

**ENVIRONMENTAL PROTECTION**

**OFFICE OF WATER RESOURCES MANAGEMENT COORDINATION**

**Adopted Amendment to the Mercer County Water Quality Management Plan**

**Public Notice**

Take notice that on **JAN 16 2016**, 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 (PI# 435452; Activity # AMD150005) to the Mercer County Water Quality Management Plan (WQMP) was adopted by the Department of Environmental Protection (Department). This amendment, submitted on behalf of the Institute for Advanced Study (IAS), expands the sewer service area (SSA) of the Stony Brook Regional Sewerage Authority's (SBRSA) River Road Sewage Treatment Plant (STP) by a net amount of 1.95 acres. This amendment adds 3.54 acres that were not in the previously adopted sewer service area and removes 1.59 acres from the previously adopted sewer service area for a net increase of 1.95 acres (not 2.36 to be removed and a net increase of 1.18 acres as stated in the October 29, 2015 preliminary notice which was published in the November 4, 2015 DEP Bulletin); the difference is due to a calculation error, the SSA being proposed has not changed. The SSA which has been removed reverts to the Individual Subsurface Sewage Disposal Systems of 2,000 gallons per day (gpd) or less (septic area) designation. The project site is located in Princeton, Mercer County on a portion of Block 11201/Lot 1 which is west of the intersection of Springdale Road and West Drive. This amendment has been reviewed in accordance with the Water Quality Management Planning rules at N.J.A.C. 7:15 and P.L. 2011, c. 203 as amended and supplemented by P.L 2013, c. 188. This notice represents the Department's determination that the amendment is in compliance with the regulatory criteria pursuant to N.J.A.C. 7:15-5.24 and 5.25.

N.J.A.C. 7:15-5.24 identifies several areas that are not to be provided sewer service due to their environmental sensitivity. Pursuant to N.J.A.C. 7:15-5.24(b), ESAs are defined as contiguous areas of 25 acres or larger consisting of habitat for threatened and

endangered species as identified on the Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, Category One (C1) special water resource protection areas, and wetlands, alone or in combination. No such ESAs are included in the SSA.

In accordance with N.J.A.C. 7:15-5.24(b)1, to identify areas designated as threatened or endangered species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, version 3.1. Areas identified by the Landscape Project as being suitable habitat for threatened and endangered species Ranks 3 (State threatened), 4 (State endangered), and 5 (Federal endangered or threatened) are not to be included in SSAs except as provided under N.J.A.C. 7:15-5.24(e) – (h). Review of the project site determined that a portion of the site is identified as Rank 3 Barred Owl habitat in Landscape Project version 3.1.

In September 2010 the Department received a Habitat Suitability Determination application (State Threatened Raptor Survey) (HSD), prepared by Ecolsciences Inc. The HSD application was submitted in accordance with the provisions at N.J.A.C. 7:15-5.26. This section of the Water Quality Management Planning Rules describes the information that must be submitted by an applicant in order for the Department to re-evaluate the finding that a site is constrained for threatened and endangered species habitat. The Department reviewed the HSD and in a February 23, 2011 letter to IAS stated that "...the information submitted by the applicant is not sufficient to make a biological finding that the Institute Woods property is not a component of a suitable habitat patch for the barred owl. The associated forest patch is of sufficient size to support barred owls and features a field verified forest community consistent with documented suitable habitat described in available literature. Therefore, we cannot support a recommendation that the subject site be included in the sewer service area."

Subsequent to these findings, the applicant relayed to the Department that storm damage had occurred to the habitat complex on the property during the fall and winter of

2013. Based on this new information, a site investigation was conducted by Department personnel in April of 2014. The results of the site investigation showed that portions of the site had sustained storm damage which reduced their suitability as viable habitat. Portions of the forested areas not previously included in the SSA due to being identified as Threatened and Endangered Species habitat are now being added into the SSA based on the results of the site investigation. The preliminary notice for this amendment referenced a conservation easement that was contemplated, but due to the change in conditions at the site, a conservation easement is no longer necessary or required.

