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## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

### **WATERSHED AND LAND MANAGEMENT**

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

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

#### **Public Notice**

**Take notice** that on May 17, 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 Planning rules, N.J.A.C. 7:15, the New Jersey Department of Environmental Protection (Department) adopted an amendment to the Ocean County Water Quality Management (WQM) Plan. The amendment, identified as “Homes for All Manitou Park – Phase IV” (Program Interest No. 435448, Activity No. AMD180003) expands the sewer service area (SSA) of the Ocean County Utilities Authority Central Wastewater Pollution Control Facility (OCUA Central WPCF) by 7.99 acres to serve a proposed residential development consisting of 51 three-bedroom and four-bedroom single-family homes within Berkeley Township, Ocean County. Seven of the proposed homes are located within the presently adopted SSA and are not the subject of this amendment. The OCUA Central WPCF sewer service area is expanded to include the following blocks and lots: Block 24, Lots 1381-1386; Block 25, Lots 116 (portion), 1170-1181, and 1362-1369; Block 26, Lots 985-987; Block 27, Lots 1387-1400; Block 28, Lots 1182-1195, and 1348-1361; Block 29, Lots 996-1001, and

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1154-1159; Block 31, Lots 1403-1411; Block 32, Lots 1198-1208, and 1336-1345; Block 33, Lot 114. The amendment portion of the proposed project would generate a projected wastewater flow of 13,200 gallons per day (gpd), as calculated in accordance with N.J.A.C. 7:14A-23.3, to be received by the OCUA Central WPCF (New Jersey Pollutant Discharge Elimination System (NJPDES) permit #NJ0029408).

Preliminary notice was published in the New Jersey Register on May 16, 2022, at 54 N.J.R. 919(a). No comments were received during the comment period. 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. 7:15-3.5(g)6, the Department instructed the applicant to request written statements of consent from Berkeley Township, Veolia Water New Jersey, Berkeley Township Sewerage Authority (BTSA), the Ocean County Utilities Authority (OCUA), and the Ocean County Board of County Commissioners. Berkeley Township adopted Resolution # 22-179-R on April 26, 2022, consenting to the proposed amendment. Veolia Water New Jersey issued a Statement of Consent on May 4, 2022, consenting to the proposed amendment. The BTSA adopted Resolution # 5127 on May 18, 2022, consenting to the proposed amendment. The OCUA adopted Resolution No. 22-12039 on May 26, 2022, consenting to the proposed amendment. The Ocean County Board of County Commissioners adopted Resolution #2022001087 on August 3, 2022, and corrected via Resolution # 2022001696 on December 7, 2022, consenting to the proposed amendment.

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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 and will generate less than 20,000 gpd of wastewater flow; therefore, update of the wastewater treatment capacity analysis is not required.

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 features, 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 contains areas mapped as endangered or threatened wildlife species habitat Rank 3 for Northern Pine Snake and Pine Barrens Treefrog and Rank 4 for Barred Owl, Corn Snake, Northern Pine Snake, and Pine Barrens Treefrog 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. 7:15-4.4(j)2, the applicant submitted a Habitat Suitability Determination/Habitat Impact Assessment (HSD/HIA), prepared pursuant to N.J.A.C. 7:15-4.6 and 4.7, respectively.

The Department concurred with the HSD/HIA assessment that the proposed project site does not include suitable habitat for Pine Barrens Treefrog. This determination was based on the finding that there are no suitable wetlands areas for the Pine Barrens Treefrog on or near the proposed project site. As a result, it is unlikely that any of the onsite upland forested areas would serve as dispersal habitat for this species.

Regarding the Barred Owl, the Department determined that the proposed project would have minimal or insignificant impact on the species' habitat due to the fact that the site does not feature any habitat characteristics that would be critical to this species and the onsite habitat is near the edge of a very large habitat patch associated with Barred Owl sightings. Combining these factors along with the expected habitat impacts (approximately 12 acres) and that 78.18 acres is to be preserved as part of the overall mitigation plan for the proposed project (see below), the Department concluded that the Barred Owl habitat impacts will not

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result in an adverse impact to their regional habitat and the overall impacts will be largely insignificant for this species.

The Department determined that the proposed project site features habitat suitable for one or more of the life cycle characteristics for Northern Pine Snake and Corn Snake. In order to demonstrate rule compliance, the applicant applied the Department's Habitat Evaluation Method (HEM) for Pine Snakes (DEP, 2010, as amended in March 2018) to the onsite habitat and the proposed habitat mitigation site during site assessments conducted in 2019 and 2020. A complete HEM analysis was submitted to the Department in 2021. The Department determined that the impacts to Northern Pine Snake and Corn Snake habitat in the expanded sewer service area cannot be avoided and that implementation of the following conservation measures are required to minimize to the maximum extent practicable all adverse modification of suitable habitat and to mitigate for any such adverse modification in a manner that provides for no net loss of habitat value to the species including the local population of that species, in accordance with N.J.A.C. 7:15-4.4(k)3 and 4.7(e)1iii:

1. The applicant placed a Department-approved conservation restriction over 78.18 acres of municipally-owned land within Berkeley Township on Block 169.01, Lot 1 (portion), Lot 3 (portion), Block 4.293, Lots 62 (portion), 63, and 71, and on portions of the rights of way for River Avenue (vacated) and Florence Street (vacated). The conservation restriction runs with the land and is binding upon all successive owners, their agents and assigns. The conservation restriction was executed, filed and recorded with the Ocean County Clerk

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(Registrar of Deeds and Mortgages) on April 11, 2023, in accordance with N.J.A.C. 7:15-4.4(k)3.

2. The applicant provided the Department with a bill of sale documenting that full payment for the appropriate snake mitigation credits have been obtained from Magnolia Land Partners, LLC, Magnolia's Diamond Shamrock mitigation project, to satisfy the offsite mitigation requirements set forth in the compliance document entitled: "Northern Pine Snake Habitat Evaluation Method (HEM) *for Proposed Development and Mitigation Lands Associated with: Homes for All – Manitou Park Phase IV*" prepared by DuBois Environmental Consultants, dated April 13, 2021.
3. The applicant demonstrated to the Department that all mitigation actions proposed in the document entitled: "Northern Pine Snake Habitat Evaluation Method (HEM) *for Proposed Development and Mitigation Lands Associated with: Homes for All – Manitou Park Phase IV*" prepared by DuBois Environmental Consultants, dated April 13, 2021, have been fully funded, and that mitigation actions will commence concurrent with or prior to any associated project site preparation or construction, or be initiated within one year of the date of WQM Plan Amendment adoption regardless of the status of the proposed housing project.

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- 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 Department determined that the expanded SSA does not contain wetlands based on the “Wetlands 2012” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4.
- 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).
- 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).

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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 or county master plans, and other local land use objectives. The Berkeley Township Council adopted Ordinance #08-02-OAB on February 27, 2008, that established a "Mount Laurel Compliance Overlay Zone District" that allows for the proposed project. The Berkeley Township Planning Board adopted Resolution 2019-PB#18-010 on February 7, 2019, granting Preliminary and Final Major Subdivision Approval. The Township does not require subsequent site plan approval. Berkeley Township's engineering firm issued letters dated October 22, 2018, and July 24, 2020, stating that the proposed project is consistent with Berkeley Township's master plan. The Ocean County Planning Board granted conditional Preliminary and Final Subdivision Approval at their December 5, 2018, public hearing.

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.

5/17/2023

Date



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



