the Somerset-Raritan Valley Sewerage Authority (SRVSA) service area and planning area near Geiger Lane were shown correctly in Warren Township's approved WMP with the subject area draining to SRVSA. The original draft of the County WMP also correctly delineated the area. However, the Warren Township Sewerage Authority (WTSA) Sanitary Sewer System Map incorrectly indicated that there are existing dry sewers installed in Geiger Lane which drain to the WTSA Stage IV Sewage Treatment Plant service area. Based on the WTSA Sanitary Sewer System Map, information was sent to the County indicating that the Geiger Lane area should be revised such that the area was included in the WTSA Stage IV service area. Recent field inspection of the existing dry sewers in Geiger Lane confirm that the sewers drain to the SRVSA and do not drain to the WTSA Stage IV service area. This correction needs to be made to the WMP prior to finalization. (Susan Oller/WTSA)

RESPONSE: The correction has been made.

COMMENT 8: Certain properties in Green Brook Township are shown in the proposed amendment as flowing to the Middlesex County Utilities Authority. By gravity, these properties should flow to the Somerset/Raritan Valley Sewerage Authority. The properties are: Block 100, Lots 1, 1.01, 2.01, 2.02; Block 98, Lots 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17; Block 99, Lots 12, 13, 14, 15, 16, 17; and Block 108, Lots 1, 2, 13, 26, 27, 28. (Township of Green Brook)

RESPONSE: The WMP does not address these properties. The Department does agree it would appear logical for these properties to be provided sewer service via SRVSA given they are largely surrounded by the SRVSA sewer service area and could be provided service via gravity sewer. However, only minor changes can be made to the public noticed WMP upon adoption without rendering the public notice process useless. A proposed expansion to a sewer service area of the size, and potential wastewater flow, requested above is not considered minor. The addition of these parcels to the proposed sewer service area cannot be included at this time. It is recommended that the pending Lower Raritan/Middlesex County WMP, the planning area in which the above properties are located, address this proposal.

COMMENT 9: For those systems that are private systems that generally exceed 2,000 gallons per day or serving multiple residential dwelling units on a private property, it appears that the DEP's rules and regulations say that if, in fact, you do not have a discrete survey that describes the specific facilities, which may be one or two houses on a property, and the sewer system itself, that the entire property is then described as a sewer service area. We find that a difficult concept to understand. We have many properties that may be as much as 400 acres in size. There may be a private system that is under DEP permitting processes that are serving three or four units on that property, yet the WMP would say the entire 400 acres have been designated a sewer service area. Our suggestion would be that the metes and bounds be a requirement on private properties that describe the facilities that are being served, as well as the facilities that they are servicing. If that's not available, then a descriptive phrase on the plan describing exactly what is being permitted with that service area on that particular property. (Joseph Metelski/Township of Bedminster)

COMMENT 10: The John Z. DeLorean sewage treatment plant services only a multi-dwelling, but the plan continues to show the entire property as part of the service area. We would like to see the facility identified and limited to only the apartments being serviced, with no service area for the remaining property. (John Flood/American Associates for Township of Bedminster)

RESPONSE: Pursuant to NJAC 7:15-5.20(b)2, wherever feasible, the boundaries of future service areas shall coincide with recognizable geographic or political features. Examples of such boundaries include lot and zoning boundaries, roads, and streams. Additionally the Department will accept a metes and bounds delineation of a sewer service area. Table 10 (John Z. DeLorean) of the WMP does include a note explaining that the service area of the STP is limited to a three unit apartment building with an estimated population of 8 persons. Table 12 (Hamilton Farms) explains that the facility is a group of existing septic systems that service twelve buildings on a single lot which are scattered throughout the site. A metes and bounds delineation was submitted for

the DeLorean site and has been adopted as part of the WMP. No such delineation was provided for the Hamilton Farms site prior to the public notice and comment period. Adoption of such a delineation and the appropriate changes to the WMP may be proposed at a future date.

COMMENT 11: Bedminster Township requests that adequate and complete notification be given to the Township by the RLSA on any proposed change in use or expansion of service areas associated with the Fiddler's Elbow Country Club STP, which will now be located in Readington Township. The Township does not agree to any transference of control in review or regulation for the service area of this plant that is located within Bedminster Township. (Margaret Francisco/Township of Bedminster)

RESPONSE: The Department makes note of your request and has forwarded a copy of your comments to the RLSA.

