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PUBLIC NOTICE

DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION

Proposed Amendment to the Northeast 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 Northeast Water Quality Management Plan (WQMP). This proposed amendment (Program Interest No. 435422, Activity No. WMP170001), prepared by Boswell Engineering, Inc., and submitted on behalf of the Borough of Oakland, Bergen County, would adopt a Wastewater Management Plan (WMP) for the Borough of Oakland as a municipal chapter of the Bergen County WMP. Oakland Borough is located within both the Highlands preservation area and Highlands planning area and is currently only a Highlands conforming municipality in the preservation area. Most of the Borough located in the Highlands planning area is currently identified as sewer service area (SSA) to a future sewage treatment plant that has never been constructed. The Borough includes many failing septic systems, leading the Borough to pursue centralized sanitary sewers as a long-term solution. This WMP proposes to adopt a new centralized SSA to serve the Borough's downtown corridor, which also includes three existing Borough-owned sewerage treatment plants nearing the end of their useful life, and 11 other NJPDES regulated discharges. The wastewater flow will go to the Northwest Bergen County Utilities Authority (NWBCUA) wastewater treatment facility located in the Borough of Waldwick. This proposed SSA contains approximately 1,338 acres and reduces the SSA by approximately 1,691 acres. Additionally,

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the WMP identifies 189 acres in the Ramapo River Reserve as SSA to the existing 0.08093 MGD Ramapo River Reserve wastewater treatment facility, however some minor additions to the SSA have been identified on the future wastewater service area map to include some existing structures that were not previously identified as SSA. Also, the Bi-County Tract, (84 acres), pursuant to court order as described below, continues to be identified as future SSA to the Mountain View wastewater treatment facility in the Township of Wayne.

The 2008 WQMP rules at N.J.A.C. 7:15-5.13 provided that the Department could assign WMP responsibility to a municipality, if the municipality requested such responsibility and the county WMP agency does not intend to submit a WMP. Accordingly, on July 2, 2014, the Department granted the Borough of Oakland alternative assignment of WMP responsibility after the Bergen County Board of Chosen Freeholders declined such responsibility.

On September 26, 2001, the Superior Court of Bergen County determined that the Township of Wayne had a constitutional obligation to accept wastewater flow from the Bi-County Tract, and ordered the Borough of Oakland and the Township of Wayne to execute a municipal services agreement to provide for such wastewater service. On January 28, 2014, Bi-County Development Corp. and the Department entered into a settlement agreement that removed all wetlands, the entire transition area, and 16.81 acres of Barred Owl habitat from SSA.

This amendment has been prepared pursuant to the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15. N.J.A.C. 7:15-4.1(a) requires for the periodic preparation of WMPs. N.J.A.C. 7:15-4.2(a) provides that wastewater management planning (WMP) agencies shall submit WMPs as

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requests to amend areawide plans in accordance with the schedule established within the WQMP rules and shall be processed according to the Department's procedures for WQMP amendments, N.J.A.C. 7:15-3.5. Further, N.J.A.C. 7:15-4.1(b) provides that the components of a county-wide WMP may address the entire county or may be divided into chapters, with each chapter addressing an entire municipality within that county. Accordingly, this proposed WMP amendment addresses the Borough of Oakland, within Bergen County. In accordance with the WQMP rules, the complete Borough WMP includes all required components including wastewater service area mapping, a wastewater treatment capacity analysis, a nitrate dilution analysis, potential strategies to address any potential capacity deficiencies and a Septic Maintenance Program plan. The build-out analysis for the municipality, which determines future wastewater need, evaluated the capacity of treatment facilities to meet future wastewater needs, and completed a septic area carrying capacity analysis (referred to as "Nitrate Dilution Analyses" in the WMP). The Oakland Borough WMP summarizes these analyses and results and includes maps depicting the WMP planning area, selected environmentally sensitive features, a wastewater service area map depicting existing and future wastewater treatment facilities and associated SSAs, municipal zoning, and supplemental supporting maps identifying vacant lands and areas with known septic system issues.

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).

