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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Proposed Amendment to the Northeast and Upper Raritan Water Quality Management Plans

Public Notice

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Northeast and Upper Raritan Water Quality Management (WQM) Plans 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 **“KRE Mine Hill”** (Program Interest No. 435442, Activity No. AMD200005) would alter the sewer service area (SSA) of the Rockaway Valley Regional Sewerage Authority (RVRSA) New Jersey Pollutant Discharge Elimination System (NJPDDES) permit No. NJ0022349 by adding 14 acres to serve a 390-unit residential development with a clubhouse and pool on portions of Block 1102, Lot 1 and Block 1502, Lot 1, in Mine Hill Township, Morris County. Additionally, 16 acres of the project site would be removed from the SSA with this proposal due to the presence of Environmentally Sensitive Areas (ESAs). The project will generate a projected wastewater flow of 80,500 gallons per day (gpd) based on flow calculated in accordance with N.J.A.C. 7:14A-23.3. This notice represents the Department’s determination that

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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 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 but would generate more than 20,000 gpd of wastewater flow. Because the projected was anticipated at the time of the development of the recently adopted Mine Hill municipal chapter of the Morris County Wastewater Management Plan (WMP), the wastewater flow projections associated with the project were already included in the wastewater treatment capacity analysis. However, at the time of the WMP development, the proposed SSA to accommodate the project could not be fully included due to environmental constraints which are addressed by this proposed amendment.

The proposed project is located within the Highlands Region, as defined in the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-7.a. As delineated in the Highlands Regional Master Plan (RMP), the proposed project property is located within the Protection Zone of the Highlands planning area. Mine Hill Township has not opted to conform with the Highlands RMP. However, pursuant to Executive Order 114 (2008), the Highlands Council reviewed the proposed amendment for consistency with the Net Water Availability (NWA) provisions of the RMP. In a

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letter dated May 6, 2021, the Highlands Council determined that the proposed project is consistent with the RMP. Although the project is located within a HUC14 with a Net Water Availability deficit, Mine Hill Township completed a Scope of Work and signed a Tri-Party Agreement for development of a municipal Water Use and Conservation Management Plan (WUCMP). The applicant has committed to assisting Mine Hill Township with the implementation of the WUCMP once it is adopted. Implementation of water conservation strategies that are to be adopted by Mine Hill Township will assist with a NWA deficit that is classified as severe. The applicant shall provide documentation to the Highlands Council that will describe the anticipated participation and role they will play in the implementation of specific conservation measures.

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): 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 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 <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:

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- The Department determined that the proposed SSA contains areas mapped as endangered or threatened wildlife species habitat for Northern Myotis and Indiana Bat (Rank 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 5.91 acres of forested area of suitable habitat would be impacted by the project and that, in accordance with N.J.A.C. 7:15-4.4(k)3 and 4.7(e)1ii, implementation of conservation measures to minimize to the maximum extent practicable all adverse modification of suitable habitat and to mitigate for any such adverse modifications, was necessary. Pursuant to N.J.A.C. 7:15-4.4(k), the applicant submitted a Habitat Impact Assessment (HIA) prepared in accordance with N.J.A.C. 7:15-4.7, proposing several conservation and mitigation measures, including the placement of a conservation restriction easement on the undeveloped portions of the project property and removal of 16 acres of the project site from the currently approved SSA. The Department determined that the habitat being impacted is not necessarily of high quality and the amount of acreage to be reforested will increase, over a relatively short-time period, the available habitat for the two bat species. In addition, the proposed conservation actions will also serve to restore areas of wetland and wetland transition area historically cleared and serve to minimize impacts to wetlands and waters associated with a C1-Trout Production stream. The Department concluded that the implementation of these conservation measures will minimize to the maximum extent practicable all adverse modification of suitable habitat and will mitigate for

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any such adverse modification in a manner that provides for no net loss of habitat value to endangered or threatened species including the local potential population of the species.

The Conservation Deed Restriction, covering 26.66 acres of the project site, will include the following mitigation measures:

- Adhering to seasonal restrictions to clearing trees of 3-inch or greater Diameter Breast Height from April 1 to November 15;
- Reforesting 12.6 acres on Block 1502, Lot 1 and 2.71 acres on Block 1102, Lot 1 with bat preferred tree species;
- Placing Jackson Brook, its associated riparian zone, wetlands, and all wooded portions of the project site not proposed for tree clearing into a conservation easement to permanently preserve the land;
- Tree girdling of red maples, sugar maples, and American elms to encourage habitat enhancement in the short-term for roosting bats;
- Limiting lighting impacts using downward facing lights, shields, and/or timers;
- Avoiding the application of fertilizers or pesticides within 100 feet of wetlands and waterbodies;
- The applicant will avoid use of chemicals (e.g. copper sulfate) in stormwater basins.

Pursuant to N.J.A.C.7:15-4.4(k)3, the conservation restriction must be executed, filed and recorded with the Morris County Clerk and proof of recordation of the deed restriction must be provided to the Department prior to adoption of the proposed amendment.

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- 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 there are riparian buffers of the Lamington River, a C1 waterway on the project site; however, 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. Additionally, the riparian buffers are located within the area to be removed from the currently adopted SSA and protected by the conservation easement to be placed on the project site.
- 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 # 1420-17-0005.1, FWW170001, confirming that there are no wetlands within the proposed SSA.
- 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

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(USEPA) list of New Jersey Grantees with ESA Grant Conditions at

[https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-](https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2)

[waiver-program-region-2](https://www.epa.gov/npdes-permits/environmentally-sensitive-area-esa-grant-condition-waiver-program-region-2). Wastewater generated by the proposed project will be conveyed to the RVRSA, which is subject to a Federal ESA grant condition included in the grant agreement executed between the RVRSA and the USEPA under Project Number C-34-389-02 and Project Number C-34-389-06. The ESA grant condition prohibits any sewer connection to Federally-funded facilities from any sewage-generating structure located on a parcel of property containing wetlands, prime agricultural land or within the 100-year floodplain unless a mapping revision or grant waiver is obtained from the USEPA. A request for a grant waiver for the proposed project was submitted to the USEPA by the RVRSA on May 20, 2021. Pursuant to N.J.A.C. 7:15-4.4(g), the applicant must provide the grant waiver obtained from the USEPA to the Department prior to adoption of the proposed amendment.

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 part of a redevelopment plan adopted by Mine Hill Township on February 21, 2019 (Ordinance 06-19) and received a resolution in support of the amendment from the Township Council of Mine Hill on January 7, 2021. In an email dated August 11, 2021, Morris County took no position on the proposed amendment.

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

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New Jersey Department of Environmental Protection

Division of Watershed Protection and Restoration

Bureau of NJPDES Stormwater Permitting and 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 and Water Quality Management at (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: wqmp.publiccomments@dep.nj.gov. Comments should reference Program Interest No. 435442, Activity No. AMD200005 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. 435442, Activity No. AMD200005 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

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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 Department's 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.

11/3/2021

Date

SIGNED

Gabriel Mahon, Bureau Chief

Bureau of NJPDES Stormwater Permitting and Water Quality Management

Division of Watershed Protection and Restoration

NJ Department of Environmental Protection