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## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

#### **OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION**

##### **Adopted Amendment to the Mercer County Water Quality Management Plan**

###### **Public Notice**

**Take notice** that on December 13, 2013, 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, the New Jersey Department of Environmental Protection (Department) adopted an amendment (Program Interest No. 435452, Activity No. AMD170001) to the Mercer County Water Quality Management (WQM) Plan. This amendment, submitted by Van Note Harvey Associates on behalf of Hopewell Township, expands the Ewing Lawrence Sewerage Authority sewer service area (SSA) by 73 acres to allow for the construction of a proposed affordable housing development of 600 residential units, consisting of 10 two-bedroom single-family homes, 50 three-bedroom single-family homes, 50 two-bedroom townhouses, 150 three-bedroom townhouses, 200 one-bedroom apartments, and 140 two-bedroom apartments. This amendment also removes 134.19 acres of adopted Ewing Lawrence Sewerage Authority SSA, resulting in a net reduction of 61.19 acres in Ewing Lawrence Sewerage Authority's SSA. The areas removed from the SSA are located on Block 85, Lots 8, 13; Block 88, Lot 5.021, and a portion of Block 93, Lot 6.01, and include wetlands, riparian zones, forested areas, and preserved open space. These lots are owned by Hopewell Township, except for Block 93, Lot(s) 6.01 which is owned by CF Hopewell. The proposed project, identified as "Hopewell Affordable Housing," is in Hopewell Township, Mercer County on Block 93, Lots 5.01, 5.02 and a portion of Lot 3.01,

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located west of Scotch Road (County Route 611) and south of Washington Crossing-Pennington Road (County Route 546). Preliminary notice was published in the New Jersey Register on October 16, 2017 at 49 N.J.R. 3441(a). No comments were received during the comment period.

This amendment has been reviewed pursuant to the WQMP rules at N.J.A.C. 7:15. This notice represents the Department's determination that the amendment is compliant with the regulatory criteria at N.J.A.C. 7:15-3.5 and 4.4 and serves as public notice of the Department's final decision pursuant to N.J.A.C. 7:15-3.5(g)11.

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 as Rank 3, 4, or 5 (Landscape Maps); 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 zones 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.

In accordance with 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

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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 wildlife species Rank 3 (State threatened), Rank 4 (State endangered), and 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 species habitat, the Department utilized its Landscape Maps, version 3.3 at <http://www.nj.gov/dep/gis/listall.html>. There is no threatened or endangered wildlife species habitat mapped within the proposed sewer service area.

In accordance with 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>. There are no Natural Heritage Priority Sites located on the subject site.

In accordance with 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-

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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 their corresponding 300-foot riparian zones on the subject site.

In accordance with 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>. The Department's review found that, while there are wetlands located on the proposed project site, there are no wetlands within the proposed 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/listall.html>. The subject site is not located within any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas.

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In accordance with 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 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 the EPA list of New Jersey Counties with ESA Grant Conditions at <https://www3.epa.gov/region02/water/sewer.html>. There are no 201 Facilities Plan grant conditions for the proposed site.

Pursuant to N.J.A.C. 7:15-4.4(h)1 and 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. The applicant requested the proposed amendment to comply with a Settlement Agreement (Agreement) dated July 13, 2017, between Hopewell Township, the Fair Share Housing Center of New Jersey, and five private parties to meet the Township's obligations under the Mount Laurel doctrine and the Fair Share Housing Act of 1985. The Agreement provides that the Township must adopt all ordinances necessary to permit the proposed development stipulated in the Agreement and the proposed amendment within 120 days of August 28, 2017. On July 10, 2017, Hopewell Township adopted Resolution 17-245 approving the Agreement to enable the construction of the affordable/low income housing on the properties subject to the proposed SSA expansion. On September 11, 2017, the Mercer County Department of Planning confirmed to the Department via email that proposed project is consistent with the county master plan.

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Pursuant to N.J.A.C. 7:15-3.5(j)2, projects that propose to add 100 or more acres to the SSA or where the additional SSA would generate 20,000 gpd or more of wastewater, a 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 is required. The proposed project plans to add 73 acres to the SSA and the projected wastewater flow for the proposed project, anticipated to be received by Ewing Lawrence Sewerage Authority, is 135,000 gpd based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. The Ewing Lawrence Sewerage Authority Treatment Plant is currently permitted to discharge up to 16 Million Gallons per Day (MGD) under New Jersey Pollutant Discharge Elimination System (NJPDES) permit NJ0024759. Based on the highest consecutive 12 month rolling average flow from NJPDES Discharge Monitoring Reports over the most recent 5-year period, for the twelve-month period of June 2013 to May 2014, the existing wastewater flow discharged from the Ewing Lawrence Sewerage Authority Treatment Plant was calculated to be 12.128 MGD. Therefore, the additional flow should not cause the facility to exceed its permitted capacity.

N.J.A.C. 7:15-3.5(g)6 requires the applicant to request a written statement of consent from all identified governmental entities, sewerage agencies, and BPU related sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the amendment proposal. Accordingly, the Department instructed the applicant to request written statements of consent from the Township of Hopewell, the Ewing Lawrence Sewerage Authority, and the Mercer County Executive Board. On October 23, 2017, the Township of Hopewell adopted Resolution 17-342 in support of the proposed amendment. On November 14, 2017, the Ewing Lawrence Sewerage Authority adopted Resolution 111:17 opposing the amendment. However, on November

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30, 2017, the Ewing Lawrence Sewerage Authority submitted a letter to the Department expressing that the Sewerage Authority intends to adopt a resolution in support of the proposed amendment on December 19, 2017, which would also rescind Resolution 111:17 based on incorrect future wastewater flow calculations. On December 13, 2017, the Mercer County Executive submitted a letter in support of the proposed amendment, based on Resolution 2017-02 by the Mercer County Planning Board in support of the proposed amendment.

Sewer service is not guaranteed by this amendment. This 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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Alan Miller, Manager  
Office of WRM Coordination  
Department of Environmental Protection

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December 13, 2017

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Date