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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 (Landscape Maps) as Rank 3, 4, or 5; Natural Heritage Priority Sites; Category One waters designated in the Department's Surface Water Quality Standards, 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. Although ESAs are identified in the proposed SSA, there are no contiguous composite ESAs of 25 acres or larger identified as 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 ESAs, 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 Ranks 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 as threatened or endangered wildlife habitat pursuant to N.J.A.C. 7:15-4.4(e)1, the Department utilized its Landscape Maps, version 3.3 at <http://www.nj.gov/dep/gis/listall.html>. There is no mapped threatened or endangered species habitat 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 ESAs, such as Natural Heritage Priority sites identified pursuant to N.J.A.C. 7:15-

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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 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 ESAs, 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. 7:15-4.4(e)3, the Department utilized its GIS data at <http://www.nj.gov/dep/gis/listall.html>. There are no Category One waters or corresponding 300-foot buffers 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 ESAs, 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>. 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

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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/install.html>. There are no coastal planning areas within the proposed 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 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 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://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2>. There are no 201 Facilities Plan grant conditions on the treatment plant.

N.J.A.C. 7:15-4.5(b) provides that the existing and future wastewater management needs of each SSA of a domestic treatment works (DTW), or industrial wastewater facility that receives wastewater from outside the industrial facility boundaries, shall be identified and evaluated in a wastewater treatment capacity analysis by identifying the existing and projected

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future flows that will be generated. To calculate existing flow, the Borough used the highest consecutive 12 months rolling average over the most recent five-year period preceding development of the WMP, as reported in Discharge Monitoring Reports required pursuant to N.J.A.C. 7:15-4.5(b)1i.

To calculate projected wastewater flow, N.J.A.C. 7:15-4.5(b)1ii(2) provides that applicants should estimate build-out future wastewater flows from existing development that is not currently connected and future development based on flow projections from N.J.A.C. 7:14A-23.3, 7:14A-23.2(c), or 7:9A. Accordingly, the Borough utilized water usage records to project that the approximate flow from those structures not currently connected to the NWBCUA wastewater treatment facility within the proposed SSA is 364,632 gallons per day (gpd). For the 88 properties without water usage records, the Borough used the flow projection standards at N.J.A.C. 7:14A-23.3 to project future flows of 26,368 gpd for a total flow projection based on water usage of 391,000 gpd. In addition, there are 61.1 acres of undeveloped land within the proposed SSA. To project wastewater flows for these areas, the Borough used the flow projection standards at N.J.A.C. 7:14A-23.3. Collectively, the projected wastewater flow for the entire NWBCUA wastewater treatment facility proposed SSA is 477,042 gpd.

The NWBCUA wastewater treatment facility is a regional Sewage Treatment Plant (STP) that collects and treats wastewater flows from 14 municipalities. This proposal will add a portion of Oakland to the SSA for NWBCUA. Under NJPDES permit NJ0024813, the NWBCUA STP has a permitted flow capacity of 16.8 million gallons per day (MGD). Upon review of the last five years' flow records, the Department has noted the NWBCUA plant's

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highest reported flow at 10.072 MGD. The addition of Oakland to NWBCUA's SSA would increase the projected flow to 10.54555 MGD. Therefore, the Department has determined that the NWBCUA STP has sufficient capacity to accept Oakland Borough into its SSA.

As mentioned above and with possible limitations as described below, based on the 2001 Order of Final Judgment and the 2014 Settlement Agreement, the Borough WMP proposes to direct approximately 61,200 gpd of wastewater flow to the Mountain View Wastewater Treatment Facility (WTF) in the Township of Wayne. Under NJPDES permit NJ0028002, the Mountain View WTF has a permitted flow capacity of 13.5 MGD. Upon review of the last five years' flow records, the Department has noted Mountain View WTF's highest reported flow at 7.178 MGD. To add the proposed flow to Mountain View WTF's SSA would increase the projected flow to 7.239 MGD. Therefore, the Department has determined that Mountain View WTF has sufficient capacity to accept the proposed wastewater flow into its SSA.

Because the proposed SSA will remove septic effluent discharge from the Ramapo River Basin to the Saddle River Basin, an interbasin transfer of wastewater flow is proposed. Accordingly, the flow to be conveyed from the Ramapo Basin to NWBCUA is approximately 477,042 gpd. The Borough and NWBCUA intend to enter into a partnership agreement providing for the installation of a pumping station, force main, and gravity interceptor along Route 202. This amendment does not constitute an approval in any manner that would result in a transfer from the Ramapo River into Saddle River of more than 0.5 MGD, including any application by a property owner outside the SSA for a site specific WMP amendment for inclusion in SSA. Accordingly, the Department recommends that force mains and pumps be

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sized in such a way that limits sewage export from the basin to meet those restraints. The agreement will also include a requirement that all properties with frontage along the interceptor tie into the interceptor within 36 months of the execution of the agreement.

