

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATERSHED MANAGEMENT

ADOPTED AMENDMENT TO THE LOWER RARITAN/MIDDLESEX
COUNTY WATER QUALITY MANAGEMENT PLAN

Public Notice

Take notice that on December 5, 2005, pursuant to the provisions of the New Jersey Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules (N.J.A.C. 7:15-3.4), an amendment to the Lower Raritan/Middlesex County Water Quality Management Plan (WQMP) was adopted by the Department of Environmental Protection (Department). This amendment proposal was submitted on behalf of the Matzel & Mumford Organization for the Mindel Properties residential development, also known as Tamarack Hollow. Four different parcels (designated as Parcels A, B, C and D) are associated with this proposed development.

The amendment modifies the Lower Raritan/Middlesex County Wastewater Management Plan to allow for construction of a residential development located on Block 310, Lots 75, 76.08, 79, 80, 81 and 82 in East Brunswick Township, Middlesex County (designated as Parcel A in this proposal). The proposed residential development on Parcel A is bounded on the southeast by Fresh Ponds Road, north of the intersection with Church Lane. The proposed development consists of 56 single-family homes on approximately 97.3 acres. Generated wastewater is proposed to be treated by an off-site wastewater treatment system, which would discharge to groundwater (DGW). The projected wastewater flow from the fifty-six proposed dwellings, calculated in accordance with N.J.A.C. 7:14A-23.3, is 16,800 gallons per day (gpd). Potable water for the proposed

residential development would be provided by the East Brunswick Water Company.

Three additional parcels of land, designated as Parcels B, C, and D are also impacted by this proposed amendment. Parcel B, located on Block 315.01, Lots 3, 6, 29.05 and 31 in East Brunswick Township, is 58.8 acres and is the site of the proposed 16,800 gpd discharge to groundwater sewage treatment plant that is to exclusively serve the Mindel Properties residential development. Parcel B is bounded to the west by Fresh Ponds Road and to the south by Church Lane. With the exception of the construction of the proposed sanitary treatment plant, no other development is proposed on Parcel B. As part of an agreement with East Brunswick Township, Parcels C and D are to remain undeveloped and will be deed restricted with a conservation restriction. Parcel C is 68.1 acres and is located on Block 313, Lots 3.14, 3.15, 5.03 and 5.04, south of Church Lane, between Fresh Ponds Road and the New Jersey Turnpike in East Brunswick. Parcel D is 7.7 acres located on Block 317.14, Lot 18, northeast of Dutch Road and west of the New Jersey Turnpike in East Brunswick. Parcels B, C and D are to remain designated as service area of facilities with planning flows of less than 2,000 gpd which discharge to groundwater.

This amendment proposal was noticed in the New Jersey Register on February 7, 2005 at 37 N.J.R. 533(b). A public hearing conducted by Middlesex County on the proposed WQM Plan amendment was held on Wednesday March 9, 2005. Comments were received by the Middlesex County Planning Department and the New Jersey Department of Environmental Protection (Department) during the comment period. The Middlesex County Planning Department prepared a summary of the written and verbal comments that were entered into the record, considered these comments and on September 1, 2005, the Middlesex County

Board of Chosen Freeholders approved the amendment in accordance with the Lower Raritan/Middlesex County WQMP Amendment Procedures and submitted the plan amendment to the Department for review and adoption.

The following people submitted written and/or oral comments on this amendment:

