

NOTE: THIS IS A COURTESY COPY OF THIS PLAN AMENDMENT ADOPTION. 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 ADOPTION, THE OFFICIAL VERSION WILL GOVERN.

## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

### **WATERSHED AND LAND MANAGEMENT**

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

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

**Take notice** that on June 30, 2023, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11-1 et seq., and the Water Quality Management Rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Mercer County Water Quality Management (WQM). The amendment, identified as “Port Mercer Canal House” (Program Interest No. 435452, Activity No. AMD220001) expands the sewer service area (SSA) of the Ewing Lawrence Sewage Authority (ELSA) (NJPDES No. NJ0024759) by 0.13 acres, to serve an existing historical house, which is part of the New Jersey State Park system, on Lot 5.01, Block 5201.01 in Lawrence Township, Mercer County. The house is periodically used as a small group meeting location for the Lawrence Historical Society and is not open for public use. The house is presently served by an on-site subsurface disposal system that is failing. The project will generate a projected wastewater flow of 125 gallons per day (gpd), based on flow calculated in accordance with N.J.A.C. 7:14A-23.3.

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Preliminary notice was published in the New Jersey Register on April 17, 2023, at 55 N.J.R. 761(a). One comment was received during the public comment period. The comment and Department response is provided at the end of this notice.

This notice represents the Department's determination that the 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. 7:15-3.5(g)6, the Department instructed the applicant to request a written statement of consent from the ELSA, Lawrence Township, Mercer County and the Delaware and Raritan Canal Commission. The ELSA passed Resolution 60:23 on May 16, 2023, objecting to the proposed amendment due to SSA buildout capacity concerns which may necessitate the need for additional treatment facilities. Lawrence Township adopted Resolution 149-23 on April 18, 2023, consenting to the proposed amendment. The Mercer County Planning Board adopted Resolution 2023-01 on May 22, 2023, consenting to the proposed amendment. The Delaware and Raritan Canal Commission adopted resolution 2023-06 on May 17, 2023, consenting to the proposed amendment.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations to the eligible SSAs 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 and will generate less than 20,000 gpd of wastewater flow; therefore, update of the wastewater treatment

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capacity analysis is not required. However, with respect to the ELSA concerns regarding capacity, the highest consecutive 12-month rolling average during the five-year period preceding the amendment application, was determined to be 13.889 million gallons per (July 2018 to June 2019) based on NJPDES Discharge Monitoring Reports reported in DEP Data Miner (<https://www.13.state.nj.us/DataMiner>), while the permitted capacity is 16 MGD. Additionally, since the house is only used intermittently, the 125 gpd calculated flow is likely extremely conservative. As such, the ELSA currently has capacity for the minor intermittent projected flow from the project site.

Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSA, 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 of any such areas in accordance with N.J.A.C. 7:15-4.4(e), (f), and (g) and made the following findings:

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- The Department determined that the expanded SSA does not contain any areas mapped as endangered or threatened wildlife species habitat Rank 3, 4, or 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.
- The Department determined that the expanded 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 expanded 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 Delaware and Raritan Canal is a manmade canal, therefore there are no riparian zones from surrounding waterways on the property.
- The Department determined that there are wetlands located on Lot 5.01, Block 5201.01 based on the "Wetlands 2012" GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4; however, there are no wetlands within the expanded SSA.
- The Department determined that the expanded 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).

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- 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 a letter dated November 2, 2022, the Township of Lawrence confirmed that the proposed project is consistent with the Lawrence Township Land Use Ordinance and that as an existing structure with no planned additions, consistency with the Master Plan was not applicable. The Mercer County Planning Department issued a determination, dated October 19, 2022, stating that the proposed project is consistent with the land uses identified in the current Mercer County Master Plan.

The following individual commented during the comment period:

Jean Public, in an email dated May 2, 2023.

**Comment:** I think there needs to be another look at the wildlife and endangered plants and threatened plants and animals that live in this area and protecting them on these sites. We need clean air/water/soil. We want open and transparent government back and we want more open meetings for the public.

**Response:** The building on-site is existing and currently being served by a failing on-site subsurface disposal system that is located along the Delaware and Raritan Canal. By

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removing the failing on-site subsurface disposal system and connecting the single structure to ELSA, water quality, public health and safety and wildlife habitat will be protected. As stated above, the preliminary notice was published in the New Jersey Register on April 17, 2023, at 55 N.J.R. 761(a) and the notice provided the public with the information for file inspection, as well as allowing for public comments and the opportunity to request for a public hearing. There were no requests for file inspection or a public hearing and there were no additional comments on this project.

Sewer service is not guaranteed by adoption of this amendment since 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.

6/30/23  
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