To mitigate the conveyance of flow from the Ramapo Basin to the Saddle River Basin the Borough proposed several strategies. The Borough first proposed to require an owner of a tract of land, Fanale, to purchase water directly from SUEZ New Jersey. This tract, identified as the Fanale Tract, will be developed to satisfy the Borough's Council on Affordable Housing (COAH) obligations. This arrangement would prevent the interbasin transfer of 56,250 gpd of water projected for the Fanale Tract development to the Saddle River Basin. Another proposal would require Bi-County Development to purchase water directly from the Township of Wayne. The Bi-County Development would convey sanitary sewer to the Township of Wayne, and the Borough would require the development to import water from outside the Ramapo basin to serve the project, eliminating 61,200 gpd of water usage from the Borough. The third proposed mitigation strategy would require Oakland Borough to agree to fully implement a Highlands Water Use and Conservation Management Plan. If this strategy is selected, then prior to the approval of the WMP, the Borough shall sign the required Water Use and Conservation Management Plan tri-party agreement thereby initiating the preparation of the Plan. The Borough shall also submit the required Scope of Work to the Highlands Council for approval. All these strategies are under evaluation by the Department and will each require all necessary approvals if selected for mitigation.

Regardless of the mitigation strategy pursued, the change of the location of the discharge from the Ramapo Basin to the Saddle River Basin requires a Major Modification of the

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Borough's Water Allocation permit. The Borough of Oakland must obtain the Water Allocation Major Modification Permit prior to the submission of the Treatment Works Approval application for the construction of the wastewater interceptor which will result in the interbasin transfer. In addition, such Major Modification requires a Consistency Determination from the Highlands Council. To obtain the Consistency Determination from the Highlands Council, the Borough must identify mitigation strategies for a minimum of 100 percent of the proposed interbasin transfer. Such mitigation strategies shall include but not be limited to the preparation and full implementation of a municipality-wide Water User and Conservation Plan, which accounts for existing and future water deficits in the Highlands Region. If the major modification to the Water Allocation permit cannot be issued in accordance with N.J.A.C. 7:19, then the proposed interbasin transfer cannot proceed.

N.J.A.C. 7:15-4.5(c) provides that, for areas not served by wastewater treatment facilities in the Highlands planning area for non-conforming municipalities, the future wastewater treatment needs shall be evaluated through a nitrate dilution analysis of the areas to be served by individual subsurface sewage disposal systems discharging 2,000 gpd or less to ground water. N.J.A.C. 7:15-4.5(c)1 provides that the applicant shall determine the development density that can be accommodated in undeveloped and underdeveloped areas that will result in attainment of 2 mg/L nitrate in ground water on a HUC 11 basis.

N.J.A.C. 7:15-4.5(c) provides that, for areas not served by wastewater treatment facilities in the Highlands preservation area, the future wastewater treatment needs shall be evaluated through a nitrate dilution analysis of the areas to be served by individual subsurface sewage disposal systems discharging 2,000 gpd or less to ground water. N.J.A.C. 7:15-4.5(c)3

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provides that the applicant shall demonstrate that the proposed wastewater facilities are consistent with the requirements as set forth in the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38. Approximately 95 percent of the Borough is presently served by private septic systems, while the remaining five percent discharge to sanitary sewers. The sanitary sewerage is treated by three Borough-owned package treatment plants, as well as 25 privately-owned NJPDES regulated wastewater treatment facilities. To estimate available developable acreage in the non-SSA of the Highlands planning area, the Borough utilized the NJDEP Recharge-Based Nitrate-Dilution Model for New Jersey V7.0, developed by the New Jersey Geological Survey (NJGS). Using the Model, the Borough determined that development of only 514 septic systems would be permissible to meet the 2 mg/L nitrate dilution goal. However, the Borough already has 4,279 septic systems in this area and, therefore, is 3,765 units over the 2 mg/L nitrate dilution goal. Accordingly, no additional units can be developed on septic systems. To estimate available developable acreage in the non-SSA of the Highlands preservation area, the Borough utilized the August 2009 Highlands Council Municipal Build-Out Report of Oakland Borough, which also identified that the area is over capacity and concluded a septic system yield of zero units for the preservation area.