COMMENT 12: Bedminster Township requests the removal of the fourth sentence of Section 4.2, "Future Service Areas Delineation" on page 4-1 referring to the general conformance of sewer service areas to specific zoning. This statement is an unnecessary generalization of the sewer service areas. We believe the statement will confuse the understanding of procedures utilized by individual municipalities to define sewer service areas. (Margaret Francisco/Township of Bedminster)

RESPONSE: The Department does not feel the sentence in question will confuse the issue. The statement does indicate that it is made as a generalization. No other municipalities commented regarding the statement.

COMMENT 13: The Township wishes to know what steps are being taken to bring the DeLorean wastewater treatment facility into compliance. The WMP indicates that the plant is currently receiving flow greater than its permit, but does not define what steps will be taken to require or compel the owners to bring the plant into compliance. (Margaret Francisco/Township of Bedminster)

RESPONSE: The Department's Water Compliance and Enforcement Office is aware of the situation and is attempting to correct the situation. The owner has recently proposed investigating the feasibility of modifying the discharge from a surface water discharge to a ground water discharge system.

COMMENT 14: My perception is that neither the DEP or the County have provided adequate resources to the task of delegating to Somerset County the responsibility for wastewater management planning. Why has it taken the DEP so long to review the draft that was submitted by Somerset County to get us to this point, four and a half years after the process began? (Joseph Metelski/Bedminster Township)

COMMENT 15: The time required on preparation of this plan has been lengthy. The Township would like to see a requirement adopted by the County (and DEP) for timely responses to the final adoption of this plan, as well as any future amendments to the plan. (Margaret Francisco/Township of Bedminster)

RESPONSE: The Department acknowledges that the time involved getting to this point has been lengthy. The Department responded at the hearing that there had been

several drafts, and the Department had not been able to get to each one of those drafts as quickly as we would have liked. There were also some local issues that have significantly added to the completion time of this WMP. The Department has worked with the County to finalize this WMP as quickly as possible. The Department is evaluating the process to review WMPs and will be making changes to improve the timeliness of these reviews.

COMMENT 16: Is there a guaranteed process in place that municipalities who are involved, now that they are a part of the County WMP process, are notified of any communications that anyone raises verbally or in writing that affects the potential for sewer service expansion within their township? Bedminster Township requests prompt notification by the County of any and all inquiries, both verbal and written, made to the County involving matters of wastewater planning within the Township. (Joseph Metelski and Margaret Francisco/Township of Bedminster)

RESPONSE: The Department agrees that it would be reasonable for the County to notify the municipalities affected of any written communications they receive regarding potential changes to the WMP. While it may not be reasonable to expect all verbal discussions to be relayed to the municipality, one would expect any significant discussions or meetings topics to be relayed to the municipality. The County has indicated that future amendment requests will be distributed to the municipal liaison of the Somerset County Planning Board Policy Advisory Council for the affected municipalities with a request for response.

COMMENT 17: The draft "Somerset County Population and Housing Estimates and Forecasts-Volume 1" (SCPb January 1997) included a January 1996 population estimate of 7,382 for Bedminster Township. Bedminster has a substantial 1980 population (2,469) prior to the PUD/PRD development of over 3,300 units in Pluckemin. Thus, the 1996 population in the sewer service area appears overstated in Table 9 (7,139). If both the County's 1996 estimates are compared, there would only be 243 persons in Bedminster outside the sewer service area (i.e., approximately 125 houses). (Francis Banish/Banish Associates for Township of Bedminster)

RESPONSE: Table 9 has been modified to more accurately reflect the vacancy rate in Bedminster which is unusually high due to the large number of condominiums. The sewer service area population has been adjusted to utilize the gross occupancy rate based on total units, not occupied units. Consequently the unsewered population estimate increases to 582 persons resulting in a Year 1996 sewer population of 6,800 persons.

COMMENT 18: The estimate of 1,000 additional persons in the Bedminster sewer service area by the Year 2016 may be overstated. Footnote 2 to Table 9 cites an American Associates estimate from February 1996. As recalled, this estimate was for the planning period 1995-2014. With 152 Certificates of Occupancy issued in 1995 and 1996, mostly for units in the service area, it appears that the projected increase by 2016 should be reduced to 700-800 persons. (Francis Banish/Banish Associates for Township of Bedminster)

RESPONSE: Table 9 has been modified to decrease the future population in recognition that Bedminster has a defined build out on the number of units and a year

had gone by since the Table was previously edited during which an additional 152 units had already gone on-line.