Based on the habitat conditions observed during the April site investigation the excluded areas serve to preserve a majority of the most suitable remaining habitat on the subject site. Some areas located in the previously adopted SSA are being removed in order to preserve the high quality habitat that is present. Barred owls have large home ranges and the combination of pine stand occurring offsite in combination with the amount preserved on the subject site ensure that this important characteristic to the overall suitability of the forest complex for the Barred Owl is maintained.

In accordance with N.J.A.C. 7:15-5.24(b)2, areas mapped as Natural Heritage Priority Sites are not to be included in SSAs, except as provided under N.J.A.C. 7:15-5.24(e) – (h). Review of the project site has determined that no Natural Heritage Priority Sites exist on site.

In accordance with N.J.A.C. 7:15-5.24(b)3, areas identified as special water resource protection areas along Category One waters and their tributaries are not to be included in SSAs, except as provided under N.J.A.C. 7:15-5.24(e) – (h). The Department has determined that no special water resource protection areas along Category One waters or their tributaries exist on the site.

In accordance with N.J.A.C. 7:15-5.24(b)4, areas mapped as wetlands pursuant to N.J.S.A. 13:9A-1 and 13:9B-25 are not to be included in SSAs, except as provided under

N.J.A.C. 7:15-5.24(e) – (h). In accordance with N.J.A.C. 7:15-5.24(e)2, a Freshwater Wetlands Letter of Interpretation – Line Verification File No. 1110-08-0004.1 FWW080001 (LOI) was provided, confirming the extent of wetlands and transition areas on the site. The above mentioned approval remains valid under the Permit Extension Act at N.J.A.C. 7:1B until June 30, 2016. The provisions of N.J.A.C. 7:15-5.24(b)4, have been satisfied as there are no wetlands or transition areas within the SSA.

Pursuant to N.J.A.C. 7:15-5.24(c), Coastal Fringe Planning Areas, Coastal Rural Planning Areas, and Coastal Environmentally Sensitive Areas shall be excluded from SSA. There are no such areas on the proposed site.

Pursuant to N.J.A.C. 7:15-5.24(d)1, areas with Federal 201 grant limitations that prohibit the extension of sewers into specified environmentally sensitive areas are excluded from the SSA. Pre-existing grant conditions and requirements (from Federal and State grants or loans for sewerage facilities), which provide for restriction of sewer service to environmentally sensitive areas, are unaffected by adoption of this amendment and compliance is required.

The project site is located on a parcel of property containing delineated wetlands. The SBRSA's Stony Brook Interceptor, Millstone Interceptor, Millstone Force Main and South Brunswick Pumping station that serves the SBRSA service area were funded under the federal construction grant program administered under Section 201 of the Federal Clean Water Act. The SBRSA is subject to a federal Environmentally Sensitive Area (ESA) grant condition included in the grant agreement executed between the SBRSA and United States Environmental Protection Agency (USEPA) under project number C34-400-02. This ESA grant condition prohibits any sewer connections to federally funded facilities from any sewage generating structure located on a parcel of property containing wetlands and/or floodplains unless a mapping revision or a waiver is obtained.

As indicated above, the wetlands areas as delineated on the Department issued LOI have not been included in the SSA. Pre-existing grant conditions and requirements are

unaffected by adoption of this amendment and compliance is required. Compliance with this grant condition can only occur if and when a USEPA mapping revision or waiver has been obtained for any development that requires sewer service located within Block 11201/Lot 1. Such mapping revisions and waivers are only issued through a formal request by the grantee, which is the SBRSA for this location. The request by the grantee must include the submission of a wetlands verification from a Department issued LOI confirming that environmentally sensitive areas will not be impacted if sewer conveyance systems are constructed to serve the proposed development. Since, prior to any Department and/or SBRSA approvals for the extension of sewer infrastructure to serve any proposed development a USEPA mapping revision or waiver issued at the request of the grantee will be required, the provisions at N.J.A.C. 7:15-5.24(d)1 have been satisfied.