Number –Commenter Name, Affiliation

1. Michael Shakarjian, Lawrence Brook Watershed Partnership
2. Lawrence Sachs, Attorney for East Brunswick Township
3. Michael Levis, East Brunswick Township Resident
4. John Moorzitz, Matzel & Mumford
5. Andrew Besold, Lawrence Brook Watershed Partnership
6. Dawn and Edward Kovacs, East Brunswick Township Resident
7. Carol Kuna, East Brunswick Township Resident
8. Terri Doktorski, East Brunswick Township Resident
9. Nita Kastuar, East Brunswick Township Resident
10. Marie Meier, East Brunswick Township Resident
11. Ted Fahrenholz, Milltown Borough Resident
12. Thomas Sehnal, Hightstown Township Resident
13. Pamela & George K. Horton, East Brunswick Township Residents
14. Drew Agey, East Brunswick Township Resident
15. Carmen and Carol Parillo, East Brunswick Township Residents
16. Jeyelis Baird, East Brunswick Township Resident
17. Cynthia L. Heitzenroder, East Brunswick Township Resident
18. Edward Baird, East Brunswick Township Resident
19. Rita H. Moser, East Brunswick Township Resident
20. Diane R. Skelton, Helmetta Borough Resident
21. Earle & Leila Steinnagel, East Brunswick Township Residents
22. Gary Marshall, Executive Director, East Brunswick Sewerage Authority
23. Darren and Phyllis Doran East Brunswick Township Residents
24. Herbert Heim, East Brunswick Township Resident
25. Ralph Steiner, Milltown Borough Resident
26. David-G. Rosenthal, East Brunswick Township Resident
27. Robert T. & Karen M. Dombrowski, East Brunswick Township Resident
28. Alan S. Godber, Lawrence Brook Watershed Partnership
29. Jeyclia Bal, East Brunswick Township Resident
30. Janet Denson, East Brunswick Township Resident
31. Darren and Phyllis Doran, East Brunswick Township Residents
32. Earle & Leila Steinnagal, East Brunswick Township Residents

Summary of Comments and Responses:

The comments submitted and the Department's responses are summarized below. The number(s) in parentheses after each comment identifies the respective commenter(s) listed above.

Comment 1:

Comments were received indicating that the project is not "consistent" with the New Jersey State Development and Redevelopment Plan since it is in a location designated as a Planning Area-5 (environmentally sensitive) and not in a Town Center. (1), (13) & (25)

Response:

The New Jersey State Development and Redevelopment Plan (SDRP) is intended to guide municipal, county and regional planning and infrastructure investment decisions. The Department supports the SDRP as an important instrument in achieving smart growth. The proposed project has been determined to be consistent with the land use and zoning codes of the Township of East Brunswick. Further, as summarized below, the amendment has been reviewed in accordance with N.J.A.C. 7:15-5.18 and Executive Order 109 (2000) (EO-109) and satisfied the applicable environmental analyses.

Comment 2:

One comment received suggested that the proposed housing does not serve all New Jersey residents since there is no provision for affordable, senior citizen, special needs, and family housing. (1)

Response:

The provision of housing type and the target market segment is not within the scope of the Areawide Water Quality Management Planning process. These are project developer considerations within the context of the municipal master planning process and local zoning regulation.

Comment 3:

Several comments indicating that the development will disrupt farming activities and that the residential development would not fit the rural character of the area were submitted. Also, comments on the potential effect of the general quality of life within the community as a result of the project were received. (1), (5), (6), (7), (9), (12), (13), (14), (21), (23), (26), (27), (29), (30), & (32)

Response:

The proposed project is consistent with the current zoning of the Township of East Brunswick. The Middlesex County Planning Board has reported that the project is designed so that the clustered development will not be directly visible from the surrounding road system. In addition, approximately 50 acres of farmland are to be permanently preserved for continued farming as a result of the project.

Comment 4:

Comments were received concerning facility operation and maintenance, response time in event of system failure, (i.e. “an extended electrical power outage”), septic spills to nearby waterways, the potential impact on private well water in the area and concern over the effect on Lawrence Brook and its tributaries due to contamination from the groundwater discharge, environmental safety issues regarding disposal bed failures, noise and odors problems, transportation of solid waste on local roadways and the potential liability of the Township if the system must be replaced. (2), (3), (5), (6), (7), (9), (10), (12), (16), (18), (21), (22), (24), (25) (26), (27), (28), (29) & (32)

Response:

As a public utility, the facility will be regulated by the New Jersey Board of Public Utilities (BPU) and the Department. Therefore, the operation of the facility must meet all applicable operational and permit requirements established by the BPU and the Department for the safe treatment and deposition of wastewater and for the transportation of solid waste within the State the New Jersey. Additionally, NJPDES permit review and Treatment Works Approval are required prior to the construction and operation of the facility. If approved, these permits entail compliance for facility safety and protection of the groundwater resources and public health. As a NJPDES permitted facility, it must operate under strict permit requirements to ensure that the wastewater discharged to groundwater will meet the groundwater quality standards. Furthermore, these permits require that the plant be staffed with a licensed operator qualified in accordance with N.J.A.C. 7:10A. In addition to periodic inspections conducted by the Department’s Bureau

of Water Compliance and Enforcement, inspection reports detailing daily operations and maintenance are mandated.

The possibility of a “septic spillage” affecting nearby streams is minimal. However, the permitted facility operator is subject to substantial penalties for non-compliance with State and local regulations in the event of a system failure that results in an impact to any State waterbody. In the event of a wastewater spill, pursuant to N.J.A.C 7:14A, the permitted facility operator is liable for any abatement of environmental impacts as a result of an illegal spill. It is expected that no measurable change in noise levels will be detected beyond the facility buffer and that the treatment process will not produce noticeable odors beyond the facility as required and enforced by State and local public health codes. The facility is partially contained and air emissions are proposed to be treated via scrubbers. Some truck traffic will be required to service the treatment facility. It has been reported to the County Planning Board that one truck, approximately twice per month, will be required to remove solids. Other service trucks can be expected at a rate of approximately once per week. In the event of an extended power failure at either the sewage pumping station or the treatment plant, it is anticipated that the treatment plant will continue to operate as required using back up generators. The Middlesex County Planning Board reported that the licensed operator of the STP will have sole liability for the cost of ongoing maintenance and will bear the responsibility if the system must be replaced.

Comment 5:

Several commenters stated that the capacity of the treatment facility should be limited. Comments stating that there would be pressure to provide sewer service to residents of other new development in the area as a result of the proposed

Tamarack Hollow residential development, that sewer service be limited and there should be no provision to expand service to other lands in the area were received. In addition, one comment speculated that: "the wastewater flow from this development will be only 90% of the capacity of the treatment plant". (2), (22), (25) & (28)

Response:

In accordance with the adopted amendment, the designated sewer service area of the offsite STP is limited to the area delineated in the adopted Lower Raritan/Middlesex County WQMP. The delineated sewer service area includes only the Tamarack Hollow residential development located on Block 310, Lots 75, 76.08, 79, 80, 81 and 82 in East Brunswick Township, Middlesex County (designated as Parcel A). The projected wastewater flow of 16,800 gpd from the fifty-six proposed dwellings will constitute the total design capacity of the STP. Any proposed change to the service area and/or STP capacity would require an amendment to the WQMP, NJPDES permit and treatment works approval. Therefore, no future expansion can take place without further approvals and permits.

Comment 6:

Comments were received regarding the location of the proposed DGW STP on Parcel B. Commenters suggested that the treatment facility should be relocated to the development side of Fresh Pond Road (Parcel A). Further comments raised concerns over the suitability of the drainage of the soils on both parcels to sustain a septic system and concluded that the "tanks" will be visible from Fresh Pond Road. (2), (7), (10) & (18)

Response:

Documents submitted indicate that the treatment plant has been located on Parcel B in order to avoid encroachment on delineated wetlands and forested areas on Parcel A. The location of the treatment facility on Parcel B was proposed in part due to the fact that soil investigations conducted for this project demonstrated that this parcel provides soil and subsurface conditions best suited for the disposal field for effluent discharged to groundwater from the treatment plant. Additionally, as reported by the Middlesex County Planning Board, the location of the STP on Parcel B provides for the maximum opportunity to buffer the facility from surrounding land uses. Parcel B also provides sufficient area for a reserve or emergency disposal field should one be required in the future.