COMMENT 19: The December 1991 information on Table 25 does not reflect Bedminster's R-10 zoning. This district requires a 10 acre minimum lot area, except that lot averaging is permitted based on a 0.1 unit/acre density and a 6 acre minimum lot area. Eighty-two percent of Bedminster (14,010 acres) is now in the R-10 Zone. This area was in the R-3% District in 1991. Thus, the total land area in the 2-4.99 acre category should be adjusted to 885 acres (5.2% of the Township). (Francis Banish/Banish Associates for Township of Bedminster)

RESPONSE: Somerset County has indicated it is not in a position to update its composite zoning table at this time but will be updating the Table in the future. The specific comment regarding rezoning from 3 acre to 10 acre lots has no effect on the plan as the 3 acre lots were already excluded from the sewer service area designation. As such, the Table is being adopted as proposed.

COMMENT 20: The Township of Bedminster reinforces its right to establish boundaries for sewer service areas within the Township. The Township requests that Plate 3A of the County WMP be revised to reflect the sewer service area shown on Plate E of the official Township WMP. This includes: 1) removal of Block 43.01 from the proposed sewer service area based on the anticipated transference of this property from its owner (AT &T) to the Township under a recently concluded agreement (the Township has no plans for sewer service to this property and as such, it should be removed from the plan); and 2) removal of Block 42, Lot 1.01 and portions of Block 35 and 36 (these properties are part of the defined floodway of the North Branch of the Raritan River near Route 206 and 202, and are part of Green Acres property already purchased by the Township). The development of these properties is totally restricted due to the floodway determination and Green Acres designation and as such, no sewer service will be required. (Margaret Francisco/Township of Bedminster and John Flood/American Associates for Bedminster Township)

RESPONSE: The Township's references to "Plate E of the official Township WMP" are misleading. While the Township has apparently made changes to Plate E of their WMP none of the changes have been submitted to the Department for official adoption. As such, the County and Department conducted their reviews based on the information available to them at the time of review. With respect to the AT&T parcel, the Township is under contract to receive ownership of the parcel but title has not been transferred. As such, the property will remain as proposed. At such time as ownership is transferred the Township may request an amendment to remove the property from the sewer service area. With respect to the floodway/Green Acres property the Department agrees that the floodway determination and Green Acres designation sufficiently restrict development so it is not necessary at this time to change the mapping. However, Block 42, Lot 1.01, being the only municipally owned lot wholly within the floodplain, has been removed from the sewer service area to reflect the Township's wishes. Should the Township wish to provide a metes and bounds delineation of the floodplain within the other lots as a basis of removing portions of the remaining lots from the sewer service area this can be accomplished as part of a future amendment proposal.

COMMENT 21: The documentation for the Hamilton Farms property and its service area should be removed from the WMP in its entirety. A NJPDES discharge permit application was submitted and a permit number was assigned but to the best of the Township's knowledge, no permit was ever issued. The facility should follow the normal course of action, which would be to first grant the permit and then include it in the WMP. There is no reason to include the entire property as part of the service area for a permit that does not exist. If a permit is sought for this property and its limited septic systems, the service area for the septic systems must conform with the requirements of the most recent ordinance passed by the Township requiring definition of the sewer service area. (Margaret Fransico/Township of Bedminster and John Flood/American Associates for Bedminster Township)

RESPONSE: Hamilton Farms applied for a NJPDES permit in accordance with the August 21, 1991 deadline for all existing unpermitted community subsurface disposal systems to apply for a NJPDES permit. These applications were issued a permit-by-rule in accordance with the NJPDES regulations at the time. Since then a general permit has been developed to regulate these facilities. This general permit requires inspections and routine maintenance. A metes and bounds description of the service area can be accepted, however, none was provided prior to the public notice and comment period.

COMMENT 22: The Township of Hillsborough adopted a resolution endorsing the proposed amendment to the Upper Raritan Watershed Wastewater Management Plan and a request to amend the plan to include Block 175, Lot 34 in its entirety. The Township of Hillsborough Municipal Utilities Authority consented to the request to change the County WMP to include Block 175, Lot 34. (Gregory Bonin/Township of Hillsborough and Gail Quabeck/Township of Hillsborough MUA)

