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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATER MONITORING AND STANDARDS

Proposed Amendment to the Lower Delaware Water Quality Management Plan

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Lower Delaware Water Quality Management (WQM) Plan and Cumberland County Future Wastewater Management Service Area map in accordance with the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-et seq., and the Water Quality Management Planning rules, N.J.A.C. 7:15. The proposed amendment (Program Interest No. 435441, Activity No. WMP170001), prepared by the Cumberland County Department of Planning and submitted on behalf of the Cumberland County Board of Chosen Freeholders, would amend the Cumberland County Future Wastewater Service Area map by adding the following components: 1) a complete municipal chapter of the Cumberland County WMP for Downe Township (“municipal chapter WMP”) and 2) a Septic Management Plan for the entire county. 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, as described below.

The Downe Township municipal chapter WMP proposes a new Fortescue wastewater treatment facility and corresponding sewer service area (SSA) to serve existing development in the Fortescue and Gandy’s Beach Villages, the Fortescue Park/Heritage Hill Estates mobile home park and the Raybins Beach area, which are currently served by individual subsurface sewage disposal systems (ISSDS). The WMP would also update SSA mapping for the rest of Downe Township. The new/updated SSA map would

replace the Downe Township portion of the Cumberland County Future Wastewater Service Area (FWSA) map adopted on January 15, 2015 (see 45 N.J.R. 2268(b)). Pursuant to N.J.A.C. 7:15-4.4(d), the following are not eligible for delineation as SSAs, except as otherwise provided at N.J.A.C. 7:15-4.4(i) through (l): environmentally sensitive areas (ESAs) identified under N.J.A.C. 7:15-4.4(e) as endangered or threatened wildlife species habitat, Natural Heritage Priority Sites, riparian zones of Category One waters and their tributaries, or wetlands; coastal planning areas identified under N.J.A.C. 7:15-4.4(f); and ESAs subject to 201 Facilities Plan grant conditions under N.J.A.C. 7:15-4.4(g). The Department conducted an evaluation of the proposed SSA map using a GIS shapefile provided by the applicant compared to the Department's GIS data layers available at <http://www.nj.gov/dep/gis/listall.html> 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) through (g) and made the following findings:

- The Department determined that the proposed SSA does not contain any areas mapped as endangered and threatened wildlife species habitats 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 proposed 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 proposed SSA does not contain any Category One (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 and N.J.A.C. 7:13-4.1(c)1 and N.J.A.C. 7:15-4.4(e)3.
- The Department determined that the proposed SSA does contain mapped wetlands based on the "Wetlands 2012" GIS data layer; however, in accordance with N.J.A.C. 7:15-4.4(j)3, the applicant

provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File #1202-09-0002.1 FWW180001 confirming that there are no actual wetlands within the proposed SSA.

- The Department determined that the new SSA for Fortescue and Gandy's Beach villages, the Fortescue Park/Heritage Hill Estates mobile home park and the Raybins Beach area does contain mapped Coastal Rural Planning Areas based on the "CAFRA Layers" GIS layer in accordance with 7:15-4.4(f); however, in accordance with N.J.A.C. 7:15-4.4(f)I, the Department determined that limited sewerage of a portion of the CAFRA Rural Planning Area in Downe Township is necessary to abate an existing imminent public health and safety issue. This finding is based on shoreline surveys conducted by the Department and the U.S. Food and Drug Administration (FDA) at Fortescue and Gandy's Beach Villages that identified the infrastructure issues including failing septic systems, leaking holding tanks, shallow water tables, and frequent flooding. Subsequently, the FDA cited the Department in its annual National Shellfish Sanitation Program audits for allowing untreated waste via compromised on-site wastewater disposal systems to enter the Delaware Bay in proximity to economically important shellfish growing areas. In addition, the Feasibility Study, funded by the Department, evaluates the wastewater treatment alternatives to address identified infrastructure issues in Gandy's Beach, Fortescue, Money Island, Newport, and Dividing Creek. These citations are referenced in the February 12, 2018 Memorandum of Agreement (MOA) between Downe Township, Cumberland County, the Department and the New Jersey Environmental Infrastructure Trust establishing terms and conditions for the planning, design, financing, and construction of a centralized wastewater conveyance and treatment system to resolve wastewater issues in in the Fortescue and Gandy's Beach, Downe Township. The County's submission of the proposed Downe Township municipal chapter WMP was a requirement of the MOA.
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the proposed SSA based on the USEPA 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> in accordance with N.J.A.C. 7:15-4.4(g).