Comment 7:

Several commenters were concerned regarding potential impacts of stormwater runoff as a result of this project and indicated that the proposed project will contribute to flooding on Fresh Pond Road, that existing stormwater problems will be worsened and the existing drainage pattern will be reversed, creating a mosquito breeding area, thereby posing a health issue and safety issue for area children. One commenter questioned whether a flood from a large storm could overflow the detention pond causing damage to the pipeline in the PSE&G Right of Way or causing the pipe to rupture and asked "what risks are posed to adjacent residents and their property from such flooding?" A comment received questioned whether the project will comply with the new stormwater rules. One comment received raised concerns over the emergency egress to the Stormwater management infiltration basin proposed along Albrecht Lane indicating that "this

roadway is very narrow; will widening be needed to provide safe egress?" (3), (21), (22), (24), (26), (27), (28) & (32)

Response:

As proposed, the on-site stormwater management infiltration basin system has been designed to meet the requirements of the EO-109 Hydro-modification Analysis. This analysis demonstrated that the proposed onsite infiltration basin, if properly maintained, satisfied the groundwater infiltration volume requirement. This review determined that the infiltration basin has been designed to retain the increased volume of runoff associated with a 100 year storm event. Therefore, it is not anticipated that on-site runoff from this proposed project will contribute to flooding on any adjacent roadways or properties. The storm management system and infiltration basin are designed to minimize long-term ponding to avoid the conditions suitable for mosquito breeding. In addition, the Department has determined that the project as designed will meet the requirements of the new stormwater rules and that the Maintenance Plan developed for daily and regularly scheduled inspections and up-keep of the infiltration basin meet the requirements of the New Jersey Stormwater Management Best Management Practices Manual.

As the infiltration basin has been designed to manage the 100 year storm event by infiltrating the contained stormwater onsite, with proper maintenance it is not anticipated that there will be risks to offsite properties. The use of Albrecht Lane for emergency egress would be for maintenance of the stormwater facility only. This would be infrequently used and it is not anticipated that widening for this limited purpose will be necessary.

Comment 8:

Numerous comments regarding the impact of the residential development on the natural resources located on Parcel A were submitted. A comment received stated that the location is defined as a "Pine Barrens outlier" and as such, it was recommended that it is better to lose a farm than this unique ecosystem. Several commenters indicated that the project will cause the "loss and "destruction" of over 7,000 trees at a time when wildlife has been returning to the area. One commenter raised concern over the environmental impact due to the removal of mature trees that are to be replaced by approximately 700 immature trees. Additional comments recommended that this "last natural area" in East Brunswick be preserved for habitat protection to avoid the fragmentation of wildlife corridors and the loss of endangered species. Comments were received regarding the detrimental effects on the quality of the wetlands which serve as a major wildlife habitat and raised concerns of possible vernal pools requiring protection on the project site. Several comments received indicated that the project will result in the illegal disturbance of wetlands. (5), (6), (7), (8), (9), (10), (11), (12), (14), (16), (17), (18), (19), (21), (23), (24), (25), (26), (27), (28), (29), (31) & (32)

Response:

The clustered development pattern incorporated into this project is designed to minimize loss of groundwater recharge and loss of mature trees while maximizing the preservation of open space. The clustered development is designed to save trees that would have otherwise been removed for a more traditional development that avoided clustering homes on smaller lots. The proposed 56 homes on a package treatment facility and disposal field resulted in less than 60 acres being developed. The use of the clustering option has resulted in the preservation of more contiguous open space than would have occurred from the existing six acre

zoning which would allow approximately 35 individual houses on septic systems on the 231.9 acre project area. While some existing wooded areas will be replaced with less mature tree species and woody vegetation, the project will preserve approximately 70 acres of existing forested and/or wetland habitat and will result in the permanent preservation of open space and farmland totaling roughly 160 acres.

