



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Coastal & Land Use Planning

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Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

Linda Brennen
Monmouth County Planning Board
1 East Main Street
Freehold, NJ 07728

APR 11 2013

Re: Monmouth County FWSA Map
Monmouth County Wastewater Management Plan (WMP)
Monmouth County Water Quality Management Plan (WQMP)
Program Interest No.: 435462
Activity No.: WMP120001
Adopted Amendment

Dear Ms. Brennen:

A plan amendment proposal was submitted to the Department of Environmental Protection (Department). This amendment, submitted on behalf of the Board of Chosen Freeholders of Monmouth County, as the responsible wastewater management planning agency, will amend the Monmouth County and Ocean County WMP's. Since this amendment was prepared in accordance with 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), I am pleased to inform you that this amendment is now formally adopted as of the date of this letter. Final notice of this adoption will be placed in the New Jersey Register.

This amendment proposal was noticed in the New Jersey Register on January 7, 2013 at 45 N.J.R. 64(a) and comments were received during the comment period which are addressed in the adoption notice.

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: compliance with stormwater regulations; antidegradation; effluent limitations; water quality analysis; 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.

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Department. If you have any questions on this matter, please contact the Division of Coastal and Land Use Planning at (609) 984-6888.

Sincerely,



Elizabeth Semple, Manager
Division of Coastal Land Use Planning

Enclosures

C: via email

All Monmouth County Municipal Clerks
Rose-Marie Saracino, Old Bridge Township Clerk
Robert Fischer, Bayshore Regional Sewerage Authority
Joseph Martone, Long Branch Sewerage Authority
Jerome Cevetello Jr, Manasquan River Regional Sewerage Authority
Patrick Parkinson, Township of Middletown Sewerage Authority
Edward Tuberton Jr, Monmouth County Bayshore Outfall Authority
Tina Della Pietro, Township of Neptune Sewerage Authority
Richard Warren, Ocean County Utilities Authority
David McKeon, Ocean County Department of Planning
William Schmeling, Township of Ocean Sewerage Authority
Guy Donatelli, Old Bridge Municipal Utilities Authority
Michael Ruppel, South Monmouth Regional Sewerage Authority
Michael Gianforte, Two Rivers Water Reclamation Authority
Kathy Leatherman, Western Monmouth Utilities Authority
Paul Gaffney II, Monmouth University President
Steven Dalton, esq, Giordano, Halleran, & Ciesla
Ron Bannister, NJDEP, Nonpoint Pollution Control
James Pontoriero, NJDEP, Construction and Connection Permits
Colleen Keller, NJDEP, Land Use Regulation
Joe Mattle, NJDEP, Water Supply
Martin Rosen, NJDEP, DCLUP
Bill Purdie, NJDEP, DCLUP
Deborah Bechtel, NJDEP, DCLUP
Rick Brown, NJDEP, DCLUP
Avi Argaman, NJDEP, DCLUP
Steven Jacobus, NJDEP, DCLUP

PUBLIC NOTICE

ENVIRONMENTAL PROTECTION
DIVISION OF COASTAL AND LAND USE PLANNING

Adopted amendments to the Monmouth County and Ocean County Water Quality Management Plans

Public Notice

Take notice that on **APR 11 2013** pursuant to the provisions of the New Jersey Water Quality Planning Act (WQPA), N.J.S.A. 58:11A-1 et seq., and the Statewide Water Quality Management Planning rules at N.J.A.C. 7:15-3.4, the New Jersey Department of Environmental Protection (Department) adopted amendments to the Monmouth County and Ocean County Water Quality Management (WQM) Plans. These amendments submitted on behalf of the Board of Chosen Freeholders of Monmouth County, as the responsible wastewater management planning agency, adopt a future wastewater service area (FWSA) map for Monmouth County. This map has been prepared pursuant to P.L. 2011, c. 203, enacted on January 17, 2012, which permits the wastewater management planning agency to prepare and submit to the Department at least that portion of a wastewater management plan (WMP) designating sewer service area, which shall comply with the Department's regulatory criteria. The adopted map, titled "Future Wastewater Service Areas (FWSA), Monmouth County New Jersey," will supersede all wastewater service area mapping currently contained in the WQM Plans for areas within Monmouth County, including that which was adopted into the WQM Plans as part of approved WMPs. The adopted FWSA map identifies areas to be served by sewage treatment facilities/sewer systems as well as areas to be served by septic systems with design flows of equal to or less than 2,000 gallons per day. The map modifies the previously approved sewer service areas to eliminate environmentally sensitive areas that are not currently

connected to sewer systems, as well as removes areas from sewer service based on local planning initiatives. Additional new areas have been proposed for sewer service based on local planning initiatives. These amendments only modify the wastewater service area mapping portions of the above referenced WQM Plans.

