

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WATERSHED MANAGEMENT

Disapproval

DISAPPROVAL OF A PROPOSED AMENDMENT TO THE NORTHEAST WATER
QUALITY MANAGEMENT PLAN

Public Notice

Take notice that on **JUL 29 1999**, 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), an amendment to the Northeast Water Quality Management (WQM) Plan was disapproved by the Department of Environmental Protection (Department). The amendment proposed changing the Livingston Township Wastewater Management Plan (WMP) to allow construction of an on-site ground water disposal system on Lot 30, Block 4400 to serve the proposed 100 unit St. Philomena's Senior Residence. The property currently includes St. Philomena's Church, and Aquinas Academy and living quarters. Wastewater from the existing facilities is treated at the Livingston Township Wastewater Treatment Plant (WTP) which discharges to the Passaic River under New Jersey Pollutant Discharge Elimination System Permit No. NJ0024511. The balance of existing sewage treatment capacity in the Livingston WTP has been declared a scarce resource by the Superior Court and has been committed to serve low and moderate income housing. **Catholic Community Services** therefore proposed to construct its own on-site ground water disposal system to treat a projected wastewater flow of up to 20,250 gallons per day from the proposed Senior Residence. The on-site ground water disposal system was proposed to be abandoned if and when capacity in the Livingston WTP became available.

Also, as part of the amendment, the Livingston Township WMP sewer service area map was proposed to be corrected to exclude the portions of the Township served by either the Joint Meeting of Essex and Union Counties (JMEUC) WTP or the Caldwell WTP. These areas were previously identified through the JMEUC WMP, Caldwell Borough WMP and a separate amendment for SCI Funeral Home.

This amendment proposal was noticed in the April 20, 1998 New Jersey Register and The Star Ledger. Comments from Livingston Township were provided on the amendment during the public comment period and are summarized below with the Department's responses. Since the amendment is disapproved, no changes to the Livingston Township WMP have been made.

1. COMMENT: The proposal for an on-site ground water disposal system to serve the proposed 100 unit St. Philomena's Senior Residence is unnecessary and inappropriate since Livingston Township is actively pursuing plans for expansion of the capacity of the Livingston Township WTP. The proposed increase in capacity would be sufficient to accommodate unmet demand within the Livingston Township WTP existing and future sewer service area. (Livingston Township)

RESPONSE: Connection of the proposed Senior Residence to the existing Livingston Township sewer system is entirely consistent with the policies in the Statewide WQM Planning rules (N.J.A.C. 7:15-1.3(a)14 & 3.4(l)1) which support the use of regional wastewater treatment facilities versus the construction of new WTPs with new discharges. Connection to the Livingston Township sewer system is also consistent with the current Livingston Township WMP which specifies that the wastewater management

needs for the majority of the Township are to be met by the Livingston WTP. The Department therefore agrees with the Township that the wastewater needs of the St. Philomena's Senior Residence must be addressed as part of the Township's proposal to expand its WTP. Livingston Township has submitted a draft WMP to the Department to update the current WMP and address expansion of its WTP. The draft WMP identifies Catholic Community Services as one of the projects needing to be served by the expanded WTP. The Department is currently working with the Township to prepare the draft WMP for public review.

2. COMMENT: Authorizing an on-site ground water disposal system with a projected wastewater flow of up to 20,250 gpd within an existing sewer service area would be inconsistent with established State policies set forth in regulations adopted by the Department. These regulations do not contain a policy allowing subsurface wastewater disposal when a temporary sewer connection ban is in effect. Any change in this State policy can be effected lawfully only by formal rulemaking proceedings, not through a WQM Plan amendment to accommodate individual property owners. (Livingston Township)


RESPONSE: The Department agrees that approval of a new on-site ground water disposal system for the St. Philomena's Senior Residence would be inconsistent with the policies on regionalization in the Statewide WQM Planning rules, specifically the policies contained in N.J.A.C. 7:15-1.3(a)14 & 3.4(l)1. In addition, the fact that capacity in the Livingston Township WTP is not available at this time is not sufficient reason for allowing a new point source discharge of pollutants within an area already designated for sewer service. Such a proposal is unsound from an environmental and regional planning perspective. The Department has therefore disapproved the proposed amendment and is directing the applicant to coordinate with Livingston Township with regard to expansion of the Livingston WTP. It should be noted that the policy in the Statewide WQM Planning rules restricting the alteration of sewer service areas when a sewer ban is in place, N.J.A.C. 7:15-3.4(l)2, is not applicable to the amendment proposal since that provision only applies to a sewer ban required by the Department in accordance with N.J.A.C. 7:14A-22.17. The Township's sewer ban is locally imposed and does not meet the criteria in N.J.A.C. 7:14A-22.17.

3. COMMENT: There is no rational basis for allowing on-site subsurface wastewater disposal for one property and not allowing it for other similarly situated properties. There are other properties in Livingston Township which are precluded from proceeding with development due to the present temporary sewer connection ban. Approval of the proposed plan amendment will encourage similar amendment proposals by owners and/or developers of such properties. (Livingston Township)

RESPONSE: The Department agrees with this comment. Therefore, so as not to undermine regional wastewater facilities planning or promote additional point source discharges of pollutants in an area that is intended to be served by sewers, the Department has disapproved the amendment proposal.

4. COMMENT: Livingston Township acknowledges that the proposed amendments include separate minor changes to update and clarify existing sewer service areas within the Township. Such changes should be made separately as part of the periodic update by Livingston Township of its WMP. (Livingston Township)

RESPONSE: Since the amendment for St. Philomena's Senior Residence has been disapproved, the proposed revisions to the Livingston Township WMP were not made. These changes will be made as part of the WMP update currently in progress.



Lance R. Miller
Director

7/29/99
Date

SM:Finaldis