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PUBLIC NOTICE

ENVIRONMENTAL PROTECTION

WATER RESOURCE MANAGEMENT

DIVISION OF WATER MONITORING AND STANDARDS

Adopted Amendment to the Lower Raritan/Middlesex County Water Quality Management Plan

Public Notice

Take notice that on **February 18, 2021**, pursuant to the provisions of 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 New Jersey Department of Environmental Protection (Department) adopted an amendment to the Lower Raritan/Middlesex County Water Quality Management (WQM) Plan. The amendment (Program Interest No. 435463, Activity No. AMD180003) expands the sewer service area (SSA) of the Middlesex County Utilities Authority (MCUA) Sewage Treatment Plant (STP) by 4.10 acres to serve a proposed commercial development on Block 62, Lot 16 (portion), Sayreville Borough, Middlesex County. The proposed project, identified as “Jernee Mill Business Center”, consists of four light industrial flex buildings totaling 46,017 square feet. As calculated in accordance with N.J.A.C. 7:14A-23.3, the proposed development would generate a projected wastewater flow of 814 gallons per day (gpd) to be received by the MCUA STP New Jersey Pollution Discharge Elimination System (NJPDES) Permit No. NJ0020141.

Preliminary notice was published in the New Jersey Register on October 5, 2020 at 52 N.J.R. 1867(a) and a public hearing was held by Middlesex County, as the Designated Planning Agency, on

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December 2, 2020. No comments were received during the public comment period or at the hearing. This notice represents the Department's determination that the 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. 7:15-3.5(g)6, the Department instructed the applicant to request written statements of consent from Sayreville Borough and the MCUA. Sayreville Borough adopted Resolution 2020-252 on October 26, 2020 consenting to the proposed amendment. The MCUA adopted Resolution WW-11-20-17-R on November 24, 2020, consenting to the proposed amendment. The Middlesex County Board of County Commissioners, as the Designated WQM Planning Agency, adopted Resolution 21-210-R on February 4, 2021, approving the proposed amendment.

In accordance with N.J.A.C. 7:15-3.3(b), site specific amendments are limited to proposed alterations of the eligible sewer service area 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 must update 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 and will generate less than 20,000 gallons per day of wastewater flow; therefore, update of the wastewater treatment plant capacity analysis is not required.

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 under 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

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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 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:

- In accordance with N.J.A.C. 7:15-4.4(e)1, based on a review of the "Landscape Project Data" Version 3.3 GIS data layers, the Department determined that the expanded sewer service area contained mapped threatened and endangered wildlife species habitat identified for Rank 3 (Yellow Crowned Night Heron) and 4 (Bald Eagle). Pursuant to N.J.A.C. 7:15-4.4(j)2 and 3, to rebut the presumption that the Department's environmental data is accurate and/or demonstrate that mapped areas were not suitable habitat for identified species, the applicant submitted a Habitat Suitability Determination (HSD) and a Habitat Impact Assessment (HIA), prepared pursuant to N.J.A.C. 7:15-4.6 and 4.7, respectively.

The Department concurred with the HSD assessment that the proposed project site does not include suitable habitat for Bald Eagle. This determination was based on: the proposed project site is not associated with a contiguous forested habitat community; the wetlands on the property are of a scrub/shrub type community that do not exhibit any perch trees that would be suitable or critical for the Bald Eagle to utilize, and the on-site pond is of insufficient size for Bald Eagle foraging and is surrounded by disturbance and/or development.

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In regard to the Yellow Crowned Night Heron, the Department determined that the proposed project would have minimal or insignificant impact on the species' habitat due to limited direct disturbance from the proposed development combined with mitigating efforts to avoid secondary impacts from human activity.

This finding was based on the preservation of approximately 9.84 acres of undisturbed habitat on the site, including the 2.64 acres of suitable Yellow Crowned Night Heron habitat and all surrounding contiguous wetland and wetland buffer areas and the placement of a conservation easement/deed restriction of all undeveloped wetlands and wetland buffer areas. A wooded buffer in conjunction with project design will sufficiently protect resting and roosting habitat in designated wetland areas by limiting human activity adjacent to the buffer and ensuring that a contiguous wildlife corridor remains between Chadwick's Pond and its adjacent wetland as well as within the wetland complex throughout the western portion of the site. As required under the Department's Division of Land Use Regulation wetland permitting approval process, a conservation easement/deed restriction of all undeveloped wetland and wetland buffer areas as described above has been placed on the site and incorporated as part of a habitat management area. As required under the conditions of the issuance of a Freshwater Wetlands Transition Area Averaging Plan, pursuant to N.J.A.C. 7:7A-6.1, the Grant of Conservation Restriction/Easement and the accompanying metes and bounds description were filed and recorded by the Middlesex County Clerk on April 2, 2018, in Book 17133, page 119. The Department has found that the combination of these actions would provide adequate species habitat protection to allow the proposed footprint of development to be delineated as SSA.

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- The Department determined that the expanded SSA does not contain any areas mapped as Natural Heritage Priority Sites based on a review of 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 expanded sewer service area 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 7:15-4.4(e)3.
- The Department determined that, based on a review the “Wetlands 2012” GIS data layer, the expanded SSA does contain wetlands. 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 #1219-13-0003.1 FWW130001, which references the applicant’s site plan entitled “Jernee Mill Business Center, Lots 15 & 16, Block 62, Borough of Sayreville, Middlesex County, New Jersey, Wetlands Delineation and Existing Conditions Plan” and confirms that there are no wetlands in the proposed SSA for this project with the exception of isolated wetland areas.
- The Department determined that the expanded SSA does not contain any Coastal Fringe Planning Areas, Coastal Rural Planning Areas, or Coastal Environmentally Sensitive Planning Areas mapped on the CAFRA Planning Map based on the “CAFRA Layers” 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 site based on the US Environmental Protection Agency list of New Jersey counties with

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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. 7:15-4.4(h)1 and 2, the Department considered the land uses allowed in zoning ordinances and future land uses shown in municipal or county master plans. On March 15, 2017, the Sayreville Borough Planning Board issued a resolution granting Preliminary Major Site Plan Approval for the proposed project. The Middlesex County Department of Planning notified the Department that it will not confirm or deny consistency of a proposed amendment with the county master plan until it updates its plan, which has been in effect since 1969.

Sewer service is not guaranteed by adoption of 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 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.

2/18/21

SIGNED

Date

Kimberly Cenno, Bureau Chief
Bureau of Environmental Analysis, Restoration and Standards
Division of Water Monitoring and Standards