The proposed WMP shows no wastewater treatment capacity deficit for Downe Township. The proposed new Fortescue WTP would discharge to Fortescue Creek, a tidal tributary to Delaware River Water Quality Zone 6 and would be sized specifically to receive the total projected wastewater flow of 0.146 million gallons per day (mgd) from existing development within the proposed new SSA, which represents buildout under current zoning and other restrictions on further development within the proposed new SSA. The three existing WTPs in Downe Township: Fortescue Park (Heritage Hill Estates) New Jersey Pollutant Discharge Elimination System (NJPDES) Permit Number NJG0246603, Garrison House Trailer Park/Campground (NJG0241075) and Sundog Marina (NJG0241831), are ISSDS authorized with NJPDES permits that restrict them from receiving any additional flow from other than the existing buildings they serve which are prohibited from expansion of wastewater flows/capacity. The proposed nitrate dilution analysis shows a deficit in the septic carrying capacity for two HUC11 subwatersheds, 02040206110 and 02040206100, because the potential number of equivalent dwelling units under zoned build-out will exceed the nitrate dilution or septic carrying capacity. This zoning build-out deficiency is 518 units for Downe Township, whereas the nitrate dilution model has a carrying capacity of 86 units. The Department has determined that the wastewater capacity analysis for Downe Township complies with N.J.A.C. 7:15-4.5.

The WMP proposes the following potential strategies to address the septic capacity deficit identified in HUC11's 02040206110 and 02040206100: identifying areas to be included in a future assigned or unassigned SSA, which would require a future plan amendment; open space acquisition or preserving undeveloped land to restrict areas that are eligible for development; rezoning to reduce the potential amount of future development; reducing floor area ratio and/or density; and increasing minimum lot size for development served by onsite septic systems. The Department has determined that the proposed strategies to mitigate potential capacity deficiencies comply with N.J.A.C. 7:15-4.5.

The proposed amendment also includes a new county-wide component of the Cumberland County WMP consisting of a septic management plan, in accordance with N.J.A.C. 7:15-4.2(e). The Cumberland County Department of Planning, in coordination with Cumberland County Health Department, developed the County septic management plan, which consists of an inventory of all existing ISSDS, current septic management practices that promote care and maintenance of septic systems, and proposed improvements to the current septic management practices and refinement of the ISSDS inventory. The Department has determined that the septic management plan complies with N.J.A.C. 7:15-4.5(c)1vi.

This notice is to inform the public that a plan amendment has been proposed for the Lower Delaware WQM Plan. This amendment was submitted to Delaware River Basin Commission (DRBC) and a public hearing was held by Delaware River Basin Commission on May 15, 2019 and was approved unanimously by the commissioners the at the June 12, 2019 business meeting. All information related to the Lower Delaware WQM Plan and the proposed amendment is located at:

Cumberland County Department of Planning
164 West Broad Street
Bridgeton, New Jersey 08302

AND

New Jersey Department of Environmental Protection
Division of Water Monitoring and Standards
Bureau of Environmental Analysis, Restoration and Standards
Water Quality Management Planning Program
P.O. Box 420, Mail Code 401-04I
401 East State Street
Trenton, New Jersey 08625-0420

The Department's file is available for inspection through the Open Public Records Act. Requests may be made on-line at <https://www.state.nj.us/dep/opra/opraform.html>.

Interested persons may submit written comments on the proposed amendment to the Department at the address cited above. Comments should reference Program Interest No. 435448, Activity No. AMD170008 and must be submitted within 30 days of the date of this public notice. A copy of the written comments should also be sent to:

Robert Brewer
Cumberland County Department of Planning
164 West Broad Street
Bridgeton, New Jersey 08302

Interested persons may also request in writing that the Department hold a non-adversarial public hearing on the amendment or extend the public comment period specified in this notice. Such request should reference Program Interest No. 435441, Activity No. AMD170001 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined under N.J.AC. 7:1D-5.2(d). The request must be submitted within 30 days of the date of this notice to the Department address cited above. Should the Department decide to hold a public hearing, additional notice will be published in a future New Jersey Register and the comment period will be extended to 15 days after the public hearing date. All comments submitted prior to the close of the comment period shall be considered by the Department before making a final decision on the proposed amendment.

Sewer service is not guaranteed by this amendment since it represents only one part of the permit process and other issues may need to be addressed. Inclusion in the sewer service area resulting from

adoption 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.

___7/1/19_____

Date

___signed_____

Bruce S. Friedman, Director

Division of Water Monitoring and Standards