

NOTE: THIS IS A COURTESY COPY OF THIS PLAN AMENDMENT PROPOSAL. THE OFFICIAL VERSION WILL BE PUBLISHED IN THE NOVEMBER 21, 2022 NEW JERSEY REGISTER. SHOULD THERE BE ANY DISCREPANCIES BETWEEN THIS TEXT AND THE OFFICIAL VERSION OF THE PROPOSAL, THE OFFICIAL VERSION WILL GOVERN.

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATERSHED AND LAND MANAGEMENT

DIVISION OF WATERSHED PROTECTION AND RESTORATION

Proposed Amendment to the Northeast Water Quality Management Plan

Take notice that the New Jersey Department of Environmental Protection (Department) is seeking public comment on a proposed amendment to the Northeast Water Quality Management (WQM) Plan in accordance with 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. The proposed amendment (Program Interest No. 435442, Activity No. WMP170001), would adopt a complete municipal Wastewater Management Plan (WMP) for Oakland Borough (Borough) and would supersede the previous Oakland Borough WMP adopted on February 4, 1991 (23 N.J.R. 910(b)). The WMP would also amend the Northwest Bergen County Utilities Authority (NBCUA) WMP. Oakland Borough was granted WMP responsibility for the Borough on July 2, 2014. This notice represents the Department's determination that the proposed amendment is compliant with the regulatory criteria at N.J.A.C. 7:15, as described below.

A public notice regarding a prior version of Oakland Borough's WMP was proposed as an amendment in the March 19, 2018 New Jersey Register at 50 N.J.R. 1058(a). Since that time, Oakland's WMP has undergone substantive changes. As such, this proposed amendment allows the public the opportunity to comment on the new proposal. Any comments submitted on the previous proposal will need to be resubmitted, if still applicable.

Pursuant to N.J.A.C. 7:15-4.3, the proposed WMP contains all the required components for a complete municipal WMP. The proposed significant actions are discussed below.

The WMP proposes modifications to the approved Sewer Service Area (SSA). In the 1991 WMP, portions of the Borough are designated to be served by a proposed Oakland Borough municipal sewage treatment plant (STP). Subsequently, the Borough determined that treatment plant to not be feasible and it was never built. This proposed WMP assigns sections of the Borough in the downtown corridor and areas that are currently served by four existing Discharge to Surface Water (DSW) STPs (Oakwood Knolls, Skyview-Hibrook, Indian Hills High School, and Chapel Hill Estates) to be served by the Northwest Bergen County Utilities Authority STP (NJPDES permit number NJ0024813) located in the Borough of Waldwick, Bergen County. All wastewater flow from the four DSW STPs and from the downtown corridor, which is currently served largely by Individual Subsurface Sewage Disposal Systems (ISSDSs), cesspools, and on-site Discharge to Groundwater (DGW) facilities, are proposed to be conveyed to the NBCUA STP. The area to be served by the NBCUA is approximately 1,059 acres and includes 44.6 acres of the Oakwood Knolls SSA, 51 acres of the Indian Hills High School SSA, 13 acres of the Chapel Hill Estates SSA, and 39.2 acres of the Skyview-Hibrook SSA. ISSDSs, cesspools, and NJPDES permitted on-site DGW facilities, including NJPDES general permit T-1 facilities, within the proposed NBCUA SSA will connect to the NBCUA facility and discontinue the use of the on-site systems.

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 Development Corp Tract, located on Block 3001, Lots 1, 4, 15, and 18 in Oakland Borough, and ordered the Borough of Oakland and the Township of Wayne to execute a municipal services