The developer has applied for and received a Department "Letter of Interpretation" dated September 10, 2002 that establishes the location of wetlands on the subject property including a resource classification of "intermediate value wetlands". In the initial wetland verification field investigation, the Department identified potential vernal pools on Parcel A. However, further field investigations conducted by the Land Use Regulation Program were unable to document the presence of endangered and threatened amphibian species or other required indicator species to verify the existence of any vernal pools. Proposed project design plans indicate that disturbance to on-site wetlands or their associated buffers require Statewide General Permits Number 2, Number 6 for the proposed disturbance of 0.92 acres of freshwater wetlands and the proposed filling of a portion of an isolated wetland and authorization for a Transition Area Waiver-Averaging Plan. All proposed disturbances of wetlands and/or their buffers as a result of this project are subject to the approval of the necessary permits pursuant to the Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A. A detailed review of the freshwater wetlands and transition area impacts will be conducted under a formal application for those required permits and approvals, independent of this action. If the project as designed is unable to secure the required approvals, then the project will have to be redesigned to comply with the Freshwater Wetlands Protection Act Rules. The adoption of this amendment is not a commitment by the Department to issue any other permit

required for this project, including but not limited to approvals required under the Freshwater Wetlands Protection Act.

In addition, this proposed amendment has been reviewed in accordance with N.J.A.C. 7:15-5.18 and EO-109. The Endangered and Threatened Species Habitat Analysis determined that no State or Federal endangered or threatened species were documented on the parcels proposed for development. Also, a review of the Landscape Project, created by the Department's Division of Fish and Wildlife, Endangered and Non-Game Species Program which identifies critical habitat for State and Federal listed endangered and threatened species found no such habitat on the project location. Furthermore, the Riparian Corridor Analysis determined no riparian corridors were to be impacted by the project proposal.

Comment 9:

Concerns were raised over the responsibilities of the STP facility operator including the notification to the new homeowners of the residential development that the billing, service complaints and odor complaints must be directed to the owner/operator and not the Township. This commenter indicated that the owner/operator should also inform the residents of the new development that charges could be significant and disproportionate to those charges as paid by other residents of the Township. It was suggested that the prospective homeowners and future resale homeowners be advised in their deeds as to their obligation to pay all charges associated with the maintenance and operation of the wastewater system facilities and that any proposed sale of the wastewater facilities to a private concern should be subject to a legal review in order to determine the viability of that sale and the acceptability of same to the BPU. It was questioned whether all homeowners are to be made aware that because of the development's location in a

no service/franchise area, the East Brunswick Sewerage Authority would have neither the authority nor the ability to provide service to these homeowners at a future date. Two comments submitted questioned who is financially responsible for the construction of the sewer system. (7), (22), (25) & (30)

Response:

Middlesex County Planning Board (MCPB) reported that initial construction costs of the plant will be paid for by the developer, while ongoing maintenance costs will be borne by the licensed entity (owner) responsible for the system operation. The homeowners served by the system will receive a utility bill from this entity for the service provided. The facility will be owned and operated by a licensed utility company. The contemplated company is Applied Water Management (AWM). AWM is a licensed operator in New Jersey with qualified personnel in compliance with New Jersey law.

Billing for service charges and notification regarding the wastewater disposal system will be handled directly by the utility company as the operator. The billing rates and operating procedures are subject to BPU regulation. This utility company will function as any other regulated utility under New Jersey law and BPU regulations.

There is no general requirement that deeds include identification of the entity providing wastewater or any other utility service to a development. As all utility customers' bills include a contribution to maintenance and operation of the utility systems, notice in the deed of this obligation for this project is not necessary. The Township of East Brunswick is responsible for the establishment of the franchise area for the project's sanitary sewage treatment service area.

Comment 10:

One commenter questioned if there had been a thorough Environmental Impact Statement (EIS) produced for this project area and if there were historical issues on any of the sites. (28)

Response:

The Department does not require formal submission of an EIS as part of the water quality management planning process. However, the Department has reviewed this proposed amendment in accordance with and as met the environmental analysis required under EO-109. As summarized below, the Department determined that the project complied with the all required EO-109 analyses.