Monmouth County is the designated Wastewater Management Planning Agency for the entire county. Monmouth County is also the designated planning agency for the Monmouth County WQM Planning area which includes most of Monmouth County. However, there are portions of Freehold Township, Millstone Township, Howell Township, and Wall Township that are located in the Toms River and Metedeconk River drainage areas. These areas are located within the Ocean County WQM Planning area.

Pursuant to P.L. 2011, c. 203, the Department, in consultation with the applicable wastewater management planning agency, may 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 modification. Therefore, amendments to update a sewer service area may be approved if such actions are compliant with the applicable sections of the Water Quality Management Planning rules (N.J.A.C. 7:15) regardless of whether capacity has been fully assessed. Additional issues which may need to be addressed for any new or expanded wastewater treatment facility proposal include, but are not limited to, compliance with stormwater regulations, antidegradation, effluent limitations, water quality analysis, and exact locations and designs of future treatment works. Additionally, sewer service to any particular project is subject to contractual allocations between municipalities, authorities and/or private parties, and is not guaranteed by these amendments. Finally, P.L. 2011, c. 203, expires on January 17, 2014, and

the WQPA and implementing regulations require that full county-wide WMP updates be completed pursuant to the requirements set forth in N.J.A.C. 7:15.

The Department and Monmouth County have held numerous meetings with the public, municipal officials, and affected agencies over the past four years. Further, in accordance with Administrative Order 2010-03 (AO #2010-3) a public meeting was held on August 24, 2010, to allow public review and comment on the then-current draft of Monmouth County sewer service area. As a result, the Department and the County have received continuous input from residents, municipal officials, and other affected agencies regarding mapping corrections and other issues.

In accordance with N.J.A.C. 7:15-5.24, environmentally sensitive areas have been assessed to determine what areas are appropriately included in the proposed sewer service areas. Pursuant to N.J.A.C. 7:15-5.24(b), environmentally sensitive areas are described as contiguous areas of 25 acres or larger consisting of habitat for threatened and endangered wildlife 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. These environmentally sensitive areas are not included in the proposed sewer service area except as noted below.

In accordance with N.J.A.C. 7:15-5.24(b)1, to determine areas designated as threatened or endangered wildlife species habitat, the Department utilized the Division of Fish and Wildlife's Landscape Project Maps of Habitat for Endangered, Threatened or Other Priority Species, versions 2.1 and 3.0, as applicable. Areas identified by the Landscape Project as being suitable habitat for

threatened and endangered species are not included in the proposed sewer service areas except as provided under N.J.A.C. 7:15-5.24(e) through (h).

In accordance with N.J.A.C. 7:15-5.24(b)2, areas mapped as Natural Heritage Priority Sites are not included in the proposed sewer service area, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

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 included in the proposed sewer service areas, except as provided under N.J.A.C. 7:15-5.24(e) through (h). Pursuant to N.J.A.C. 7:8-5.5(h), a 300 foot buffer, the required buffer width is applied to both sides of a stream measured from the top of bank of an intermittent or perennial stream, or centerline if the bank is not defined, and from the defined edge of a lake, pond or reservoir at bank—full flow or level. Category One waters and their tributaries are afforded a 300-foot buffer. In addition, as required under N.J.A.C. 7:15-5.20(b)3, the adopted FWSA map text indicates that development in riparian zones, or designated river areas, may be subject to special regulation under Federal or State statutes or rules. Riparian zones or buffers are established along all surface waters, based on the surface water body's classification designated 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. Most development within these riparian zones is regulated by these programs.

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 included in the proposed sewer service area, except as provided under N.J.A.C. 7:15-5.24(e) through (h).

In accordance with N.J.A.C. 5.24(c), lands within certain coastal planning areas (Coastal Fringe, Coastal Rural, and Coastal Environmentally Sensitive Planning Areas) are not included in the adopted sewer service area, with some exceptions. These exceptions are limited to areas previously designated as sewer service area where wastewater collection infrastructure currently exists and where sewage producing structures are connected to the system and in limited instances where the lots are considered infill development or to remove undulations in the FWSA boundary as necessary to create a linear boundary that relates to recognizable geographic features in accordance with N.J.A.C. 7:15-5.20(b)2.