agreement to provide for wastewater service for the residential development (*Pinnacle Communities LTD. v. Bor. of Oakland*, Docket No. BER-L-8348-99 (*Mount Laurel*)). This location was delineated as an SSA in the Oakland Borough WMP adopted in 1991. However, as no development existed on the subject parcels, pursuant to the Highlands Water Protection and Planning Act (Highlands Act) adopted on August 10, 2004, the SSA was subsequently removed by the Department through an amendment adopted on October 6, 2006. On June 3, 2005, the Department issued a determination that the Bi-County project was exempt from the Highlands Act pursuant to N.J.A.C. 7:38-2.3(a)17 pursuant to exemption number 17. Pursuant to a January 28, 2014 Settlement Agreement between the Department and Bi-County Development Corp. (OAL Docket No. ELU 6606-10N, ELUWM 1771-10N), it was determined that, because the project was exempt from the Highlands Act, the removal of the SSA was in error. The SSA on this site, specifically for the Bi-County development, became effective pursuant to the 2014 Settlement Agreement. The proposed WMP identifies 50.6 of the 86 acres of the Bi-County Tract to be served by the Mountain View STP in Wayne Township, a reduction of 35.4 acres from that contained in the 1991 WMP, to accommodate the proposed 204-unit residential development.

Oakland Borough is located in both the preservation and planning area of the Highlands Region, as designated by the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq. A Petition for Plan Conformance for the Borough was approved by the Highlands Council on May 15, 2014; however, at the Borough's request, the planning area portion of the Borough's Plan Conformance was rescinded on June 28, 2017. Currently, Oakland Borough is conforming to the Highlands Regional Master Plan (RMP) in the preservation area only and is, thus, not a Highlands conforming municipality as defined at N.J.A.C. 7:15-1.5. Areas eligible for sewer service

in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). In the preservation area, the sewer service area delineation, municipal build-out/capacity analysis, and nitrate dilution analysis was performed according to the procedures set forth in the RMP, in accordance with N.J.A.C. 7:15-4.4(c)1. In the non-conforming planning area, the WMP was developed pursuant to N.J.A.C. 7:15-4.4(c)3 and 4.5. In accordance with Executive Order No. 114 (2000), the Highlands Council reviewed the proposed plan for consistency with the Net Water Availability provisions of the RMP. In April 2018, the Highlands Council determined that the Oakland Borough WMP would be consistent with the RMP, if the following four conditions were met:

1. Oakland Borough agreed to fully implement a Highlands Water Use and Conservation Management Plan (WUCMP). The WUCMP would include specific mitigation targets and corresponding strategies tied to the proposed build-out in the WMP to mitigate for the proposed inter-basin transfer. These targets and strategies must be developed before applying for a Major Modification to the Borough's Water Allocation Permit.
2. Oakland Borough prepared and implemented a Septic Management Plan, including a Septic Management Ordinance. The Septic Management Plan should require regular pump-outs especially because the Borough has been experiencing failures.
3. Consents and written approvals were received from all affected parties, municipalities, and water purveyors listed on pages 5 and 6 of the WMP.
4. Prior to issuing any TWA Permits, a Major Modification to the Borough's Water Allocation Permit is required. The Water Allocation Permit will identify mitigation strategies for at least a minimum of 100 percent of the proposed inter-basin transfer.

In an October 15, 2021 letter, the Highlands Council determined that the conditions of the April 2018 determination had been met. On August 12, 2021, Oakland Borough adopted a WUCMP as a Sub-Element of the Conservation Plan of Oakland's Master Plan. A Septic Management Plan is included as part of the proposed WMP and includes plans to revise the Borough's Septic Management Ordinance, including the recommended frequency of septic tank and grease trap pumping. Oakland Borough has provided the Highlands Council with resolutions of all affected parties, including Borough of Oakland, the Northwest Bergen County Utilities Authority, and Bergen County through email on September 21 and 22, 2021. In accordance with paragraph 27 of the July 17, 2020, Administrative Consent Order (ACO) between the Department and Oakland Borough, no additional sewer extensions or connections are permitted by Oakland Borough to the NBCUA, except for pre-existing connections from the Chapel Hill, Oakwood Knolls, and Skyview-Hibrook Sewage Treatment Plants, without a Highlands Council Consistency Determination and a Major Modification of Oakland Borough's Water Allocation Permit issued by the Department. Oakland Borough intends to pursue any required Major Modification to the Borough's Water Allocation Permit after the adoption of the proposed WMP.