COMMENT 23: Due to an oversight or drafting error, Block 175, Lot 34, 112 East Mountain Road, has been partially omitted from the proposed sewer service area. The proposed sewer service area delineation goes approximately through the middle of the property and does not follow the property boundary lines or zone line as required. The entire property is zoned R-1 on the Hillsborough Master Plan and zoning map, and as such is envisioned to be sewer service area. The entire property is reflected in the Hillsborough MUA Sewer Service Area Planning Map which is the basis of service agreements with both Hillsborough Township and SRVSA. The property has been in the Township WMP for ten years with the intention that the entire property was represented. Active sewer service presently exists on the property and has for nearly 25 years. DEP regulation requires in part that all areas requiring sewers be reflected in the proposed amendment. Surrounding properties to the west, east and north are one acre zoning (R-1), are presently sewered and are also PA-2 on the State Development Plan. The entire property is shown in PA-2 of the State Development Plan which is consistent with Hillsborough Township's Master Plan. For the above identified reasons the remainder of the property (approximately 25 acres) should be included in the proposed sewer service area. Both the Township and Township MUA have passed resolutions consenting to the inclusion of the entire property within the sewer service area. (Harry B. Smith)

COMMENT 24: We object to the inclusion of the remainder of Block 175, Lot 34 in the sewer service area. Extending sewers down East Mountain Road, a Planning Area 4

area, at the base of the Sourland Mountains (PA 5) would allow the possible development of 60 acres of land. The whole process of the proposed alteration of the WMP appears highly irregular and violates both the spirit and letter of the public notice process. This proposed change bypasses and deprives the public ample time to study the issue. This extension was controversial at hearings of the Township Planning Board and land use subcommittee. In the final Township plan this extension was removed by deliberate intent. To claim at this point a clerical error is disingenuous. The area where sewers are proposed is in PA 4 at the base of an area of PA 5 recognized as environmentally sensitive and having a problematic water supply and aquifer recharge system. The area has wetlands, poor drainage and other factors that may make sewers inadvisable. It is requested that the property not be included in the sewer service area and that the landowner be referred back through the correct amendment process. (Judith Glassgold/Friends of Hillsborough)

COMMENT 25: The extension of sewers to the area along East Mountain Road, owned by Mr. Harry Smith, and the construction of additional homes on that property would destroy a highly environmentally sensitive area and would hasten run-off to Royces Brook, creating flood conditions downstream. Denial of inclusion of this area would assist the community in proper planning for environmentally sensitive areas. (Catherine Santonastaso)

COMMENT 26: On November 25, 1997, the Hillsborough Township Committee passed an ordinance to ratify and accept the Somerset County WMP. This ordinance also included a provision to extend sewer service to a parcel of land which was not shown on the County WMP map. Earlier in the year the Planning Board voted to deliberately exclude this tract of land from the WMP along with the areas of the Planned Adult Community and Corporate Development Zone. The reason for the exclusion was the concerns of the environmental commission. This exclusion was upheld by the Township Committee. Now, at the eleventh hour, after the public hearing the Township Committee is attempting to have the DEP approve an unstudied parcel of land behind the back of the public. Because the tract in question has not been studied, nor sent for public review and comment, the public hearing process has been subverted. A public review process should be pursued for this "rider" amendment. (Chris Jensen)

RESPONSE: The property in question is indeed split between two future service area designations. This split designation appears to be a carryover from the presently adopted Hillsborough Township WMP. The status of the property with respect to local intent for sewer service appears to frequently change and is at best confusing based on the written record. Removal of the entire property from the sewer service area, without due process proposing such removal, may cause harm to the property owner, who has anticipated sewer service to the northern portion of the property for some years based on the existing municipal WMP. Similarly, only minor changes can be made to the public-noticed SC/URW WMP upon adoption without rendering the public notice process useless. A proposed expansion of sewer service area of the size, and potential wastewater flow, requested above is not considered minor. With respect to the State Development and Redevelopment Plan Planning Area designation the property is split between PA 2 (the northern portion) and PA 4 (the southern portion). The Hillsborough Township Municipal Utilities Authority has confirmed that the property does not presently and has never been provided active sewer service. The addition of

the southern portion of this parcel to the proposed sewer service areas cannot be approved at this time; however, the property may be submitted for consideration as an amendment to the WMP once the WMP is adopted.