Pursuant to N.J.A.C. 7:15-5.24(d), areas with Federal 201 grant limitations that prohibit the extension of sewers to serve development in these areas are excluded from the adopted sewer service area either where local mapped information exists delineating these areas, or through a narrative description where mapping does not exist, except as provided under N.J.A.C. 7:15-5.24(f)1. Where a narrative approach has been used, it is noted as text on the adopted FWSA map. No Federal 201 grant limitations have been excluded from the sewer service area through a narrative approach on the adopted FWSA map. 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 document and compliance is required.

In addition to the environmentally sensitive areas with Federal 201 grant limitations that prohibit the extension of sewers identified under N.J.A.C. 7:15-5.24(d)1, other special restricted areas were excluded from sewer service area pursuant to N.J.A.C. 7:15-5.24(d)2 through 4. These included beaches, coastal high hazard areas, and dunes.

As provided under N.J.A.C. 7:15-5.24(e) through (h), limited environmentally sensitive areas have been included in sewer service areas. Where applicable, Department wetland, flood hazard, and State open water permits or jurisdictional determinations have been utilized to determine the extent of the sewer service area on individual lots.

Notice of a proposed Monmouth County WMP amendment, that included sewer service area mapping, was published in the New Jersey Register on May 2, 2011, at 43 N.J.R. 1215(a). A non-adversarial public hearing on this WMP amendment was held June 6, 2011, in the Monmouth County Library-Headquarters in Manalapan, New Jersey. Comments on the WMP were received during the public comment period, which was extended by notice published in the New Jersey Register on August 1, 2011, at 43 N.J.R. 1915(b). Numerous comments were submitted to the Department via U.S. mail, e-mail, and during the above mentioned public hearing. The Department and County decided not to proceed with the proposed WMP as the following items had not yet been completed: a Build Out Analysis, per N.J.A.C. 7:15-5.25(c), although a 20 year projection and white paper was included; a Nitrate Dilution Analysis of areas to be served by individual subsurface sewage disposal systems, per N.J.A.C. 7:15-5.25(e)1; and a Riparian Corridor Analysis, per N.J.A.C. 7:15-5.25(g), because not all municipalities had adopted the required ordinances. As indicated by this adopted FWSA map, Monmouth County decided to submit the FWSA map as an amendment to the WQM Plans to the Department for approval per P.L. 2011, c. 203, as this legislation permits a wastewater planning agency to prepare and submit to the Department that portion of a WMP designating sewer service areas.

The notice of this amendment proposal was published in the New Jersey Register on January 7, 2013, at 45 N.J.R. 64(a). Pursuant to N.J.A.C. 7:15-5.23, Monmouth County will be required to resubmit to the Department a full WMP amendment application that complies with the Department's Water Quality Management Planning rules.

The Department and the Monmouth County Planning Board received comments during the comment period for the proposed amendment. Comments which are not relevant to the proposed amendment are not addressed in the following section of this notice.

The following people submitted comments on these amendments:

Number – Commenter Name, Affiliation

1. Adam Hubeny, Atlantic Highlands Borough Administrator
2. John Van Dorpe, Long Branch Sewerage Authority Engineer
3. Joseph Martone, Long Branch Sewerage Authority Executive Director
4. Michael Gianforte, Two Rivers Water Reclamation Authority Executive Director
5. Paul Gaffney II, Monmouth University President
6. Steven Dalton, Esq., Giordano, Halleran, & Ciesla
7. Matawan Borough

As noted below in response to specific comments, upon review of the comments requesting to modify the FWSA map, the Department is adopting the proposed amendment with minor changes pursuant to N.J.A.C. 7:15-3.4(g)9ii. These minor changes do not effectively destroy the value of the public notice of the proposed amendments and are technical/administrative corrections or

modifications. Comments requesting to include or exclude sewer service area, which was not reflected in the proposed amendment and was found to be a substantial change, are not adopted herein. Substantial changes include those changes to the proposed amendment which the Department has determined would enlarge or curtail who and what will be affected by the proposed amendment, or enlarge or curtail the scope of the proposed amendment and its burden on those affected by it. Thus, changes that would enlarge or curtail which properties would be affected by the adopted FWSA map and/or the way in which properties would be affected by the adopted FWSA map would be considered substantial. Making such substantial changes on adoption would effectively destroy the value of the public notice, and, thus, a new notice and public comment period are required prior to consideration of such changes pursuant to the process set forth in N.J.A.C. 7:15-3.4.

Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

A summary of the comments and the Department's responses follows. The number(s) in parenthesis after each comment identifies the respective commenter listed above.