Areas eligible for sewer service in the Highlands Region are defined at N.J.A.C. 7:15-4.4(c). In the preservation area eligible areas are limited to those that were connected to a wastewater treatment facility as of August 10, 2004, or those areas that are eligible for sewer service pursuant to N.J.A.C. 7:38-2.3, 2.4, 2.6, and 3.4. Areas eligible for sewer service in the planning area of non-Highlands conforming municipalities must conform to N.J.A.C. 7:15-4.4(d) and (h). 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 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 proposed SSA using a GIS shapefile provided by the Borough 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 if the proposed SSA included 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 SSA contains 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 Bi-County project on Block 3001, Lots 1, 4, 15, and 18 is identified as Rank 3 Barred Owl habitat and Rank 5 Northern Myotis habitat. However, pursuant to the 2014 Settlement Agreement, the proposed development for the Bi-County project property is to remain in the SSA. As identified in the Settlement Agreement, a conservation plan has been developed for the project to protect the habitat and proposes to deed restrict from future development designated conservation areas. The conservation plan will include, but not be limited to, a conservation easement that will conserve all remaining wetlands, the entire

transition area, and 16.8 upland acres adjacent to the wetlands on-site. In addition, the project will be required to obtain any other approvals required by local, State, and Federal laws that address restricting tree removal or disturbance to critical Federally listed bat species habitat. Prior to any other Department approvals or permits necessary for the construction of the project beyond SSA requirements, surveying for Northern Myotis will be required and, if no additional studies are needed, no tree clearing shall occur between April 1 and September 30 anywhere on the project site. The conservation easement must be filed before site preparation or construction.

- 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 contain 300-foot riparian zones along C1 waters based on the “Surface Water Quality Standards” GIS data layer; however, the proposed SSA within the C1 riparian zone is limited to the footprint of existing sewage-generating structures.
- The Department determined that there are wetlands located in the proposed SSA on the above-mentioned Bi-County property based on the “Wetlands 2012” GIS data layer, in accordance with N.J.A.C. 7:15-4.4(e)4. However, pursuant to the 2014 Settlement Agreement, the property is to remain in the SSA. A conservation plan has been developed for the project that will include deed restrictions on all wetlands and transition areas, as well as 16.8 acres of uplands on site. No wetlands identified in the conservation plan are included in 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).
- The Department determined that there are no 201 Facilities Plan grant conditions applicable to the project based on the U.S. Environmental Protection Agency list of New Jersey Grantees 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).

Pursuant to N.J.A.C. 7:15-4.5(b), a wastewater treatment capacity analysis was performed to assess the existing and future wastewater treatment needs for each wastewater treatment facility within Oakland Borough. In accordance with N.J.A.C. 7:15-4.5(b)1, a build-out analysis to identify projected future wastewater flow was conducted for each existing and proposed sewer service area within Oakland Borough. Wastewater flow projections are calculated based upon the current municipal zoning and include potential development of all vacant and underdeveloped properties and any existing parcels currently served by onsite systems that are located within the SSA and not currently being served by sanitary sewer. The wastewater flow was projected by applying the applicable criteria at N.J.A.C. 7:14A-23.3. There are eight existing wastewater treatment facilities that discharge to surface water: Skyview-Hibrook STP (NJ0021342), Oakwood Knolls STP (NJ0027774), Oakland Operator LLC DBA (NJ0029858), Chapel Hill Estates STP (NJ0053112), Ramapo River Reserve STP (NJ0082811), Indian Hills High School (NJG0021253), NBUCA STP (NJ0024813), and Mountain View STP (NJ0028002), and 23 that

discharge to groundwater. Of these facilities, only the NBCUA STP and Mountain View STP proposed SSAs include vacant parcels that would contribute additional build-out flow. Wastewater flow projections for the NBCUA STP were determined to be 0.856 million gallons per day (MGD) and wastewater flow projections for the Mountain View STP were determined to be 0.0612 MGD. Both STPs are located outside of Oakland Borough and provide service to other entities; these projections are strictly for the Oakland Borough portions of the STPs' SSA.

