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## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

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

### **Proposed Amendment to the Upper Delaware Water Quality Management Plan**

#### **Public Notice**

**Take notice** that the New Jersey Department of Environmental Protection (Department) seeks public comment on a proposed amendment to the Upper Delaware Water Quality Management (WQM) Plan. This amendment proposal (Program Interest No. 435437, Activity No. 160004), submitted by Grotto Engineering Associates, LLC on behalf of Heath Village Retirement Community, would expand the sewer service area (SSA) of the Hackettstown Municipal Utilities Authority Water Pollution Control Facility (WPCP) by 47 acres. The proposed project, identified as Heath Village West, is in Washington Township, Morris County on portions of Block 19, Lots 5, 6 and 7. The property is currently a farm consisting of row crops with an adult daycare center located on Lot 6. The applicant proposes to develop the property as a retirement community containing 144 two-bedroom units, a 108-bed healthcare center, and a community center for use by the residents of the retirement community and other site improvements and amenities including roadways, sidewalks, lighting, landscaping and utility improvements. The first phase of the project will consist of a Healthcare Center on the northeast corner of the property. The remainder of the improvements will be constructed in subsequent phases. This proposed amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and represents the Department's decision to proceed further with the amendment application as provided in N.J.A.C. 7:15-3.5(g)5.

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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), Environmentally Sensitive Areas (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 (Landscape Maps) as Rank 3, 4, or 5; 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 zone 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.

Pursuant to 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 species 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 species Rank 3 (State threatened), Rank 4 (State endangered), or 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 habitat, the Department utilized Landscape Maps version 3.3 at <http://www.nj.gov/dep/gis/listall.html> and determined that portions of the site include Rank 3 Wood Turtle and Rank 4 Bald Eagle habitat.

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Where a proposed site includes suitable habitat for an identified endangered or threatened wildlife species, N.J.A.C. 7:15-4.4(k) provides that areas designated as ESA based on the Landscape Maps may be included in SSA provided the Department determines, based upon a review of data provided by the applicant as part of a Habitat Impact Assessment (HIA), that the proposed activity avoids the endangered or threatened wildlife species habitat, will result in insignificant or discountable effects on the activities of the species (such as not being critical to survival or a local population), or includes some adequate degree of conservation measures that will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for any such adverse modification. N.J.A.C. 7:15-4-7 provides the information that must be submitted as part of an HIA for the Department to review. On July 26, 2017, the applicant submitted an HIA evaluating impacts of the proposed project on the habitat for Wood Turtle and Bald Eagle. None of the acreage proposed for development is mapped for Bald Eagle, therefore, the project should avoid the Bald Eagle habitat altogether. In addition, the HIA proposed the following onsite conservation measures to mitigate for any adverse modification of Wood Turtle habitat:

1. The establishment of a conservation easement to encompass a total of 54.71 acres of mapped wood turtle habitat that would increase the “preservation-to-impacted” acreage mitigation ratio to 2:1;
2. Construction of one (1) artificial nesting mound for Wood Turtles within the riparian zone of the Musconetcong River;
3. The addition of three (3) supplemental food planting areas, encompassing approximately 40,000 square feet in total, within 90 meters of the Musconetcong River. Food planting

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areas will be seeded with floodplain seed mix and supplemented with approximately 1,650 additional shrubs and herbs including raspberry, cinquefoil, wild strawberry, and violet;

4. The establishment of a long-term mowing landscaping commitment, for at least 20 years, in which areas within 300 feet of the Musconetcong River will be mowed annually between November 30 and March 1 to minimize potential impacts to wood turtles.
5. The granting of limited access to the Department to the conservation easement, provided sufficient prior notification has been given to applicant, for purposes of conducting wildlife surveys and studies.

In total, an area of 54.71 acres of suitable habitat would be maintained onsite to compensate for the impact to Wood Turtle habitat. This proposed amendment is subject to the implementation of the above-referenced conservation measures.

Pursuant to 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. 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>. 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). There are no Natural Heritage Priority Sites located on the subject site.

Pursuant to 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. To evaluate the existence of Category One waters and their corresponding 300-foot riparian zones pursuant to N.J.A.C. 7:15-4.4(e)3, the

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Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. 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). There are no Category One waters or corresponding 300-foot riparian zones located on the subject site.