1. **Comment:** The commenter is requesting that the East Highlands Avenue area (also known as the "Hill" area) of Atlantic Highlands Borough be included in the sewer service area on the draft Monmouth FWSA map. (1)

Response: This area was not proposed by Monmouth County to be in the sewer service area and therefore it was not included in the sewer service area on the proposed FWSA map. The inclusion of new sewer service area as part of the adoption of the FWSA map constitutes a substantial change and would impermissibly circumvent the WQM Plan amendment procedures at N.J.A.C. 7:15-3.4(g), including the public review process. Any party may submit an application to the Department for a site specific amendment or revision, as applicable, to a WQM Plan to include or exclude additional areas and/or facilities in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable.

2. **Comment:** The commenters for the Long Branch Sewerage Authority (LBSA) object to the draft FWSA map as it shows 125 properties located in West Long Branch Borough that are served by LBSA but are shown as being in the Two Rivers Water Reclamation Authority's (TRWRA) sewer service area on the FWSA map. The commenter for TRWRA while noting that the properties are currently served by LBSA, stated that TRWRA objects to removing the properties from TRWRA's sewer service area on the FWSA map as these properties are located within the TRWRA franchise area and may, at some time in the future, be served by TRWRA if their sewer infrastructure becomes available in this area. (2, 3, 4, 5)

Response: The proposed FWSA map submitted by the County depicted the properties as being served by TRWRA because the properties are located within TRWRA's franchise area. The Department will not interfere in contractual matters between the two parties by making modifications to the proposed map upon adoption. LBSA or TRWRA may submit an application, in accordance with N.J.A.C. 7:15 and P.L. 2011, c. 203, as applicable, to the Department for a revision to the WQM Plan to change the area's designation.

3. **Comment:** The commenter requests that the Woodward Estates property (Block 67, Lots 22, 25, and 32 in Manalapan Township) be included in the sewer service area on the draft Monmouth FWSA map. (6)

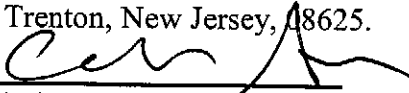
Response: This request had also been previously submitted to the Department on September 27, 2010, pursuant to AO #2010-03. In a December 2, 2010, response letter, the Department stated that it "...does not object to the inclusion of those portions of the site that were determined not to include wetlands as per the LOI number 1326-08-0004.1 FWW080001 dated June 19, 2009 into the [Western Monmouth Utilities Authority sewer service area (WMUA SSA)] as part of the Monmouth County WMP provided it meets all applicable municipal and county planning requirements and initiatives." However, the Woodward Estates Property was not included in the sewer service area in the proposed FWSA map for Monmouth County and its inclusion in the sewer service area is not currently supported by local zoning. The property remains excluded from the sewer service area upon adoption of this amendment.

4. **Comment:** On February 19, 2013, the commenter adopted resolution 13-02-53 entitled "Resolution by the Borough of Matawan Objecting to the New Jersey Department of Environmental Protection's Recommendation to Remove Certain Areas within the Borough from Sewer Service." The resolution refers to portions of the proposed Matawan Transit Village site as well as other properties located directly adjacent to or near Matawan Creek within the Borough. It also states that: "The Borough needs the ability to maintain its existing improvements or increase the capacity of existing sanitary sewer whether it is within or outside of the sanitary sewer area." (7)

Response: The properties referenced in the above resolution were excluded from the sewer service area due to the presence of wetlands and threatened and endangered species habitat in accordance with N.J.A.C. 7:15-5.24. In regards to the issue of the maintenance of existing sewer infrastructure (i.e. sewer mains, pump stations, etc), sewer service area mapping is meant to denote areas that include (or will include) sewage generating structures that are to be served by a sewage collection and treatment system. The presence of sewage infrastructure, in and of itself, does not fall into this mapping category. Sewer infrastructure is not necessarily required to be located within a sewer service area for the Borough or a MUA or sewerage authority to have access to it for routine maintenance and repairs. Indeed, there are many areas statewide where sewer infrastructure is located outside of adopted sewer service areas.

Adoption of these amendments does not eliminate the need for any permits, approvals, or certifications required by any Federal, State, county, or municipal review agency with jurisdiction over any project/activity. Approval of these amendments does not provide any implied approval for any other aspects of any project or needed permits and approvals. Further, the WQPA and implementing regulations require that full county-wide WMP updates be completed pursuant to the requirements set forth in N.J.A.C. 7:15.

The adopted map is available at the Department, Division of Coastal and Land Use Planning, 401 East State Street, Trenton, New Jersey, 08625.


Elizabeth Semple, Manager
Division of Coastal and Land Use Planning
Department of Environmental Protection
4/11/13
Date