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## **PUBLIC NOTICE**

### **ENVIRONMENTAL PROTECTION**

### **WATERSHED AND LAND MANAGEMENT**

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

### **Proposed Amendment to the Sussex County 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 Sussex County Water Quality Management (WQM) Plan in accordance with 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 proposed amendment, identified as the Roxbury Warehouse, also known as Adler (Program Interest No. 435459, Activity No. AMD170003), would expand the sewer service area (SSA) of the Musconetcong Sewerage Authority (MSA) Sewage Treatment Plant (STP), New Jersey Pollutant Discharge Elimination System No. NJ0027821, by 22 acres, to serve a proposed 470,044 square-foot warehouse located on a portion of Block 9501, Lot 1, in Roxbury Township, Morris County. The project will generate a projected wastewater flow of 11,700 gallons per day (gpd) as calculated in accordance with N.J.A.C. 7:14A-23.3.

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. 7:15-3.3(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 of new SSAs 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 will add less than 100 acres of new SSAs and will generate less than 20,000 gpd of wastewater; therefore, an update of the wastewater treatment capacity analysis is not required.

The proposed project is located in the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.a. Areas eligible for sewer service in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). The proposed project is located within a Protection Zone of the Highlands Planning Area. Roxbury Township does not have an approved Petition for Plan Conformance with the Highlands Council to conform with the Highlands Regional Master (RMP). Pursuant to Executive Order No. 114 (2008), the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability provisions of the RMP and issued a letter on August 23, 2019, stating that the project is within a deficient HUC-14 watershed. In accordance with the RMP objectives, a mitigation target of 1,525 gpd was assessed by the Council for the proposed project. Due to low soil permeability onsite, the project cannot utilize surface or subsurface infiltration basins to achieve the mitigation target.

Consequently, to address this target, several conservation measures have been proposed that promote, to the maximum extent possible, the reduction of water usage. Conservation measures include low-flow water fixtures, a landscape design of drought-tolerant native

plantings, and installation of automatic irrigation controls based on rain sensors. To limit the need of irrigation, a low maintenance grass mixture is proposed for open space area. In addition, the original proposed development has been scaled back and, as a result, reduces the impervious coverage area, as well as overall water demand. Due to these features of the proposed project, the Highlands Council has deemed it consistent with the RMP.

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), (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 pursuant to 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 <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), (f), and (g) and made the following findings:

- The Department determined that the proposed project property contains Rank 4 endangered and threatened wildlife species habitat identified for the Red-Shouldered Hawk (RSH) based on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Wildlife "Landscape Project Data" Version 3.3 GIS data layers. Pursuant to N.J.A.C. 7:15-4.4(j)2, on August 17, 2017, the applicant submitted a

Habitat Suitability Determination (HSD) prepared in accordance with N.J.A.C. 7:15-4.6. The Department reviewed the HSD and concluded that the entire project site encompasses foraging habitat for the RSH. On March 9, 2018, the applicant submitted a Habitat Impact Assessment (HIA) prepared pursuant to N.J.A.C. 7:15-4.7. The Department reviewed the HIA and concluded that the impact of the proposed project would cause significant impact to the RSH habitat. However, if the applicant developed a stormwater design that recharges the onsite wetlands, which are the key foraging habitat; placed a conservation restriction on the remaining areas of the lot outside of the proposed SSA and on an additional mitigation site that provides suitable habitat for RSH, the impact would be minimized and mitigated.

In response to the Departments' review, the project site plan incorporates onsite stormwater controls focused on maintaining vernal pool hydrology approved by the Department's Division of Land use Regulation (DLUR), and potential vernal habitat foraging areas and their associated 150-foot transition areas will remain undisturbed. The site was redesigned to avoid and minimize impacts to habitat area and includes a reduced clustered design. The project's reduced impact cluster design land disturbance area amounts to 31.9 acres, which represents a 30 percent decrease in land area impact. To mitigate for this 30 percent loss of habitat, the applicant has agreed to place a deed conservation easement on all remaining onsite habitat, approximately 74.7 acres. Additionally, the applicant will acquire, and permanently protect under conservation deed restriction, 48.03 acres located at 219 River Road, Block 7, Lot 20, Montaugue Township, Sussex County. The conservation easements shall run with the properties and

be binding on all successive owners, their agents and assigns. Ownership of the proposed mitigation site must be established and both conservation deed restrictions, (project site and the mitigation property) must be executed, filed, and recorded with the Morris and Sussex County clerks, respectively; and proof of ownership and recordation of the deed restrictions must be provided to the Department prior to adoption of the proposed amendment, in accordance with N.J.A.C. 7:15-4.4(k)3.

- 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 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 there are wetlands located on the project site based on the “Wetlands 2012” GIS data layer in accordance with N.J.A.C. 7:15-4.4(e)4; however, pursuant to N.J.A.C. 7:15-4.4(j)3, the applicant provided a Freshwater Wetlands Letter of Interpretation (LOI)/Line Verification File # 1436-05-0006.1; FWW180001 confirming that there are no wetlands within the proposed sewer service area.
- The Department determined that the proposed 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).

- In accordance with N.J.A.C. 7:15-4.4(g), the Department determined that there are applicable 201 Facilities Plan grant conditions based on the U.S. Environmental Protection Agency (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>. The proposed project is located in the Landing-Shore Hills area of Roxbury Township and would convey wastewater to the MSA STP. As stipulated in the grant agreement executed between MSA and the USEPA pursuant to Project Number C-340384-03, an ESA grant condition prohibits any sewer connection within the Landing-Shore Hills area to the MSA STP from a sewage-generating structure located on a parcel of property containing wetlands, unless a mapping revision or grant waiver is obtained from the USEPA. As discussed above, the Department LOI confirmed the proposed project property does contain wetlands. Therefore, a waiver from the USEPA is required for this amendment. On July 1, 2021, the USEPA issued a partial waiver of the ESA special grant condition for this project.

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. The proposed project is consistent with municipal zoning of Roxbury Township as it is located within the light industrial/office research district zoning. In communications on July 15, 2021, the Morris County Planning Department chose not

to provide a determination regarding the project's consistency with the county master plan and has deferred this verification to the municipality.

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

New Jersey Department of Environmental Protection  
Division of Watershed Protection and Restoration  
Bureau of NJPDES Stormwater Permitting & Water Quality Management  
Water Quality Management Planning Program  
PO Box 420, Mail Code 401-041  
401 East State Street  
Trenton, New Jersey 08625-0420

The Department's file is available for inspection between 9:00 A.M. and 4:00 P.M., Monday through Friday, upon request. An appointment to inspect the file must be arranged by calling the Bureau of NJPDES Stormwater Permitting & Water Quality Management (609) 633-7021. Interested persons may submit written comments on the proposed amendment to the Department at the address cited above or at the email: [wgmp.publiccomments@dep.nj.gov](mailto:wgmp.publiccomments@dep.nj.gov). Comments should reference Program Interest No. 435459, Activity No. AMD170003 and must be submitted within 30 days of the date of this public notice.

Interested persons may request, in writing, that the Department hold a nonadversarial public hearing on the amendment or extend the public comment period specified in this notice.

Such requests should reference Program Interest No. 435459, Activity No. AMD170003 and must demonstrate sufficient public interest for the public hearing or extension of the comment period, as defined at 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 Department address cited above. Should the Department decide to hold a public hearing, additional notice will be published in a future issue of the New Jersey Register and the comment period will be extended to 15 days after the public hearing. 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 should this amendment be adopted as 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.

8/16/2021

Date

SIGNED

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