Pursuant to 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 the SSAs, except as provided at 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> and identified mapped wetlands on the subject sites. Pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter Interpretation / Line Verification File No. 1438-03-0018.1, FWW 150001 confirming the extent of wetlands and transition areas on the site. The Department and the applicant acknowledge that a riparian zone permit is required in accordance with Flood Hazard Area Control Act rules, N.J.A.C. 7:13. The applicant also intends to apply for: a Freshwater Wetlands General Permit 10A pursuant to N.J.A.C. 7:7A-10A for proposed disturbance to State open waters, freshwater wetlands, and wetland transition areas associated with the proposed access road crossing and associated culvert construction and a Freshwater Wetlands General Permit No.17 for proposed disturbance to wetland transition areas associated with the construction of a pedestrian trail pursuant to N.J.A.C. 7:7A-5.17. While there may be other wetlands located on Block 19, Lots 5, 6, and 7, none of those instances of wetlands are within the SSA.

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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 on 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.

Pursuant to 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 <http://www3.epa.gov/region02/water/sewer.html>. There are no 201 Facilities Plan grant conditions that provide for the restriction of sewer service to ESAs.

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Pursuant to N.J.A.C. 7:15-4.4(h)1 and (h)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 plan. Based on review of the Washington Township Zoning Ordinance RO-03-16, the proposed project is in the Musconetcong Age-Restricted Housing Overlay Zone. In addition, Heath Village West is located within the Highlands Planning Area, which requires a determination of consistency with the Highlands Regional Master Plan (RMP). On April 7, 2017, the Highlands Council submitted a letter to the Department that the proposed project is in a Protection Zone and in a deficit HUC-14 watershed. Accordingly, the Highlands Council required the approval of a Scope of Work for a Water Use and Conservation Management Plan (WUCMP) before it would issue consent on the WQMP amendment. On October 11, 2017, the Highlands Council issued a letter to the Department that the Scope of Work for the WUCMP had been approved, and that the proposed project is now consistent with the Highlands RMP.

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 project plans to increase the SSA by 47 acres on portions of Block 19, Lots 5, 6, and 7 and the projected wastewater flow for the proposed project, anticipated to be received by Hackettstown Municipal Utilities Authority WPCP, is 46,607 gallons per day (gpd) based on flow calculations in accordance with N.J.A.C. 7:14A-23.3. The Hackettstown Municipal Utility Authority is currently permitted to discharge up 3.3 Million Gallons per Day (MGD) under New Jersey Pollutant Discharge Elimination System

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(NJPDES) permit NJ0021369. Based on the highest average of monthly flow from NJPDES Discharge Monitoring Reports for the 12-month period of March 2015 to February 2016, the existing wastewater flow discharged from Hackettstown Municipal Utility Authority the was calculated to be 2.037 MGD. Therefore, the proposed additional flow should not cause the facility to exceed its permitted capacity.

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

Morris County Department of Planning & Development  
30 Schuyler Pl, 4<sup>th</sup> Floor  
Morristown, NJ 07963

AND

NJ Department of Environmental Protection  
Office of Water Resources Management Coordination  
P.O. Box 420, Mail Code 401-02A  
401 East State Street,  
Trenton, New Jersey 08625-0420

The Department's file is available for inspection through the Open Public Records Act. Requests can be made on-line at <http://www.nj.gov/dep/opra/>.

**Interested persons** may submit written comments on the proposed amendment to the WQM Program Docket, at the Department address cited above. Comments should reference Program Interest No. 435437, Activity No. AMD160004 and must be submitted within 30 days of



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the date of this public notice or within 15 days of the last public hearing, as described below. A copy should be sent to:

Virginia Michelin

Morris County Department of Planning & Development

30 Schuyler Pl, 4<sup>th</sup> Floor

Morristown, NJ 07963

AND

Mr. Edward Bogan, P.E., P.P, C.M.E

Grotto Engineering Associates, LLC

340 North Avenue East

Cranford, New Jersey 07016

**Interested persons** may request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period in this notice up to 30 additional days. These requests should reference Program Interest No. 435437, Activity No. 160004 and must state the nature of the issues to be raised at the proposed hearing or state the reasons why the proposed extension is necessary. These requests must be submitted within 30 days of the date of this notice to WQM Program Docket at the Department address cited above. If a public hearing for the amendment is held, the public comment period provided in this notice shall close 15 days after the public hearing.

Sewer service is not guaranteed by this amendment. This proposed 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

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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

Colleen Kokas, Director  
Office of WRM Coordination  
Department of Environmental Protection

November 20, 2017

Date