COMMENT 27: The Planned Adult Community/Health Care Facility (PAC/HCF) site is currently zoned for development as a PAC/HCF under subsection 77-91.1 of the Hillsborough Township Code and has been so zoned since June, 1991. Since January 1992, the PAC/HCF site has been approved for development as a PAC/HCF under a General Development Plan (GDP). Further, pursuant to an agreement between the developers and the Township of Hillsborough dated February 1, 1996, the New Jersey Council on Affordable Housing granted substantive certification to the Township's Housing Element and Fair Share Plan which contemplates the development of a number of low and moderate income residential units as part of the project. Accordingly, the GDP is consistent with Hillsborough's current zoning and has received approval from Hillsborough Township. Thus, there is no basis for awaiting future zoning decisions. Moreover, because the project received GDP approval pursuant to the Municipal Land Use Law, the project has vested rights so that it may proceed even if the zoning of the PAC/HCF site should change. The issue of consistency with the SDRP has also been resolved by the approval by the Office of State Planning of a waiver of center designation, and by the action of COAH in accepting that waiver and granting Hillsborough substantive certification of its housing plan, which expressly includes the project. Because this is a Mt. Laurel site, and because COAH and the Office of State Planning are the lead agencies in dealing with this issue, these actions by the Office of State Planning and COAH constitute authoritative determinations as to both the consistency of this project with the State Plan and the suitability of the PAC/HCF site for the project. The Water Quality Management Planning regulations also require that the project be considered in conjunction with the pending amendments to the WMP. These regulations require that, to the maximum extent practicable, wastewater service areas shall be identified in such a manner as to provide adequate wastewater service for land uses allowed in zoning ordinances that have been adopted and are in effect as well as for projects that are not consistent with local zoning ordinances but have secured vested rights under the Municipal Land Use Laws. Neither the County or DEP should adopt or approve the County WMP unless the site of the PAC/HCF site is totally included in the SRVSA sewer service area. The October 6, 1997 Public Notice states that the PAC/HCF site will not be considered. Any action to adopt the WMP without including the PAC/HCF would be contrary to the WQM Planning regulations. The appropriate course of action is to public notice and solicit public comments on the PAC/HCF at this time, as part of the pending plan amendment. The DEP cannot use such a Public Notice to circumvent its own regulations or the PAC/HCF's rights. Although the DEP has suggested it may revisit the issue at some indefinite time in the future, in order to facilitate other aspects of the current plan, there is no basis for this in regulation. DEP has prejudged the issue. Proper public notice and public participation procedures have not been followed. The SDRP and COAH actions on this site support inclusion of the site in the sewer service area. DEP should include the PAC/HCF site as part of the current process of amendments to the WMP.

(Paul Schneider/Giordano, Halleran & Ciesla for U.S. Homes Corporation and Hillsborough Alliance for Assisted Living, L.P.)

COMMENT 28: On October 28, 1997, the Township Committee of Hillsborough voted to repeal the PAC/HCF ordinance and passed a resolution stating that this repeal was

consistent with the Township Master Plan. The substantive certification granted by the Council on Affordable Housing is under appeal and will be heard by the Appellate Court. The vested rights the developer claims under their General Development Plan do not exist. The Planning Board of the Township has declined requests by the developer to specify any further rights. Further, we question the validity of the original ordinance as it gives inappropriate zoning powers to the Planning Board. Finally, this site is inconsistent with the State Development and Redevelopment Plan that designates this area as Planning Areas 4 & 5. (Judith Glassgold/Friends of Hillsborough)

COMMENT 29: The developers of Greenbriar at the Village have filed suit in the Law Division of the Somerset County Superior Court to compel the Township of Hillsborough to endorse the site for inclusion in the County WMP. They petitioned the Council on Affordable Housing and have approached the DEP for the same relief. They raise three arguments in favor of including the project in the WMP: "vested" rights under the Municipal Land Use Law; consistency with the State Development and Redevelopment Plan; and consistency with local zoning ordinances. Regarding "vested" rights, the developers have failed to inform the DEP that General Development Plan approval was obtained without any showing of the availability of sewers, as required by applicable Township ordinances. Regarding consistency with the SDRP, the developers have failed to inform the DEP that the proposed project has never been found consistent with the SDRP. They also failed to inform DEP that COAH's decision to waive center designation, and thus also consistency review, is under appeal to the Appellate Division of the Superior Court. The argument that Hillsborough's PAC/HCF ordinance compels the relief sought is nonsensical. First, the ordinance was recently repealed. Second, the PAC/HCF zone was an overlay covering virtually all residential zones in the Township, including many not presently sewered. Their argument would compel sewerage of large portions of the Township for no apparent reason. The matter is now before the Superior Court, who is capable of determining difficult legal issues such as vested rights, consistency review and the like. There is no reason for the DEP to also undertake this task. (David Trombadore/Trombadore, Seel & Trombadore for Friends of Hillsborough)