In addition to the environmentally sensitive areas with Federal 201 grant limitations there are other special restricted areas, not applicable here, which must also be excluded from SSA pursuant to N.J.A.C. 7:15-5.24(d)2-4. Specifically, there are no beaches, coastal high hazard areas, or dunes on the project site.

In accordance with N.J.A.C. 7:15-5.25(h)1, the projected wastewater flow of the project is to be evaluated. However, P.L. 2013, c. 188 allows the Department to approve the inclusion of land within a sewer service area notwithstanding that existing treatment works may not currently have the assured capacity to treat wastewater from such land without infrastructure improvements or permit modifications. Therefore, amendments to expand a sewer service area may be approved if such actions are compliant with the applicable sections of the WQM Planning rules (N.J.A.C. 7:15) regardless of whether capacity has been fully assessed. Currently the SBRSA STP (NJ0031119) is permitted to discharge up to 13.06 million gallons per day (mgd) of treated wastewater to the Millstone River. Based on an average of the monthly average flow for the most recent twelve month period for which discharge monitoring data is available, the existing wastewater flow discharged from the SBRSA STP was calculated to be 9.07 mgd.

In accordance with N.J.A.C. 7:15-5.25(h)3 the water supply need of a project is to be evaluated. However, P.L. 2013, c. 188 allows the Department to review amendments to a WQMP to allow for the inclusion of land in a sewer service area, where the amendment does not propose a specific project or activity. Without such information a review and determination of compliance with the water supply evaluation is not possible. Water supply for the site will be provided by New Jersey American Water Raritan System (NJAWRS) (PWSID No. 2004002). The NJAWRS is a public water system that withdraws water from the Raritan and Millstone Rivers. The location of the diversion is the Raritan-Millstone Water Treatment Plant in Bridgewater and the Canal Road Treatment Plant in Franklin Township. The NJAWRS is currently allocated 6,761.5 million gallons per month (MGM) and has a water supply surplus of 979.264 MGM established by Water Allocation Permit No. 5033 and 5020X.

In accordance with N.J.A.C. 7:15-5.25(h)4, a project or activity's stormwater management is to be evaluated. However, P.L. 2013, c. 188 directs that there is a presumption that an engineered subdivision or site plan is not required. Without such information a review and determination of compliance with the Stormwater Management rules (N.J.A.C. 7:8) is not possible. The municipal governments are responsible for review and implementation of the Stormwater Management rules during their review and approval of proposed development. Princeton has an adopted stormwater management ordinance (No 2007-07); see N.J.A.C. 7:8-4. Princeton is also required to implement the N.J.A.C. 7:8 requirements incorporated in the Residential Site Improvement Standards; see N.J.A.C. 5:21-7.

In accordance with N.J.A.C. 5.25(h)5, proposed development disturbance is not to be located in riparian zones except as provided under N.J.A.C. 7:15-5.25(h)i-vii. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, under the following regulations: the Flood Hazard Area Control Act rules, the Stormwater Management rules, and the Water Quality Management Planning rules. No riparian zones are located on the site.

In accordance with N.J.A.C. 7:15-5.25(h)6, proposed development disturbance is not to be located in areas with steep slopes, defined as any slope equal to or greater than 20 percent. There are no steep slopes on the subject site.

This amendment proposal was noticed in the DEP Bulletin on November 4, 2015 at Volume 39, Issue 21, pages 6-9 and no comments were received during the comment period.

This amendment represents only one part of the permit process and other issues may need to be addressed prior to final permit issuance. These issues may include, but are not limited to, the following: compliance with stormwater regulations; antidegradation; effluent limitations; water quality analysis; exact locations and designs of future treatment works; development in wetlands and flood prone areas, or other environmentally sensitive areas which are subject to regulation under Federal or State statutes or rules. Approval of this amendment does not eliminate the need for any permits, approvals or certifications required by any Federal, State, County or municipal review agency with jurisdiction over this project/activity.

Sewer service to any particular project is subject to contractual arrangements between municipalities, authorities and/or private parties, and is not guaranteed by this amendment.



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Colleen Kokas, Director  
Office of WRM Coordination  
Department of Environmental Protection

1-16-16

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Date