A number of the STPs in Oakland Borough are proposed to be decommissioned and wastewater flows to be conveyed to the NBCUA STP; therefore, the build-out analysis and wastewater capacity analysis were developed based on the transfer of SSAs and associated projected wastewater flows from these STPs to the NBCUA facility. The existing facilities that are to be decommissioned and flows transferred to NBCUA are: Skyview-Hibrook STP, Oakwood Knolls STP, Chapel Hill Estates STP, Indian Hills High School, Robert Michael Shopping Center (NJ0167126), Oakland Cross Roads (NJ0167631), Copper Tree Shopping Plaza (NJG0133809), Di Iorio Investors (NJG0262714), Our Lady of Perpetual Help (NJG0186091), Portabello Banquet (NJG0142701), Portobello Feasts (NJG0137219), Ramapo Shopping Center Inc. (NJG0142441), Ramapo Valley Resource Ltd. (NJG0145521), and Trovatos Due (NJG0140023).

The projected wastewater flow for undeveloped and underdeveloped areas and flows from existing, but not yet connected, development within Oakland Borough's existing and future SSAs was used in conjunction with the existing wastewater flow to assess whether sufficient capacity exists to accommodate future needs. The existing wastewater flow for the NBCUA STP and Mountain View STP was calculated based on the highest consecutive 12-months rolling average of flows from January 2015 to December 2019, as reported to the Department in the

Discharge Monitoring Reports (DMRs). The existing flow for NBCUA was calculated as 12.283 MGD and the existing flow for Mountain View as 8.909 MGD. These existing flows originate in the respective STPs' current SSAs, which is outside of Oakland; there is no existing wastewater flow from Oakland Borough to these facilities. The existing wastewater flow and the projected future wastewater flow as identified in the build-out analysis are combined to determine the total projected future wastewater flow for each SSA within Oakland Borough and utilized to assess whether sufficient capacity exists to accommodate future need. The results of the wastewater treatment capacity analysis identified no potential capacity deficiencies at any of the STPs; therefore, no strategies to address deficiencies are required. The Department has determined that the wastewater treatment capacity analysis complies with N.J.A.C. 7:15-4.5.

The WMP includes a nitrate dilution analysis for areas not proposed for sewer service, identified as non-SSA. In the preservation area portion of Oakland Borough, septic densities are determined in accordance with the requirements as set forth in the Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38-3.4(b), which allows for 25 acres per septic unit in non-forested areas and 88 acres per septic unit in forested areas. The RMP septic system yield analysis determined a yield of zero units permissible for the preservation area. No lots were identified as exempt from the from the Highlands Act. In the non-conforming planning area portion of Oakland Borough, the nitrate dilution analysis was conducted in accordance with N.J.A.C. 7:15-4.5(c) on a HUC-11 basis. The entirety of the planning area portion of Oakland Borough is within the Ramapo River (02030103100) HUC-11. The analysis determined that 44 units would be allowed based on the current municipal zoning, while 82 units would be allowed based on the septic density values in the "A Recharge-Based Nitrate-Dilution Model for New Jersey V7.0." Based on these analyses,

there are no potential nitrate dilution deficits in Oakland Borough. The Department has determined that the nitrate dilution analysis complies with N.J.A.C. 7:15-4.5(c).

The WMP includes a septic management plan (SMP) that consists of an inventory of all existing ISSDSs and cesspools, 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 inventory. The Borough's Septic Management Ordinance is to be revised, including addressing the recommended frequency of septic tank and grease trap pumping. The Department has determined that the septic management plan complies with N.J.A.C. 7:15-4.5(c)1vi.

The WMP includes all required maps in accordance with N.J.A.C. 7:15-4.3(c). These include a WMP Area Map (Map 1), Selected Environmentally Sensitive Features Map (Map 2), Wastewater Service Area Map (Map 3), and Zoning Map (Map 4). The Department has determined that the mapping complies with N.J.A.C. 7:15-4.3(c).

This notice is to inform the public that a plan amendment has been proposed for the Northeast 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 and Water Quality Management

Water Quality Management Planning Program

PO Box 420, Mail Code 501-02A

501 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. WMP170001 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 non-adversarial 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. WMP170001 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.

10/12/2022

Date

A handwritten signature in blue ink that reads "Gabriel Mahon". The signature is written in a cursive style with a horizontal line underneath the name.

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