N.J.A.C. 7:15-4.5(b)4 and (c)1v requires the applicant to identify and evaluate strategies for addressing wastewater treatment facility capacity deficiencies and insufficient nitrate dilution capacity to meet the projected loading from future development. There is only one existing NJPDES regulated facility known as Oakland Operator LLC which is currently over 80 percent of the permitted flow and thus must evaluate a strategy to address a potential capacity deficiency in the future. Although growth is not anticipated at this facility, and therefore does

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not represent an urgent issue, the Borough will require the permittee to perform an assessment of the treatment works, and an evaluation of alternative measures that would maximize conveyance and treatment of existing flows, reduce or maintain existing flows below permitted flow at the facility and ensure adequate conveyance capacity. Regarding the insufficient nitrate dilution capacity, because the number of existing septic systems in the part of the Borough that lies within the Highlands planning area exceed the maximum allowable dwelling unit calculations by 3,765, the installation of a public sewer system in the most heavily affected portions of the town is the most practical strategy to mitigate existing deficiencies and reduce nitrate concentrations within the sub-watershed area.

The proposed SSA will remove approximately 2,432 dwelling units/EDUs from the current unserved sewer service area, reducing the number of dwelling units/EDU's in the Borough that lies within the Highlands planning area relying on septic systems, to 1,847. The resulting non-sewered dwelling units/EDUs will still result in an exceedance of 1,333 (Total Non-Sewered Units in planning area – Maximum Allowable Dwelling Units or 1,847 - 514 = 1,333). To mitigate this exceedance in the planning area and the additional exceedance in the preservation area, the dwelling units/EDU's remaining on septic will be required to comply with the Septic Maintenance Plan outlined below.

In addition to evaluating the nitrate dilution capabilities of potential individual subsurface sewage disposal system (ISSDS) development, N.J.A.C. 7:15-4.5(c)1vi requires applicants to demonstrate that areas to be served by ISSDS are subject to a mandatory maintenance program, such as an ordinance, which ensures that all ISSDS are inspected at a frequency to adequately determine if they are functioning properly. The Department advised

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in the WQMP rule adoption, 48 N.J.R. 2244(a), that a program consistent with this provision should include an inventory of parcels served by septic systems, as well as a description of current management practices. The program should also include a description of future septic management practices that would improve the current septic maintenance practices identified. The Oakland WMP contains a Septic Maintenance Program plan which identifies that the Borough Department of Health currently keeps records of all septic systems and current Borough code at 1967 Code §54-2A, through Ordinance #79-51, provides that no person shall locate, construct, reconstruct, renovate, alter, repair or extend an individual sewage disposal system within the Borough until a permit has been issued by the Board of Health of the Borough, pursuant to Borough application procedures. The Septic Maintenance Plan further identifies the Borough's intention to provide additional notification to septic systems owners regarding the proper operation and maintenance practices for septic systems as well as confirmation of maintenance during sale of property and improved tracking and notification through updating from paper to electronic record keeping of the septic inventory and maintenance records.

N.J.A.C. 7:15-3.5(f) provides that entities that prepare an amendment to an areawide WQM plan, through a wastewater management plan, shall, during such preparation, notify, seek comments from, and offer to consult with all governmental entities that have regulatory or planning jurisdiction over wastewater, water supply, or land use in any SSA being modified. Accordingly, Oakland Borough consulted with the following entities as directed by the Department:

North Jersey District Water Supply Commission

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SUEZ Water New Jersey

Passaic Valley Water Commission

Great Falls Hydroelectric Company

City of Paterson DPW Great Falls Raceway

Dundee Water Power and Land Company c/o SUEZ Water NJ

Northwest Bergen County Utilities Authority (NWBCUA)

Borough of Franklin Lakes

Township of Wayne

Bergen County Board of Chosen Freeholders

Highlands Council

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

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 WQM Program Docket, at the Department address cited above. Comments should reference

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Program Interest No. 435422, Activity No. WMP170001, and must be submitted within 30 days of the date of this public notice or within 15 days after the last public hearing, as described below. A copy should be sent to:

Kevin J. Boswell, P.E.
Boswell Engineering, Inc.
330 Phillips Ave
South Hackensack, NJ 07606

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. Such request should reference Program Interest No. 435422, Activity No. WMP170001 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined under N.J.A.C. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the WQM Program Docket at the Department address cited above. Should the Department decide to hold a public hearing, notice of said hearing and the revised comment period's closing date will be published in a future New Jersey Register. If a non-adversarial public hearing for the amendment is held, the public comment period provided by this notice shall close 15 days after the last public hearing. All comments submitted prior to the close of the comment period shall be considered by the Department in reviewing the amendment request.

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. Inclusion in the sewer service area as a result of the approval of this amendment does not

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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

Alan Miller, Manager
Office of WRM Coordination
Department of Environmental Protection

2/23/18
Date