RESPONSE: As stated both in the public notice and at the public hearing, the PAC/HCF site is not part of the proposed sewers service area identified in this WMP. The Township of Hillsborough Committee, by resolution dated June 25, 1997 indicated that the PAC/HCF Zone and Corporate Development Zone should not be included in the WMP. As such, the County has indicated in the WMP that Hillsborough is reviewing these areas with regard to providing for sanitary sewer service and that these areas will remain as areas for ground water disposal facilities with design flows of less than 2,000 gpd until such time as the WMP is amended, if necessary, to reflect Hillsborough's land use decisions. Although the developer has petitioned the Department to include the project in the WMP, the Department is processing the WMP in its present form in deference to the need to finalize and ultimately adopt the WMP so that components of the plan important to other municipalities not be delayed if at all possible. The public notice explicitly stated that this site was not included in the sewer service area. Inclusion of this site in the sewer service area can be considered once the WMP is adopted, Hillsborough Township completes its zoning evaluation and provides official support for the project.

COMMENT 30: The charting that has been used to create the WMP would fall in a category called atrocious. It is impossible in many instances to really read the charts to determine where the service areas are. It is impossible to determine the lines when they are not necessarily contiguous with a physical or other well-known established kind of boundary. It is important that if we want to use this plan on a go-forward basis as it relates to all other planning activities that the WMP charts themselves be brought into at least the 19th century, if not the 20th century. (Joseph Metelski/Township of Bedminster)

RESPONSE: NJAC 7:15-5.20(b)2 requires the use of recognizable geographical (e.g., streams, roads) or political (e.g., zoning, lot) boundaries wherever feasible. The WMP mapping has been created based on this requirement. The County and DEP are trying to transcribe all of this information into a geographic information system so that it would be available to the County, to the Department, and to the municipalities in the area so that people can make use of it in whatever scale is appropriate for their particular use. The County has entered into a contract for the digitization of some of the WMP mapping.

COMMENT 31: Will the DEP be seeking endorsements from municipalities for the adoption of this plan? (Joseph Metelski/Bedminster Township)

RESPONSE: The Department responded at the hearing that yes, it is. Each municipality would have received a notification of that, along with a draft resolution. The municipalities have 60 days upon receipt of that to provide endorsement, refuse endorsement, or provide any comments that are appropriate.

COMMENT 32: Can a municipality endorse with conditions or revert back to a rule that usually comes up when we talk about endorsements: you either endorse yes or you endorse no. I would like to know if an endorsement with conditions is going to be thrown into a wastepaper basket or will be acknowledged. (Joseph Metelski/Bedminster Township)

RESPONSE: The Department responded at the hearing that municipalities do, in fact, include conditions with their endorsements. The Department does, in fact, take those conditional endorsements into account. To the extent that municipalities have comments, they should definitely be addressed in some fashion. It is a question of what the condition is and what happens with it.

COMMENT 33: Is it possible that the County's management planning organization could differ from the Township on a specific parcel, tract or proposal? If so, what weight is given to the respective agencies with respect to their opinions and endorsements on those proposals? (David Eilbacher)

RESPONSE: The Department responded at the hearing that the County has effectively endorsed the plan in so far as they submitted the plan to the DEP. If a municipality recommends a modification to the plan as it is currently drafted, the County would have the right to determine whether or not they can agree with the municipality. If they agree, and it is something that is allowable within our regulations and also constitutes a very minor change to the plans so that the public notice isn't rendered useless, then we may be able to go forward and include the change within the final adopted plan. If

there is a difference of opinion, the Department becomes the arbiter and would look at our regulations to see what's allowed or not allowed.

COMMENT 34: I have a question about possibly delegating some of the Department's authority down to the County level, then having somebody or an entity in the County empowered with deciding whether a particular application or amendment would be accepted. Could you go into a little more detail? In particular, has the County been delegated that authority, and how does that work? (Chris Jensen)

RESPONSE: Department regulations do not currently provide for delegation of the decision making authority to a WMP agency such as Somerset County. The Department is currently drafting rules that would, among other things, simplify the process for amending WQM Plans.

This amendment represents only one part of the permit process and other issues will be addressed prior to final permit issuance. Additional issues which were not reviewed in conjunction with this amendment but which may need to be addressed may include, but are not limited to, the following: antidegradation; effluent limitations; water quality analysis; exact locations and designs of future treatment works (pump stations, interceptors, sewers, outfalls, wastewater treatment plants); and development in wetlands, flood prone areas, designated Wild and Scenic River areas, or other environmentally sensitive areas which are subject to regulation under Federal or State statutes or rules.



Lance R. Miller, Director
Division of Watershed Management

3/29/99
Date

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