The Riparian Corridor Analysis determined no riparian corridors were to be impacted by the project proposal. The Hydro-modification Analysis demonstrated that the proposed onsite infiltration basin, if properly maintained, satisfied the groundwater infiltration volume requirement. This analysis determined that the use of the proposed basin will result in no increase in off-site non-point source pollutant loading from the proposed project. The Endangered and Threatened Species Habitat Analysis indicated no critical habitat for State or Federal endangered or threatened species were documented on the parcels proposed for development. In response to other comments summarized in this notice including comment Numbers 1, 3, 4, 6, 7, & 8 the Department determined that all applicable environmental analyses were satisfied.

In addition to satisfying the Department's analyses, the Middlesex County Planning Board found that the project satisfied all local requirements. According to the MCPB, the project has met the requirements of the Township of East Brunswick for environmental impact assessment and all required materials as part of the municipal application. The applicant has responded to all municipal requests for additional data and information.

It is unclear what the commenter is referring to as historic issues. The MCPB indicated that there are no known historical issues on these sites proposed for construction activities as part of this project.

Comment 11:

Many commenters raised questions regarding tax revenue, bonding, property assessments, impacts to local roads due to the increased traffic and the effect on the schools due to population increase associated with the proposed project. Additional comments as to how the Township would benefit from this project and recommendations that the proposed development be located on a site that already has sewer service were made. One comment received suggested that existing housing be utilized instead of new construction. Several comments indicated that the project should be rejected outright. (3), (5), (7), (9), (10) (13), (14), (15), (17), (19), (20), (21), (23), (24), 28), (29), (30), (31) & (32)

Response:

The applicant has requested a Water Quality Plan Amendment pursuant to legally established procedures. The issues identified by these commenters are largely beyond the scope and authority of the WQMP process. These issues would more

appropriately be reviewed during the local planning process. The WQM planning process focuses on determining the extent of sewer service in relation to treatment facility location, capacity and the protection of water and water related resources.

The determination of project benefits to the municipality is the responsibility of the Township. East Brunswick has not required that a Community Impact Assessment be prepared. Questions concerning tax impacts and the effect on local roads or schools due to a population increase are issues that would be dealt with through the township planning review process. Approval of the project by the County and the adoption of this amendment by the Department is based upon the review of all relevant information and in consideration of the requirements of the WQM planning program.

Comment 12:

One commenter voiced support for this project amendment. (4)

Response:

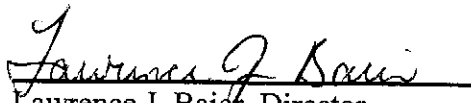
The support for this amendment is acknowledged.

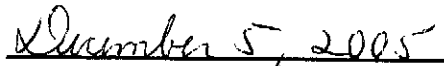
This amendment has been reviewed in accordance with N.J.A.C. 7:15-5.18 and Executive Order 109 (2000) (EO-109). The Riparian Corridor Analysis determined no riparian corridors were to be impacted by the project proposal:

The Hydro-modification Analysis demonstrated that the proposed onsite infiltration basin, if properly maintained, satisfied the groundwater infiltration volume requirement. This analysis determined that the use of the proposed basin

will result in no increase in off-site non-point source pollutant loading from the proposed project. Therefore, the Department determined that no further Non-point Source Pollutant Loading Analysis would be required. However, the on-site infiltration basin shall be maintained to protect against negative impacts to adjacent properties. The Endangered and Threatened Species Habitat Analysis indicated no critical habitat for State or Federal endangered or threatened species were documented on the parcels proposed for development.

This amendment represents only one part of the permit process and other issues may need to be addressed prior to final permit issuance. Additional issues which may need to be addressed may include, but are not limited to, the following: antidegradation; effluent limitations; water quality analysis; stormwater management; exact locations and designs of future treatment works (pump stations, interceptors, sewers, outfalls, wastewater treatment plants); and development in wetlands, flood prone areas, designated Wild and Scenic River areas, or other environmentally sensitive areas which are subject to regulation under Federal or State statutes or rules.


Lawrence J. Baier, Director
Division of Watershed Management
Department of Environmental Protection


Date